

April 16, 2020

Secretary Steven Mnuchin  
Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Federal Reserve Bank of New York  
33 Liberty Street  
New York, NY 10045

Fed Reserve of Boston  
600 Atlantic Avenue  
Boston, MA 02210-2204

Congresswoman Maxine Waters  
2221 Rayburn House Office Building  
Washington, DC 20515  
Senator Sherrod Brown  
503 Hart Senate Office Bldg.  
Washington, DC 20510

Senator Charles Schumer  
322 Hart Senate Office Building  
Washington, D.C. 20510

Senator Mark Warner  
703 Hart Senate Office Building  
Washington, DC 20510

Senator Cory Booker  
717 Hart Senate Office Building  
Washington, DC 20510

Senator Elizabeth Warren  
309 Hart Senate Office Building  
Washington, DC 20510

Laurence Fink, Chairman and CEO  
BlackRock, Inc.  
40 East 52nd Street  
New York, NY 10022

RE: Request for Enforcement of Section 342 of the Dodd Frank Act In Connection With  
COVID-related Liquidity Facilities

Ladies and Gentlemen:

The undersigned are writing to urge the U.S. Department of the Treasury to take all necessary measures to ensure that diverse brokerage firms, asset managers and financial services firms have a full and fair opportunity to participate in providing liquidity to the U.S. financial system in light of the catastrophic economic impact of the coronavirus pandemic.

Pursuant to its authority under Title IV of the Coronavirus Aid, Relief, and Economic Securities Act, the U.S. Treasury has authorized the establishment and expansion of several facilities funded by U.S. taxpayer dollars. Collectively, the Money Market Mutual Fund Liquidity Facility (MMLF), Commercial Paper Funding Facility (CPFF), Primary Market

Corporate Credit Facility (PMCCF), Secondary Market Corporate Credit Facility (SMCCF), Term Asset-Backed Securities Loan Facility (TALF) and Municipal Liquidity

Facility (MLF) represent the largest economic relief package in history to be administered by the Treasury and the Federal Reserve.

The Treasury's investment of American taxpayer dollars to prevent corporate distress and maintain liquidity in the financial markets represents one of the few areas for growth in a contracting economy. Without an intentional and directed effort to ensure that Treasury-supported programs provide meaningful opportunities for all segments of the financial community, these activities will exacerbate the lack of diversity and increase concentration in the financial services industry. Nearly a decade after implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), minority- and women-owned financial services firms represent only 1.3% of the industry's \$69 trillion in assets under management despite findings that their performance is on par with non-diverse peers. Minority and women owned financial services firm have become strategic market participants providing brokerage and investment banks services to all markets being targeted by the treasury-related Federal Reserve stimulus programs.

The Federal Reserve Bank of New York's selection of its investment manager and arranger<sup>1</sup> for the Treasury-supported facilities and the Treasury's selection of three Wall Street investment banking firms to advise the government on its bailout effort, both without any conditions relating to procurement and hiring diversity, are steps in the wrong direction. The decisions are contrary to the requirements of Section 342 of the Dodd-Frank Act, which requires the U.S.'s financial agencies and reserve banks to develop and implement standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business and activities at all levels, including in procurement, insurance, and all types of contracts.

Combined with the U.S. Department of Labor Office of Federal Contract Compliance Programs' (OFCCP) March 17, 2020 decision to suspend obligations under Executive Order 11246 (EO 11246), Section 503 of the Rehabilitation Act, and Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act, the failure to promote inclusive hiring and procurement in Treasury-supported business recovery will resonate for decades. The OFFCP has perniciously and cynically signaled to wrongdoers that exigent circumstances call for suspension of the moral and legal principles that define us as a Nation. In exigent circumstances, the call for leadership and affirmation of diversity and inclusion is stronger than ever.

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<sup>1</sup> The firm was selected as a third-party vendor to operationalize these purchases and transact with the primary dealers on behalf of the System Open Market Account and as investment manager for the Federal Reserve Bank of New York's planned purchase of agency commercial mortgage-backed securities and the terms of its contract were not disclosed. See <https://www.nytimes.com/2020/03/25/business/blackrock-federal-reserve.html>.

Consequently, we request that the Treasury take all necessary actions to honor and enforce all Equal Employment Opportunity (EEO) laws and obligations and Dodd Frank (specifically Section 342's requirements) in connection with its Treasury-supported COVID relief efforts. Treasury should mandate that all agencies and reserve banks engaging in Treasury-supported contracting:

- Include the equal opportunity clause contained in Section 202 of EO 11246 in any COVID related contracts (and modifications thereof if not included in the original contract);<sup>2</sup>
- Require all investment managers, advisors, brokers, dealers, law firms and other service providers retained for COVID relief efforts to state whether they have participated in any previous contract subject to the provisions of EO 11246 or any preceding similar Executive Order, and in that event to submit, on behalf of themselves and their proposed subcontractors, compliance reports prior to or as an initial part of their bid or negotiation of a contract;
- Require all retained investment managers, advisors, brokers, dealers, law firms and other service providers to record and retain relevant personnel data, including compensation, hiring, promotion, and termination data ordinarily reported on affirmative action plans and EEO-1 filings and to relevant enforcement agencies;
- Require all retained investment managers, advisors, brokers, dealers, law firms and other service providers to file compliance reports containing information as to their employment practices, policies, programs and statistics, as well as those of their subcontractors;
- Require all retained investment managers, advisors, brokers, dealers, law firms and other service providers to comply with the "Joint Standards" requirement in Dodd Frank to, at a minimum, develop or enhance diversity practices that address their:
  - 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
  - Self-assessment of diversity and inclusion practices"
- Require all Tier 1 financial managers, banks and advisors to utilize minority and women financial services firms in sub advisory capacities.
- Determine, periodically, whether recently selected investment managers, advisors, brokers, dealers, law firms and other service providers and any subcontractors selected by such firms and vendors have failed to make a good faith effort to include minorities and women in their workforce and/or failed to meet or exceed the diversity practices developed under the Dodd Frank requirement and; if so,
- Terminate their contracts.

We are some of the leading national organizations dedicated to enabling minority- and women-owned financial services firms to secure parity, power and civil rights by removing

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<sup>2</sup> 41 CFR 60-1.4 (a) or (b).

artificial barriers to opportunity. Our work assisting the private sector with structuring formal supplier diversity initiatives has demonstrated that diversity and performance are not mutually exclusive propositions. Minority- and women-owned financial services firms have a track record of providing best execution solutions when given the opportunity, in many instances outperforming larger firms. We understand the business realities in this climate but stand ready to help agencies identify diverse financial institutions with the capacity and experience to support the Treasury's efforts on an expedited basis.

Please know that we are willing to meet in person with you or your representatives at your earliest convenience. If you have any questions please feel free to contact the undersigned directly or through Nicole Lazarre, General Counsel at the National Urban League.

Respectfully submitted,



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