



July 1, 2014

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Re: Section 342 of the Dodd-Frank Act (Office of Minority and Women Inclusion):
Request for interagency coordination and uniformity in establishing standards through implementing regulations.

Dear OMWI Directors:

The Securities Industry and Financial Markets Association (“**SIFMA**”)¹ and its members remain committed to fostering diversity in the financial services industry. We believe that the development of appropriately high diversity standards is a goal that is best achieved through an ongoing dialogue among stakeholders and regulators, and we appreciate the opportunity to contribute to this important process.

¹ SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA’s mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, visit www.sifma.org.

Accordingly, the purpose of this letter is to respectfully request greater coordination and uniformity among the various Agencies² in establishing standards under Section 342 of the Dodd-Frank Act. Section 342 requires the Agencies to develop the following standards, among others:

- **Assessing Policies.** Standards for “*assessing the diversity policies and practices of entities regulated by the agency.*”³
- **Good Faith Effort.** Standards for “*the Director to make a determination whether an agency contractor, and, as applicable, a subcontractor has failed to make a good faith effort to include minorities and women in their workforce.*”⁴

1. **Assessing Policies.** In October 2013, a significant group of the Agencies came together and proposed joint standards for assessing the diversity policies and practices of the entities they regulate (the “**Joint Standards**”).⁵ The group of Agencies noted that they worked together to develop the Joint Standards for assessing diversity policies in order “*to promote consistency in this area.*”⁶ Thus, it appears that the group of Agencies placed a certain value on, and perhaps even shared our members’ collective interest in, promoting consistency among all of the various diversity standards required under Section 342.

The attractiveness of this approach has recent precedent. In February 2014, U.S. regulators implementing Volcker Rule regulations on banks’ trading and investments formed an interagency group to coordinate their efforts. This group consists of the Federal Reserve, the FDIC, the SEC, the OCC, and the Commodity Futures Trading Commission. The purpose of the interagency group is to avoid potential inconsistencies among the five agencies responsible for this Dodd-Frank Act measure.

2. **Good Faith Effort.** Although most of the Agencies have not yet started to develop a good faith effort standard under Section 342, some have, as follows:

² Section 342 applies to the following agencies: (i) Department of the Treasury (“**Treasury**”), (ii) Federal Deposit Insurance Corporation (“**FDIC**”), (iii) Federal Housing Finance Agency (“**FHFA**”), (iv) each of the Federal reserve banks, (v) Board of Governors of the Federal Reserve System (“**Board**”), (vi) National Credit Union Administration (“**NCUA**”), (vii) Office of the Comptroller of the Currency (“**OCC**”), (viii) Securities and Exchange Commission (“**SEC**”), and (ix) Consumer Financial Protection Bureau (“**CFPB**”) (each an “**Agency**” and collectively, the “**Agencies**”).

³ Dodd-Frank Act § 342(b)(2)(C).

⁴ Dodd-Frank Act § 342(c)(3)(A).

⁵ *Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies*, 78 Fed. Reg. 64052. The group included all of the Agencies, except for Treasury, FHFA, and the Federal reserve banks.

⁶ 78 Fed. Reg. at 64055.

a. Treasury – Final Rule. In March 2014, Treasury issued a final rule on the good faith effort standard, which went into effect on April 24, 2014.⁷ The Treasury rule applies to contracts of more than \$150,000 and notes that *“a failure to demonstrate ... such good faith effort to include minorities and women in the Contractor’s workforce (and as applicable, the workforce of its subcontractors), may result in termination of the Contract...”* The rule gives contractors the option to furnish a variety of information to satisfy the requirement, including without limitation, the following:

1. The total number of Contractor's employees, and the number of minority and women employees, by race, ethnicity, and gender (e.g., an EEO-1);
2. A list of subcontract awards under the Contract that includes: dollar amount, date of award, and subcontractor's race, ethnicity, and/or gender ownership status;
3. Information similar to that required in item 1, above, with respect to each subcontractor; and/or
4. The Contractor's plan to ensure that minorities and women have appropriate opportunities to enter and advance within its workforce, including outreach efforts.⁸

b. Federal Reserve Bank of Richmond – Questionnaire. In recent months, some of our member firms have received a Good Faith Effort Questionnaire (the **“Questionnaire”**) from the Federal Reserve Bank of Richmond (the **“Bank”**). The Questionnaire is attached. The Questionnaire includes eight **“Required Questions,”** all but one in a **“check-the-box”** type format. The Questionnaire does not provide guidance on how any information provided will be used by the Bank to determine whether or not the contractor has satisfied the good faith effort requirement.

3. Recommendation. Unlike the proposed Joint Standards, the implementation of the good faith effort standard appears to be proceeding in a more disjointed fashion. While we support the establishment of appropriately high standards under Section 342, we believe it is equally important that those standards be fairly uniform and consistent across the various Agencies. We believe that it is fair and appropriate for contractors and subcontractors who do business with the Agencies to be held to a uniform good faith efforts standard. A uniform approach to the good faith effort standard will not only facilitate firms’ compliance with the standard, but also make compliance more efficient, as many of our members have business relationships with numerous Agencies. For the same reason, we also support a single point of submission, as was proposed in the Joint Standards.

Accordingly, we hereby respectfully recommend and request that the Agencies establish a similar working group – as we understand they have done for purposes of establishing the Joint Standards under Section 342(b)(2)(C) – for purposes of establishing joint, uniform, and otherwise consistent good faith effort standards under Section 342(c)(3)(A).

⁷ 79 Fed. Reg. at 15551.

⁸ *Id.* at 15554.

* * *

We look forward to a constructive and positive dialogue as you continue your important work of establishing diversity assessment standards under Section 342. Please contact the undersigned if you would like to further discuss these issues or if we can provide further assistance.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Carroll". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Kevin M. Carroll
Managing Director and Associate General Counsel

ATTACHMENT

Dear xxxxxxxxxxxxxx,

Federal regulations under Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 require that the Federal Reserve Bank of Richmond's (the "Bank") Office of Minority and Women Inclusion collect information from the Bank's suppliers regarding the supplier's good faith efforts to include women and minorities in its workforce and subcontracting activities. The information collected will assist the Bank in making its determination decision.

In keeping with these requirements, the Bank is conducting a compliance review of your organization. Below please find the Good Faith Effort Questionnaire for you to complete on behalf of your organization. The Bank will review your responses to assess how well your organization meets the good faith effort requirements.

We appreciate your cooperation in this review. Please contact the Bank's Office of Minority and Women Inclusion at (###) ###-#### if you have any questions regarding this notice.

Sincerely,
#####

Good Faith Effort Questionnaire:

Description: This questionnaire will be used to collect information from Reserve Bank suppliers relative to their organization's good faith efforts to include minorities and women in their workforce and subcontracting opportunities, as applicable.

Contact Name: #####

Phone: (###) ###-####

Contact E-mail: #####

Instructions

Consistent with Section 342(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376, the Reserve Bank must determine whether its suppliers have engaged in good faith efforts to include minorities and women in their workforce and subcontracting activities. You are receiving this questionnaire pursuant to your contract with the Federal Reserve Bank. The answers provided will be used to assess your good faith efforts to provide for fair inclusion of minorities and women in your workforce and in your subcontracting activities.

Include documentation or comments which support your answers. Also, for those questions which are "*Not Applicable*" to your organization or you are "*Unable to Answer*," please give a brief explanation as to why that is the case.

Required Questions

Q1. Diversity Strategy

How many employees does your company have? Include the total amount of employees at all sites.

_____Employees

Supplier Comments:

Q2. Diversity Strategy

Does your organization have a strategy in place to seek diversity within your workforce by including women and minorities in recruiting efforts?

- Yes
- No
- Not Applicable / Unable to Answer

Supplier Comments:

Q3. Diversity Policies

Does your organization have a diversity and/or EEO policy statement concerning inclusion of minorities and women in your workforce? If yes, please describe and/or attach supporting documentation.

- Yes
- No
- Not Applicable / Unable to Answer

Supplier Comments:

Q4. Succession Planning

Does your organization have a succession plan and/or a professional development plan in place to identify and develop women and minorities at all levels of the organization? If yes, describe and/or attach supporting documentation.

- Yes
- No
- Not Applicable / Unable to Answer

Supplier Comments:

Q5. Outreach

Does your organization have an external communication plan (brochures, newsletters, or advertisements) concerning the inclusion of minorities and/or women in your workforce? If yes, describe and/or attach supporting documentation.

- Yes

- No
- Not Applicable / Unable to Answer

Supplier Comments:

Q6. Outreach

Does your organization partner with or support organizations or charities that, in turn, support developing minorities and women? If yes, please describe and/or attach supporting documentation.

- Yes
- No
- Not Applicable / Unable to Answer

Supplier Comments:

Q7. Supplier-Subcontractor Diversity

Does your organization take steps to ensure participation of suppliers and/or subcontractors with diverse workforces? If yes, please describe and/or attach supporting documentation.

- Yes
- No
- Not Applicable / Unable to Answer

Supplier Comments:

Q8. Supplier-Subcontractor Diversity

Does your company solicit the interest of certified minority-and women-owned suppliers who have the capability to perform work under your contracts? If yes, please describe and/or attach supporting documentation.

- Yes
- No
- Not Applicable / Unable to Answer

Supplier Comments: