

Client Alert

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Regulated Financial Institutions Strongly Encouraged to Submit Self-Assessment of Diversity Policies and Practices

In late 2013 and June 2015, Hunton & Williams LLP distributed articles regarding Section 342 of Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”) and the Final Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (“Final Policy Statement”).

On August 2, 2016, the Board of Governors of the Federal Reserve System, the FDIC, and the OCC issued a joint press release stating that federal banking agencies have provided information regarding how financial institutions may begin to submit self-assessments of their diversity policies and practices as of year-end 2015.

The agencies “strongly encouraged” financial institutions to provide information about diversity policies and practices on their websites, and to provide such information to the primary federal financial regulator to maximize transparency. Section 342 of Dodd-Frank required each federal financial regulatory agency to establish an Office of Minority and Women Inclusion (“OMWI”) and instructed the OMWI Director at each agency to develop standards for assessing the diversity policies and practices of its regulated institutions. Detailed submission instructions on how to submit the self-assessments will be provided at a later date.

The Final Policy Statement makes several important points:

- The self-assessment is voluntary.
- The Standards do not create new legal obligations. However, because of the increased focus on diversity policies in financial institutions, the Standards should not be ignored.¹
- The Agencies may use the information submitted to them to monitor progress and trends with regard to diversity and inclusion in employment and contracting activities.
- Agencies are allowed to publish information disclosed to them in any form that does not identify a particular entity or individual or disclose confidential business information.

Based upon the Agencies *strong encouragement* to perform a self-assessment, regulated financial institutions should consider assessing all aspects of their diversity policies and procedures to determine areas of success, and areas for growth. Most financial institutions with 50 or more employees are

¹ After the Final Policy Statement became effective, Stuart Ishimaru, Director of the Consumer Financial Protection Bureau Office of Minority and Women Inclusion, stated that the Standards were only a “first step.” He also said, “The CFPB is developing plans to use these standards to engage with its regulated entities, to encourage increased level of diversity and inclusion, and to share information that would better inform the agency and the public on activities engaged in by the entity.”

required to have affirmative action plans, and financial institutions with 100 or more employees are already subject to reporting under EEO-1. The Standards in many cases will outline similar mechanisms to ensure diversity and inclusion. Because Title VII applies to virtually all community banks, it is a good idea to have diversity policies and a method by which to measure their effectiveness. We can assist you in preparing affirmative action plans, putting together a self-assessment program, and developing any necessary employment policies (or ensuring that current policies comply with federal, state, and local laws).

Contact

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