



## Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Securities and Exchange Commission - Frequently Asked Questions

### Introduction

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)<sup>1</sup> 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).<sup>2</sup>

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").

In the responses to the Frequently Asked Questions (FAQs) below, the SEC's OMWI provides guidance regarding the Policy Statement and the Joint Standards. 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. In each update, the FAQs added after publication of the last version will be re-dated and marked with "Modified" or "New."

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<sup>1</sup> 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.

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

## FAQs

### **1. What entities are covered by the Policy Statement?**

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

- Brokers and dealers (including alternative trading systems)
- Government securities brokers and dealers
- Municipal securities dealers
- Municipal advisors
- Investment advisers (including advisers to hedge funds)
- Investment companies (including business development companies)
- Self-regulatory organizations
  - national securities exchanges
  - registered securities associations
  - registered clearing agencies
- Transfer agents
- Nationally recognized statistical rating organizations
- Securities information processors
- Security-based swap dealers
- Major security-based swap participants
- Security-based swap execution facilities
- Security-based swap data repositories

The Policy Statement focuses primarily on regulated entities with more than 100 employees.<sup>3</sup> The Policy Statement also encourages smaller regulated entities to use the Joint Standards in a manner appropriate to their unique characteristics.

### **2. Does the Policy Statement apply to publicly-traded companies?**

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.

### **3. Does the Policy Statement establish new legal requirements for entities regulated by the Agencies?**

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

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<sup>3</sup>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 Equal Employment Opportunity Commission (EEOC).

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.”

#### **4. 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.

#### **5. Who will conduct the assessment of a regulated entity’s diversity policies and practices?**

The Policy Statement envisions that a regulated entity will use the Joint Standards to conduct a voluntary self-assessment of its own diversity policies and practices. The Joint Standards also contemplate that the regulated entity will provide information pertaining to the self-assessment of its diversity policies and practices to the OMWI Director of its primary financial regulator.

#### **6. What is the “Diversity Assessment Report for Entities Regulated by the SEC”?**

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

The Diversity Assessment Report is primarily intended for regulated entities with more than 100 employees, though entities with fewer than 100 employees may find it useful.

SEC-regulated entities may download a PDF version of the Diversity Assessment Report and use it to guide their self-assessments. As explained below in the response to Question 10, regulated entities may provide information pertaining to their self- assessments to the SEC’s OMWI Director by completing and submitting the Diversity Assessment Report online, using a secure web portal.

**7. Must SEC-regulated entities use the Diversity Assessment Report when conducting self-assessment contemplated by the Joint Standards?**

No. Regulated entities may conduct self-assessments in any manner that works best based upon their unique characteristics, such as workforce size, governance structure, total assets, and geographic location.

**8. How frequently should a regulated entity conduct a self-assessment of its diversity policies and practices?**

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

**9. Should the regulated entity provide diversity assessment information to the SEC’s OMWI Director each year?**

No. A SEC-regulated entity should not submit diversity assessment information each year. Rather, a regulated entity should submit diversity assessment information only when requested by the SEC OMWI Director. OMWI expects to collect diversity assessment information from SEC-regulated entities no more frequently than every two years.

**10. How should a regulated entity submit information pertaining to its self-assessment of its diversity policies and practices to the SEC’s OMWI Director?**

The SEC will send an email to regulated entities inviting them to submit a Diversity Assessment Report. A regulated entity should complete and submit the Diversity Assessment Report through Novi Survey, a secure web-based survey management system, which will be accessible via the hyperlink included in the email. PDF versions of the Diversity Assessment Report should not be submitted to the agency.

**11. When should the regulated entity submit diversity assessment information to the SEC’s OMWI Director?**

The timeframe for submitting the Diversity Assessment Reports will be specified in the email transmitting the hyperlink to the report on Novi Survey. Generally, regulated entities will be allowed 60 days to complete the Diversity Assessment Report.

**12. How long might it take to complete the Diversity Assessment Report?**

The public reporting burden for the Diversity Assessment Report 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: Pamela Dyson, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or [PRA-Mailbox@sec.gov](mailto:PRA-Mailbox@sec.gov), and include "SEC File No. 270-664 - OMWI Diversity Assessment Report" in the subject line of the message.

**13. How will the SEC use the information provided in the Diversity Assessment Reports?**

The SEC may use the information provided in the Diversity Assessment Reports to ascertain which policies and practices reflected in the Joint Standards have been adopted by SEC-regulated entities and to highlight diversity policies and practices that have been successful. The SEC may publish information collected from Diversity Assessment Reports in the OMWI Annual Report to Congress, but will not publish any information that identifies a particular regulated entity or discloses confidential business information.

**14. 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. 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.

**15. 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 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.