



Self-Assessment of Diversity Policies and Practices - Frequently Asked Questions

Introduction

The Frequently Asked Questions (FAQs) below provide guidance to entities regulated by the U.S. Securities and Exchange Commission regarding self-assessments of diversity policies and practices process and the SEC Diversity Assessment Report (SEC DAR Form). These FAQs are not rules, regulations, or statements of the Commission. Further, the Commission has neither approved nor disapproved these FAQs. These FAQs may be updated periodically.

Background/General Questions

1. What is the self-assessment of diversity policies and practices?

Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), 12 U.S.C. § 5452, required the U.S. Securities and Exchange Commission (SEC) and other federal financial agencies to each establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters relating to diversity in management, employment, and business activities. Section 342(b)(2)(C) of the Dodd-Frank Act also required the OMWI Director of each agency to develop standards for assessing the diversity policies and practices of entities regulated by the agency. To implement this requirement, on June 10, 2015, the SEC and five other federal financial agencies (the Agencies)¹ jointly issued the [Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies](#) (Policy Statement).²

The Policy Statement established standards for assessing an entity's diversity policies and practices in the areas of organizational commitment to diversity and inclusion; workforce profile and employment practices; procurement and business practices (supplier diversity); practices to promote transparency of organizational diversity and inclusion; and self- assessment of diversity policies and practices (collectively, the "Joint Standards").

Not more frequently than every 2 years, the SEC invites its regulated entities to voluntarily conduct and submit a self-assessment of their diversity and inclusion policies and practices in support of the Joint Standards (self-assessment).

2. What entities are invited to submit a self-assessment to the SEC?

The Policy Statement applies to entities regulated by the Agencies that issued the Policy Statement. Entities regulated by the SEC include:

- a. Brokers and dealers (including alternative trading systems)
- b. Government securities brokers and dealers
- c. Municipal securities dealers
- d. Municipal advisors
- e. Investment advisers (including advisers to hedge funds)
- f. Investment companies (including business development companies)
- g. Self-regulatory organizations
 - i. national securities exchanges

¹ The other five federal financial agencies are the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Bureau of Consumer Financial Protection, and National Credit Union Administration.

² 80 FR 33016, [Release No. 34-75050; File No. S7-10-15](#).

- ii. registered securities associations
- iii. registered clearing agencies
- h. Transfer agents
- i. Nationally recognized statistical rating organizations
- j. Securities information processors
- k. Security-based swap dealers
- l. Major security-based swap participants
- m. Security-based swap execution facilities
- n. Security-based swap data repositories

The Policy Statement focuses primarily on regulated entities with more than 100 employees.

3. Are publically-traded companies invited to conduct and submit a self-assessment?

No. Although the SEC oversees the corporate disclosures made by publicly-traded companies to the investing public, the SEC does not consider publicly-traded companies to be “regulated entities” under Section 342 of the Dodd-Frank Act.

4. Are Regulated Entities required to conduct a self-assessment?

No. The Policy Statement does not establish new legal requirements for entities regulated by the Agencies. The Policy Statement states that the “document is a general statement of policy under the Administrative Procedure Act, 5 U.S.C. § 553. It does not create new legal obligations. Use of the Joint Standards by a regulated entity is voluntary.”

5. Is the self-assessment related to the SEC’s regulatory function?

No. The self-assessment is separate from the SEC’s regulatory function and is not part of the SEC’s examination process.

Interplay with Other Reporting

6. What if a regulated entity has also been invited by another federal financial regulator to submit a self-assessment?

The Joint Standards envision that regulated entities provide information pertaining to their self-assessments to their primary federal financial regulator. As noted in the Joint Standards, the SEC is the primary federal financial regulator for brokers, dealers, transfer agents, investment advisers, municipal advisors, investment companies, self-regulatory organizations (including national securities exchanges, registered securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board), nationally recognized statistical rating organizations, securities information processors, security-based swap dealers, major security-based swap participants, security-based swap execution facilities, and securities-based swap data repositories.

In some instances, a SEC-regulated entity might also be an “institution” identified in 12 U.S.C. § 1813(q). If the regulated entity is a SEC-regulated entity, even if it is also an “institution” under 12 U.S.C. § 1813(q), the regulated entity is encouraged to submit a self-assessment to the SEC. However, a regulated entity may leverage self-assessment submissions to other federal regulatory agencies when submitting their self-assessment to the SEC.

7. What if a regulated entity has other associated entities that have also been identified as a SEC-regulated entity?

If a single self-assessment was conducted for multiple regulated entities, those regulated entities may provide one submission provided that the submission explicitly specifies each entity for which information is being submitted.

8. How is Section 342(b)(2)(C) of the Dodd-Frank Act different from the laws and rules administered by the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP)?

The EEOC and OFCCP administer civil rights laws and regulations that require employers and federal contractors to apply policies and practices that prohibit and remedy unlawful discrimination.³ Section 342(b)(2)(C) requires that each agency’s OMWI Director develop standards for assessing the “diversity policies and practices” of the entities regulated by that agency. Section 342(b)(2)(C) does not: (1) change the laws, regulations, or legal standards administered by EEOC and OFCCP; (2) create or modify any authority for any agency to enforce a civil rights law or regulation; or (3) require any specific action based on the findings of an assessment.

9. Is compliance with EEOC and OFCCP rules, such as completion of EEO-1 Reports and Affirmative Action Programs, sufficient for conducting the self-assessment?

While regulated entities may leverage their existing EEOC and OFCCP documentation, or any other information, in developing and conducting their self-assessments, the SEC encourages entities to address all the areas discussed in the Joint Standards when conducting their self-assessments.

Self-Assessments

10. Why should a regulated entity conduct and submit a self-assessment?

Increasingly, companies are pursuing diversity and inclusion because studies show it leads to better business performance and because it promotes equality of opportunity. We encourage

³ These entities are required by Title VII of the Civil Rights Act of 1964 to collect data on employment diversity and file an Employer Information Report (EEO-1 Report) with the EEOC.

financial services firms and organizations regulated by the SEC to engage in self-assessments to develop or strengthen programs for weaving diversity and inclusion in their organizations.

Moreover, the Joint Standards were established by federal financial regulatory agencies through an interagency policy statement, and reflect leading practices for advancing workforce diversity and inclusion and supplier diversity. Self-assessments under the Joint Standards are intended to help a regulated entity assess, establish, and strengthen their diversity and inclusion policies and practices, including identifying opportunities to implement leading practices set forth under the Joint Standards. The standards are also intended to promote transparency and awareness of a regulated entity's diversity policies and practices. Thus, to maximize transparency, regulated entities are strongly encouraged to submit their self-assessment to the SEC.

Submitting a self-assessment allows OMWI to learn more about diversity and inclusion within the financial service industry as a whole and informs OMWI of areas where additional guidance may be useful. The SEC may also identify and highlight diversity policies and practices that are helping regulated entities make progress toward their diversity and inclusion goals. In addition, the SEC may publish reports based on information collected from self-assessments of diversity policies and practices, including leading practices, but only in a form that does not identify a particular regulated entity or disclose confidential business information.

11. Who conducts the self-assessment of a regulated entity's diversity policies and practices?

The Policy Statement envisions that a regulated entity conduct a self-assessment of its diversity policies and practices.

12. How frequently should a regulated entity conduct a self-assessment?

The Joint Standards contemplate that a regulated entity will conduct a self-assessment of its diversity policies and practices at least annually.

However, SEC-regulated entities are only requested to submit self-assessment when requested by the SEC OMWI Director. OMWI expects to request self-assessments from SEC-regulated entities no more frequently than every two years.

13. How does the Policy Statement define "diversity"?

The Policy Statement reflects the general focus of Section 342 of the Dodd-Frank Act. Accordingly, for purposes of the Policy Statement, "diversity" refers to "minorities," as the term is defined in Section 342(g)(3) of the Act (Black Americans, Native Americans, Hispanic Americans, and Asian Americans), and women. However, the Policy Statement says this definition does not preclude entities from using a broader definition of diversity. The language is intended to be sufficiently flexible to encompass other groups if an entity wants to define "diversity" more broadly. For example, a broader definition may include individuals with disabilities, veterans, and lesbian/gay/bisexual/transgender (LGBT) individuals.

Consider also the definition of workforce diversity adopted by the Office of Personnel Management (OPM), which defined the term as:

a collection of individual attributes that together help agencies pursue organizational objectives efficiently and effectively. These attributes include, but are not limited to, characteristics such as national origin, language, race, color, disability, ethnicity, gender, age, religion, sexual orientation, gender identity, socioeconomic status, veteran status, and family structures. OPM's definition of diversity also encompasses differences among people concerning where they are from and where they have lived and their differences of thought and life experiences.

[United States Office of Personnel Management, Guidance for Agency-Specific Diversity and Inclusion Strategic Plans, pp. 3-4.](#)

Diversity Assessment Report for Entities Regulated by the SEC (SEC DAR Form)

14. What is the “Diversity Assessment Report for Entities Regulated by the SEC” (SEC DAR Form)?

The SEC developed a form called the “Diversity Assessment Report for Entities Regulated by the SEC” (SEC DAR Form) to: (1) help guide a regulated entity’s self-assessment of its diversity policies and practices; and (2) provide a regulated entity with a simple and efficient form for submitting information pertaining to their self-assessment to the OMWI Director at the SEC, as contemplated under the Joint Standards.

The SEC DAR Form is primarily intended for regulated entities with more than 100 employees, though entities with fewer than 100 employees may find it useful.

15. Must a regulated entity use the SEC DAR Form?

No. A regulated entity may conduct a self-assessment in any manner that is most effective based on their unique characteristics, such as workforce size, governance structure, total assets, and geographic location. However, the SEC DAR Form was developed to provide a simple and efficient tool that specifically aligns with the Joint Standards and also allows for more consistent data collection. Regardless of the manner of assessment, regulated entities are encouraged to address all of the Joint Standards discussed in the Policy Statement when conducting their self-assessments.

16. How long might it take to complete the SEC DAR Form?

The public reporting burden for the SEC DAR Form is estimated to average ten (10) hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the Diversity Assessment Report. Any comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden may be sent to: David

Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE., Washington, DC 20549, or PRA_Mailbox@sec.gov, and include "SEC File No. 270-664 - OMWI Diversity Assessment Report" in the subject line of the message.

Use of Information

17. How will self-assessment submissions be used?

The information collected from self-assessments may be used to monitor diversity and inclusion practices and methods of assessment. The information may also be used to identify and highlight successful policies and practices.

18. Will the information pertaining to a self-assessment be publically available?

The SEC may publish information collected from self-assessments, but will neither associate the information with a regulated entity, nor disclose confidential business information. Any published data will be aggregated and anonymized. Such data may be shared in reports, such as the SEC's Annual OMWI Congressional Report and separate reports detailing self-assessment results.

Regulated entities submitting information considered sensitive and confidential business information may request confidential treatment of the information in accordance with the SEC procedures under the Freedom of Information Act (17 CFR 200.83), and the SEC will keep the information confidential to the extent allowed by law.