

Client Alert

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Agencies Publish Diversity Standards for Financial Institutions

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On June 10, 2015, six federal financial agencies (collectively, “Agencies”) jointly published a final Interagency Policy Statement, as required by Section 342 of the Dodd-Frank Act, outlining standards for assessing the diversity policies and practices of the entities regulated by each Agency (“Policy Statement”).¹ Specifically, Section 342 requires the establishment of an Office of Minority and Women Inclusion (“OMWI”) at each Agency and requires the OMWI Director at each Agency to develop standards for assessing the “diversity policies and practices of entities regulated by the agency.”

The Policy Statement, effective June 10, 2015, closely resembles the Agencies’ October 25, 2013 proposal. However, the Policy Statement contains clarifications not included in the proposal, such as a statement that small entities or those located in remote areas may face challenges in including minorities and women and so each entity may tailor the standards included in the Policy Statement as appropriate.

The Policy Statement provides key definitions for the terms “diversity,” “minority” and “inclusion.” Specifically, “diversity,” which was not defined in the proposal, refers to minorities and women, and “minorities” refers to African Americans, Native Americans, Hispanic Americans and Asian Americans.² The definitions in the Policy Statement do not preclude a regulated entity from using broader definitions; however, on its face, the Policy Statement would not include certain groups, such as people with disabilities and lesbian, gay, bisexual and transgender individuals. The Policy Statement defines “inclusion” to mean a “process to create and maintain a positive work environment that values individual similarities and differences, so that all can reach their potential and maximize their contributions to an organization.”³

The Agencies designed the standards to provide a framework for entities to create and strengthen their diversity policies and practices. The final standards cover four key areas:

- 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.

¹ 80 Fed. Reg. 33,016 (June 10, 2015). The Agencies are the Consumer Financial Protection Bureau, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency and the Securities and Exchange Commission.

² 80 Fed. Reg. at 33,022.

³ *Id.*

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Consistent with the proposal, the Agencies made compliance with the standards voluntary. That is, the standards will not be a part of the examination or supervisory process. Instead, the Agencies have developed a “model assessment,” which a regulated entity could voluntarily disclose to the appropriate Agency or publish in order to increase the public’s awareness and understanding of the entity’s efforts in this regard.⁴ Furthermore, the Agencies added language to the Policy Statement that had not been in the proposal clarifying that the Policy Statement “is a general statement of policy” that “does not create new legal obligations” and the use of which is voluntary.⁵

Additional comments on the potential utility and burden of collections of information contemplated by the joint standards may be submitted until August 10, 2015.

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⁴ 80 Fed. Reg. at 33,020, 33,024.

⁵ 80 Fed. Reg. at 33,017.