TIAA CREF

Financial Services

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Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: Joint Standards for Assessing Diversity Policies and Practices
(File Number S7-08-13)

Dear Ms. Murphy:

Thank you for the opportunity to comment regarding proposed interagency standards for assessing diversity policies and practices for regulated entities ("Proposed Standards"). Consistent with its own business and workforce strategies, Teachers Insurance and Annuity Association of America ("TIAA-CREF") supports the interagency effort to establish measurable approaches for advancing diversity and inclusion programs among financial services firms. We agree with the principles and tools set forth in the Proposed Standards and recommend enhancing them to provide deeper guidance regarding metrics, scope and accountability – which, in our view, are three items of critical importance to any firm's diversity and inclusion strategy.[1]

By way of background, TIAA-CREF is a leading national financial services organization for professionals in academic, research, medical and cultural fields. Founded in 1918, TIAA-CREF has a diverse workforce of over 8,000 employees and serves 4.8 million clients with assets under management of $542 billion.[2] This organization's Code of Business Conduct reflects a core belief in the power of diversity and inclusion to drive business goals.[3] By extension, a dedicated

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[1] We have reviewed the over fifty comments on the Proposed Standards. Without addressing all of the comment letters, we generally share the views in those submitted by the following organizations: the Chamber of Commerce of the United States of America to SEC dated December 20, 2013; the Investment Company Institute to SEC dated December 20, 2013; the Securities Industry and Financial Markets Association to SEC dated December 17, 2013; and T. Rowe Price Group, Inc. to SEC dated December 24, 2013.

[2] As of June 1, 2013.

[3] Our Code of Business Conduct provides that we "are committed to providing equal opportunity in all of our employment practices, including hiring, promotion, transfer and compensation of all applicants and employees without regard to race, color, sex, sexual orientation, gender identity, religion, age, marital status, national origin,

team in our Human Resources area, under the leadership of a Senior Vice President, drives our nationally-recognized diversity and inclusion strategy through these four pillars:

(1) **Marketplace** – focused on how we strive to meet and/or exceed the needs of all clients while maintaining external relationships to enhance our market presence and gain a competitive advantage;

(2) **Procurement/Supplier Diversity** – aimed at enhancing our business relationships with Minority and Women Owned Business Enterprises (MWBE) vendors and suppliers;

(3) **Workforce** – focused on workforce empowerment inclusive of ideas, suggestions, education, backgrounds, as well as ethnicities, gender and sexual orientation; and,

(4) **Workplace** – seeking to create an inclusive work culture that fosters teamwork, open and transparent dialogue, engaged employees, mutual respect and business results.

We are pleased that our existing strategy aligns well with the Proposed Standards.[4] We respectfully request, however, that the interagency group consider enhancing its draft standards to provide deeper guidance in the following key areas.

Scope. The Proposed Standards refer in large part to minorities and women as the focus of diversity and inclusion best practices. For example, the draft workforce-focused standards on page 16 refer only to "outreach to minority and women organizations" and educational institutions to create diverse applicant pools for financial services firms. Understandably, the interagency group's focus reflects the explicit charge in the Dodd-Frank Act to establish Offices of Minority and Women Inclusion within covered agencies. TIAA-CREF certainly recognizes the historical barriers and current challenges faced by these groups societally, professionally and within the financial services industry in particular.

At the same time, we believe that the Proposed Standards would benefit from recognizing that successful diversity programs should have a broader scope, explicitly inclusive of other underrepresented groups such as the disabled, veterans, older workers and the lesbian, gay, bisexual and transgender (LGBT) community. Such inclusiveness is especially important because

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disability, citizenship status, veteran status, genetic information or any other category protected by applicable law. A diverse workforce is defined by the differences that are reflected in these legally protected categories as well as in our belief systems, styles, experiences, perspectives and the other things that shape our uniqueness as individuals. It is important to be mindful of these differences and be respectful and considerate of them."

[4] We also continue to be encouraged and honored by national recognition for our diversity and inclusion program from such organizations as DiversityInc., the Human Rights Campaign, Minority Corporate Counsel Association, *Working Mother*, *Black Enterprise* and *Latina Style*.

financial services firms with such programs typically link business growth broadly to how their workforce, products and services must be positioned in an increasingly diverse marketplace of clients and competitors.

On this basis, we propose the following modifications to the Proposed Standards: (1) a definitional statement that broadly and separately defines both "diversity" and "inclusion" anchored in applicable legal standards, namely, Title VII of the Civil Rights Act of 1964 and its progeny of related employment nondiscrimination laws; and (2) a statement of recognition that diversity and inclusion programs ought to operate under that broader definitional standard. To be clear, we are not recommending that the Proposed Standards offer a definition of diversity and inclusion so broad that it effectively dilutes appropriate focus on the needs and interests of underrepresented groups within the financial services sector. Nor are we suggesting that all diversity and inclusion programs must focus on the interests of all underrepresented groups in the same manner at the same time; indeed, these interagency standards will serve rightly as one source of best practices for workforce inclusion as to minorities and women. Our suggestion is only that the Proposed Standards should acknowledge the broader scope and complexity of such programs for underrepresented groups. We believe that recognition by agency regulators of the entire spectrum of underrepresented groups will offer important direction to financial services firms in developing diversity and inclusion strategies.

Metrics. The Proposed Standards provide that firms should utilize metrics "to evaluate and assess workforce diversity and inclusion efforts, such as recruitment, applicant tracking, hiring, promotions, separations (voluntary and involuntary), career development support, coaching, executive seminars and retention across all levels and occupations of the organization including executive and managerial ranks." As the interagency group is aware, such metrics are recognized by leading organizations and practitioners as an important tool for linking the separate but interrelated concepts of diversity and inclusion to workforce performance and culture. These measures can be important, as the draft Standards indicate, at all levels of management. TIAA-CREF agrees with this principle and we believe such measures help assess the effect of its diversity and inclusion efforts.

At the same time, however, competing legal standards require the interagency group to consider enhancing the Proposed Standards to include deeper guidance on the metrics that it recommends, particularly as applied to hiring and promotions. The United States Supreme Court's ruling in *Ricci v. DeStefano*, 557 U.S. 557 (2009), made clear that the focus for measuring diversity should be to build objective and equitable processes for employment opportunities but not force diversity-centric outcomes or results. Clearly, hiring or promoting underrepresented groups based on gender, age, race or other characteristics (as applicable) is not supported at law. With that said, workforce metrics are commonly recognized as a powerful tool for achieving business goals, including those related to diversity and inclusion, for executive, senior and middle managers. Accordingly, we believe financial services firms would find helpful guidance the Proposed Standards can offer regarding hiring- and promotion-based metrics supported by the interagency group consistent with the teaching of *DeStefano*.

Performance Accountability. The Proposed Standards provide that firms are to hold "management accountable for diversity and inclusion efforts." Based on TIAA-CREF's research, leading organizations and practitioners believe such accountability is best ensured by linking diversity and inclusion goals to the performance assessment and compensation of company leaders. Accountability based on these factors, while used as a best practice by employers in many industries, may be new for some financial services firms. For this reason, and in contrast to the Proposed Standards' current general reference to "accountability" without elaboration or context, the standards should be revised to provide clearer guidance on whether firms should discretionarily consider linking pay and performance at least in part to a leader's success in advancing a firm's diversity and inclusion strategies.[5]

Finally, we support the Proposed Standards' approach to encouraging firms to design internal diversity and inclusion programs. Recognizing that other financial services firms may have different business, work culture, budgetary and media priorities, we agree that firms should maintain individual discretion as to the meaningful buildout of internal diversity strategies, programs and communication plans. We believe that the Proposed Standards provide appropriate guidance on two key points in this regard, as follows.

First, as to organizational structure, we agree that such initiatives are best served through dedicated and resourced senior leadership factoring in the individual needs and goals of the particular firm. As indicated, the diversity and inclusion program at TIAA-CREF is a part of the Human Resources organization, led by a Senior Vice President who reports to this organization's HR executive (a direct report of the CEO) and leads a team of employees including business line relationship managers and analysts. This team supports seven Employee Resource Groups, oversees workforce data analysis and reporting, consults with business leaders on area diversity strategies and serves as an organizational ambassador for TIAA-CREF's business growth. We value the growth and impact that our diversity and inclusion team has enabled and will continue to advance for our organization.

Second, we support "fostering transparency and awareness of diversity policies and practices," while recognizing a firm's discretion in how it does so and also explicitly excluding such efforts from regulatory examination or supervision processes. By way of background, TIAA-CREF submits EEO-1 reports annually and undertakes varying methods suitable for this organization to assess its diversity and inclusion strategies. TIAA-CREF also engages the public on these strategies through the Internet, advertising, client communications and by other means as it deems appropriate. This flexibility and discretion is important for TIAA-CREF as a regulated entity to maintain because it promotes the organization's efforts to engage in thoughtful reviews, audits and analyses internally without undue focus on potential misinterpretation or reputational harm if regulators mandated public disclosure of all such efforts. In this regard, the Proposed Standards must be sure to strike the right balance in encouraging firms to engage in meaningful

[5] In this regard, we disagree with those commentators who recommended the omission of the proposals concerning management accountability. Rather, we believe management accountability is an important part of effective diversity and inclusion programs and that balanced and separate coverage in the Proposed Standards of potential discretionary strategies regarding this issue would be beneficial to firms.

self-assessment but without such work being subject on a compulsory basis to public disclosure or the interagency group's examination or supervision processes. Further, if agency review of an entity's self-assessment data was required in some context, the data should be afforded protection under the Freedom of Information Act like other standard workforce reporting including EEO-1 submissions.

We appreciate your consideration of our comments. Please contact me at 212.916.4750 or BrandonBecker@tiaa-cref.org or Corie Pauling, Director, Associate General Counsel at 704.988.3197 or Cpauling@tiaa-cref.org if you have any questions or if we can be of any further assistance.

Very truly yours,

Brandon Becker

Brandon Becker

cc: Mary Jo White, Chair
Luis A. Aguilar, Commissioner
Daniel M. Gallagher, Commissioner
Michael S. Piwowar, Commissioner
Kara M. Stein, Commissioner