

FINANCIAL INSTITUTION DIVERSITY

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OFFICE OF MINORITY AND WOMEN INCLUSION • FEDERAL DEPOSIT INSURANCE CORPORATION



1. What is the Dodd-Frank Section 342(b)(2)(C) diversity standards provision about?

Section 342(b)(2)(C) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) required the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (together, the “Agencies”), and certain other federal financial agencies to develop standards to assess the diversity policies and practices of the entities they regulate.

2. What have the Agencies done to implement Dodd-Frank Act Section 342(b)(2)(C)?

On June 10, 2015, the Agencies published the Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (Policy Statement).¹ The Policy Statement established standards that reflect leading policies and practices and will enable regulated entities to assess their diversity policies and practices in the areas of organizational commitment to diversity and inclusion; workforce profile and employment practices; procurement and business practices (supplier diversity); and practices to promote transparency of organizational diversity and inclusion (collectively, “the Standards”).²

3. What entities are covered by the Policy Statement?

The Policy Statement applies to entities that are regulated by the Agencies and by the other federal financial agencies that issued the Policy Statement. This includes depository institutions, holding companies and other financial service companies whose primary federal financial regulator is the Board, FDIC or OCC. The Agencies recognize that entities have unique characteristics, such as governance structure, workforce size, total assets, contract volume, geographic location, and community characteristics. The Policy Statement focuses primarily on regulated entities with more than 100 employees. Smaller regulated entities are also encouraged to use the Standards in a manner appropriate to their unique characteristics.

4. Are regulated entities required to conduct a self-assessment and provide the results to their regulators? The Policy Statement states that regulated entities’ self-assessments of their diversity policies and practices are voluntary, and submissions of information regarding those self-assessments to their primary federal financial regulator are also voluntary.

5. Who will conduct assessments and how frequently will assessments be conducted?

The Policy Statement envisions that a regulated entity should conduct a voluntary self-assessment of its diversity policies and practices at least annually.

6. What does a regulated entity do with the information from its self-assessment?

The Policy Statement contemplates that a regulated entity should voluntarily provide information pertaining to its self-assessment to the Director of the Office of Women and Minority Inclusion of its primary federal financial regulator and publish information pertaining to its efforts on its website or in other appropriate forms of communication.

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Entities are encouraged to submit self-assessments for the previous calendar year due within 90 days of the close of the calendar year. (For example, the previous close calendar year of 2017 will have the deadline of March 31, 2018).

7. The Policy Statement defines “diversity” to refer to minorities and women. In conducting its self-assessment, can an entity expand this definition to include other groups?

The Policy Statement does not preclude an entity from using a broader definition of diversity. The language is intended to be sufficiently flexible to encompass other groups if an entity wants to define “diversity” more broadly.

8. In conducting a self-assessment, is an entity limited to the Standards or can other topics, data, or information be considered as well?

A regulated entity’s self-assessment can cover topics and include information and data beyond what is in the Policy Statement and Standards. However, Agencies recommend that, at a minimum, a self-assessment cover each of the Standards discussed in the Policy Statement.

9. Will an entity’s diversity policies and practices be assessed by its primary regulator?

An entity’s diversity policies and practices will not be assessed by its primary federal financial regulator. The Agencies believe the entities are in the best position to assess their own diversity policies and practices, and the self-assessments can provide entities with an opportunity to focus on areas of strength and weakness in their policies and programs.

10. How will the Agencies use the self-assessment information provided by the regulated entities?

The Agencies may use the self-assessment information provided by the entities to monitor progress and trends in the financial services industry with regard to diversity and inclusion in employment and contracting activities. The Agencies may highlight successful policies and practices. The Agencies may publish information disclosed to them, such as best practices, in any form that does not identify a particular entity or individual. Financial institutions submitting information may designate such information as ***confidential commercial information*** as appropriate, and the FDIC will follow the Freedom of Information Act in the event of requests for particular submissions.

11. Will the Agencies provide guidance to institutions if needed?

The Agencies may provide guidance upon request. The Agencies also plan to periodically conduct outreach and share leading practices.

12. Will the Agencies conduct examinations to assess the entities’ diversity policies and practices?

The Policy Statement specifically states that the Agencies will not use their examination or supervisory processes in connection with the Standards.

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13. How is Section 342(b)(2)(C) of the Dodd-Frank Act different from the laws and rules administered by the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP)?

The EEOC and OFCCP administer civil rights laws and regulations that require employers and federal contractors to apply policies and practices that prohibit and remedy unlawful discrimination. Section 342(b)(2)(C) only requires that each agency’s OMWI Director develop standards for assessing the “diversity policies and practices” of the entities regulated by that agency. Section 342(b)(2)(C) does not: (1) change the laws, regulations, or legal standards administered by EEOC and OFCCP; (2) create or modify any authority for any agency to enforce a civil rights law or regulation; or (3) require any specific action based on the findings of an assessment.

14. Is compliance with EEOC and OFCCP rules, such as completion of EEO-1 reports and Affirmative Action Plans, sufficient for conducting the self-assessment?

While entities may leverage their existing EEOC and OFCCP documentation, or any other information, in developing and conducting their self-assessments, the Agencies encourage entities to address all of the Standards discussed in the Policy Statement when conducting their self-assessments.

- ^{1.} *The Agencies’ standards were published at 80 Fed Reg. 33016. The Board, FDIC, and OCC were joined by the National Credit Union Administration, Securities and Exchange Commission, and Consumer Financial Protection Bureau in issuing the Standards.*
- ^{2.} *The Policy Statement also includes a standard for entities to conduct self-assessments of their diversity policies and practices annually.*