

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES

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**THE DODD-FRANK ACT FIVE YEARS LATER:
DIVERSITY IN THE FINANCIAL SERVICES AGENCIES**

DEMOCRATIC STAFF REPORT:
EXECUTIVE SUMMARY
114TH CONGRESS

NOVEMBER 5, 2015

EXECUTIVE SUMMARY

Purpose

A persistent lack of diversity in the financial services industry led the Democratic Members of the House Financial Services Committee (the “Committee”) to author Section 1116 of the *Housing and Economic Recovery Act of 2008*, and Section 342 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (“Dodd-Frank Act”). These provisions created within each of the federal financial regulators an Office of Minority and Women Inclusion (“OMWI”) which is charged with supporting workforce and supplier diversity throughout each agency’s activities.

On March 24, 2014, the Ranking Member of the Committee and Democratic Members of the Subcommittee on Oversight and Investigations sent letters to the Offices of Inspectors General (“OIGs”) at the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the Federal Housing Finance Agency, the National Credit Union Administration, and the Securities and Exchange Commission (hereafter referred to collectively as “the Agencies”) requesting an audit of their internal operations to determine whether any personnel practices have created a discriminatory workplace or have otherwise systematically disadvantaged minorities and women employees, particularly from obtaining senior-management level positions.

This Committee staff report provides a comprehensive comparison and analysis of the OIGs’ reports and other publicly available research on diversity matters. This Committee staff report also contains recommendations to enhance the Agencies’ efforts to promote and sustain racial, ethnic, and gender diversity within their workforces. The analysis primarily based on information derived from the OIGs’ reports produced to the Committee between November 2014 and March 2015, as well as publically available diversity data.

Findings

Upon review and analysis, Committee staff determined that the following trends were generally consistent across all Agencies:

1. Minorities and women remain underrepresented in their workforces.
2. Minorities and women are significantly underrepresented at the senior-management level in proportion to their overall participation rates.
3. African-American employees generally received lower performance management review (“PMR”) scores than White employees.

Recommendations

Committee Staff recommend that the Agencies:

1. Fully comply with the letter and spirit of all current laws, regulations, and policies that address racial, ethnic or gender-based discrimination and promote diversity and equal opportunities for minorities and women.
2. Investigate whether discrimination is the root cause of the: (1) underrepresentation of minorities and women at the senior-management level at the Agencies; and (2) statistically significant differences in PMRs for minority and women employees. Pending this investigation, consider strategies for addressing potential root causes, such as unconscious bias by those who are responsible for making those decisions.
3. Should, while investigating their PMR systems, consider modification of, or alternatives to, the current PMR systems.
4. Ensure accountability of managers, at all levels, by evaluating them on their progress toward achieving the Agencies' diversity objectives and their ability to manage a diverse group of employees.
5. Enhance the interactions between the Office of Minority and Women Inclusion ("OMWI") Directors and the Agencies' heads, by ensuring that the OMWI Directors report directly to the Agencies' heads and increasing the meetings between them. This dialogue will enable the OMWI Directors to influence policymaking decisions at the Agencies and ensure the Agencies' heads are closely monitoring the effectiveness of diversity practices and policies and are prepared to testify about these efforts and outcomes when appearing before Congress.
6. Re-evaluate the purpose and content of their OMWI's annual reports to, among other things:
 - a. include information on OMWI's efforts to measure and evaluate their progress on achieving diversity and inclusion goals, as recommended by the Government Accountability Office in 2013;
 - b. consult with other Agencies' OMWIs, in an interagency manner, to adopt uniform standards to track and report diversity data to enable meaningful cross-agency comparison; and,
 - c. provide racial, ethnic, and gender data by specific occupational classifications and supplier industry classifications.
7. Direct the OIGs to:
 - a. periodically review the Agencies' representation of minorities and women within their workforces along with their personnel practices, policies, and any other efforts to ensure that the workplaces are free of systemic discrimination and provide equal opportunity for minorities and women in hiring, retention, and promotion, particularly to senior-management level positions; and,
 - b. report the results of these audits to Congress every four years.

Diversity Analysis, by Agency

Office of the Comptroller of the Currency (“OCC”)

OMWI Director – Joyce Cofield

The OCC charters, regulates, and supervises all national banks and federal savings associations as well as federal branches and agencies of foreign banks. Its mission is to ensure that national banks and federal savings associations operate safely, provide fair access to financial services for all customers and treat them fairly.

- During FY 2011-2013, the OCC workforce was over 50% male and nearly 70% White.
- The OCC has sponsored the National Diversity Initiative Program that trains and develops minority students for professional careers in business and industry.
- Despite the benefits of this program and the OCC’s internship efforts, the OCC OIG concluded that there were a number of other opportunities that the OCC could leverage to improve workforce diversity.
- The Hispanic workforce at the OCC remains well below parity with the national civilian labor force.

Securities and Exchange Commission (“SEC”)

OMWI Director – Pamela Gibbs

The mission of the SEC is to protect investors, maintain fair, orderly and efficient markets and to facilitate capital formation to ensure that all investors have access to basic accurate information about an investment.

- The SEC has the least racial diversity in senior management of all federal financial services agencies studied, with 88% of senior management positions held by White employees.
- The SEC has not established diversity internal policies and procedures or required workforce diversity standards.
- As a result, the SEC Office of Minorities and Women Inclusion (OMWI) lacks the ability to effectively monitor, evaluate and, as necessary, fully comply with the Dodd-Frank Act.

Federal Deposit Insurance Corporation (“FDIC”)

OMWI Director – Pereira Segundo

The FDIC is an independent agency created by the Congress to maintain stability and public confidence in the nation's financial system by promoting sound public policies, addressing risks in the nation's financial system, and carrying out its insurance, supervisory, consumer protection, resolution planning, and receivership management responsibilities.

- The FDIC has developed a Corporate University which provides employees with a wide range of training and employee development opportunities – including an MBA program, leadership and supervisor training, diversity training and career counseling.
- The FDIC has the lowest percentage of women employees in all federal financial services agencies.
- Hispanic employees comprise only 2% of the FDIC senior management.
- The FDIC has failed to analyze the effectiveness of its outreach and therefore lacks the data to know if its efforts are producing the desired outcome.
- Certain FDIC required diversity reporting, namely the MD-715 report, from FY 2011 through FY 2013, contained numerous mistakes which may have compromised the reliability of the agency's diversity data and may have resulted in incorrect diversity reporting to the EEOC and the public.

National Credit Union Association (“NCUA”)

OMWI Director – Monica Davy

The NCUA's mission is to protect credit unions and consumers through effective regulation.

- The NCUA workforce is less diverse than the civilian labor force with White employees comprising 73% of all employees.
- Only 6% of the NCUA is senior management is African-American; only 2% is Hispanic.
- The NCUA OMWI Director position was recently filled in July 2105, but had previously remained vacant for more than 18 months.

- The NCUA OMWI Director does not report directly to the NCUA Chairwoman, as required by statute, which may create the appearance of a subordinated role for the OMWI Director and other matters of the diversity.

The Federal Reserve Board of Governors (“FRB”)

OMWI Director – Sheila Clark

The Federal Reserve Board is the central bank of the United States, and in addition to working to provide a safer, more stable and flexible monetary system, it also regulates bank holding companies, and the largest, most complex non-bank financial institutions in the country.

- In racial, ethnic and gender categories, its workforce diversity was found to exceed the diversity found within the civilian labor force.
- The FRB has the most diverse general workforce and the largest percentage of women employees in senior management.
- Yet, notably the FRB OIG determined that the diversity data collected was not validated against the agency’s employee electronic human resources records which undermines the integrity of the agency’s diversity efforts and its strong empirical diversity data.
- The FRB does not have a finalized set of diversity and inclusion standards as required under the Dodd-Frank Act.

Consumer Financial Protection Bureau (“CFPB”)

OMWI Director – Stuart Ishimaru

The CFPB is the flagship organization formed under Dodd-Frank that helps consumer finance markets work by making rules more effective, enforcing them fairly and empowering consumers to gain control over their economic lives.

- The CFPB has the highest percentage of women employees in their general workforce – nearly at 50%.
- Public reports and allegations, which surfaced in 2014, reignited public interest in federal financial services diversity efforts. In response, the CFPB redesigned its performance management system, offered diversity and inclusion training to all employees, reviewed and updated its hiring process, and conducted employee listening sessions directly with the CFPB OMWI Director.

- The CFPB has also developed a process for providing restitution to employees who had been aggrieved by the previous performance management system errors to compensate employees for any income loss suffered.
- The CFPB still needs to develop formal, finalized diversity standards as required under the Dodd-Frank Act.
- The CFPB OIG has recommended that diversity training should not only be available for all CFPB employees, but should be mandatory for all employees.

Federal Housing Financial Agency (“FHFA”)

OMWI Director – Sharron Levine

FHFA strengthens and secures the United States secondary mortgage markets to improve the country’s housing finance by providing oversight of Fannie Mae, Freddie Mae and the Federal Home Loan Bank System, as well as serving as the conservator of Fannie Mae and Freddie Mae.

- Hispanics constitute only 3% of the FHFA general workforce, the lowest of all of the federal financial services agencies, and only 3% of the FHFA senior management.
- FHFA, unlike several other agencies, has finalized its diversity strategic plan and has implemented several recruitment events for organizations that serve minorities and women.
- The FHFA has recently changed its reporting structure such that the OMWI Director reports directly to the FHFA Director.
- Notwithstanding recent improvements, the FHFA OIG determined that the agency continues to lack junior level recruitment, which can lead to increased diversity challenges in the future.

Conclusion

The Agencies still have substantial work to do to ensure that they are in full compliance with all current applicable statutes, regulations, and Executive Orders addressing racial, ethnic or gender-based discrimination and promoting workforce diversity and equal employment opportunities for minorities and women. The Agencies’ failure to meet, in certain circumstances, the letter and spirit of existing diversity guidance and laws demands greater efforts to achieve meaningful workforce diversity and may warrant additional scrutiny by Congress.