



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF
MINORITY AND WOMEN
INCLUSION

March 14, 2018

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, DC 20510

Dear Senator Warren:

Thank you for your March 1, 2018 letter requesting information from the U.S. Securities and Exchange Commission (SEC), Office of Minority and Women Inclusion (OMWI) pertaining to sexual harassment within regulated entities. Your letter suggests this information might be collected in connection with OMWI's implementation of the "Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies" (Joint Standards) issued by the SEC and five other federal financial regulatory agencies (the Agencies) in a final interagency policy statement, pursuant to Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).¹ The Joint Standards envision that regulated entities will conduct voluntary self-assessments of their diversity policies and practices, and submit information pertaining to their self-assessments to the OMWI Director of their primary financial regulator.

Below please find responses to the questions you posed in your letter. As a general matter, the Equal Employment Opportunity Commission (EEOC) is responsible for enforcing the obligations of private-sector employers arising under the federal civil rights laws, including the laws and regulations related to sexual harassment and other prohibited forms of employment discrimination. Because Section 342(a)(3) of Dodd-Frank Act expressly prohibits the SEC from enforcing civil rights laws and regulations, OMWI generally does not interact with SEC-regulated entities in relation to employment discrimination matters.

The Diversity Assessment Report for Entities Regulated by the SEC (Diversity Assessment Report) describes the policies or practices for advancing workforce and supplier diversity that are set forth in the Joint Standards. Use of the Diversity Assessment Report by regulated entities is voluntary, as is conducting self-assessments of their diversity policies and practices, and submitting diversity assessment information to the SEC. The report itself is a checklist format that calls for "yes" answers when items are applicable to a regulated entity and also solicits comments and narrative responses. A copy of the PDF version of the Diversity Assessment Report is attached.

¹ Release No. 34-75050; File NO. S7-10-15; 80 FR 33016 (June 10, 2015).

Question 1: What steps has the SEC OMWI taken, since issuing the Joint Standards in June 2015, to encourage financial firms to institute policies and disciplinary systems that prevent inappropriate sexual behavior in the workplace, including sexual harassment? Please provide a description of any documents or other communications that the SEC OMWI has provided to regulated entities on this topic.

Response: The Joint Standards reflect leading policies and practices for advancing workforce and supplier diversity, and provide a framework for assessing diversity policies and practices in the following areas:

- Organizational commitment to diversity and inclusion;
- Workforce profile and employment practices;
- Procurement and business practices (supplier diversity);
- Practices promoting transparency of organizational diversity and inclusion; and
- Entities' self-assessments of diversity policies and practices.

Since issuing the Joint Standards, OMWI has used several occasions, such as educational events hosted by industry trade associations and conferences of professional associations, to promote the Joint Standards and encourage regulated entities to use them to develop or strengthen their diversity policies and practices. The Joint Standards in the area of "Workforce Profile and Employment Practices" provide that a regulated entity "does not engage in unlawful employment discrimination based on gender, race, or ethnicity," but the standards do not expressly refer to specific forms of discrimination, such as sexual harassment.

The Diversity Assessment Report mirrors the Joint Standards; thus, while it also does not require information on specific policies related to discrimination, it provides an opportunity for a regulated entity to voluntarily provide this type of information. For example, when asked to describe ways in which the entity "demonstrates its organizational commitment to diversity and inclusion," the entity's response may refer to EEO policies and disciplinary actions based on sexual harassment.

Question 2: Since the issuance of the Joint Standards in June 2015, has the SEC OMWI heard from any regulated entities who have experienced problems with workplace discrimination, including sexual harassment? Please provide an overview of the employment discrimination challenges facing the SEC's regulated entities.

Response: To date, OMWI has not been notified by any regulated entities that have experienced problems with workplace discrimination, including sexual harassment.

Question 3: What percentage of regulated entities have filed their Diversity Assessment Reports with OMWI in the two and a half years since the Joint Standards were issued? Has OMWI analyzed these results? If so, please provide a summary of the results of this analysis.

Response: OMWI developed the Diversity Assessment Report for SEC-regulated entities and received approval from the Office of Management and Budget in September 2017 to use the form. Regulated entities were invited on January 25, 2018 to complete and submit Diversity

Assessment Reports, and were given until March 31, 2018 to do so. OMWI will begin to analyze the results and data once the submission period closes.

Question 4: Please provide an overview of how the SEC OMWI plans to further utilize data collected from its Diversity Assessment Report to identify and track employment discrimination, including sexual harassment, in the workplace. Should SEC OMWI identify a sexual harassment problem at a regulated entity, what support would SEC OMWI provide the regulated entity and its employees to address the problem?

Response: The Joint Standards were created to help guide regulated entities' self-assessments of their diversity policies and practices, and also to encourage practices that promote the inclusion of minorities and women in the workforces of regulated entities. OMWI may use the data collected from Diversity Assessment Reports to determine whether respondents promote diversity and inclusion in their organizations, and which policies and practices reflected in the Joint Standards have been adopted by the respondents. OMWI may also publish aggregate findings from Diversity Assessment Reports in, for example, OMWI's Annual Report to Congress. It is unlikely that OMWI would receive data identifying sexual harassment allegations at a regulated entity because, as the Diversity Assessment Report was developed for use with the Joint Standards, it solicits information about the diversity policies and practices of regulated entities; it does not request information relating to sexual harassment or any other type of employment discrimination.

Question 5: Has the SEC OMWI requested, or does it plan to request, additional information from regulated entities on sexual harassment and employment discrimination prevention policies? Please provide an overview of the SEC OMWI's authority to request such information, and the types of analyses that SEC OMWI could conduct upon receiving it.

Response: OMWI has not requested information from regulated entities specifically on the subject of sexual harassment or employment discrimination prevention policies. Section 342 of Dodd-Frank limits OMWI's authority to developing standards for assessing the diversity policies and practices of regulated entities. Section 342 of Dodd-Frank does not give OMWI authority to assess regulated entities' compliance with EEO laws. Regulated entities may choose to voluntarily disclose the existence of these policies within their organizations as part of their response to the Diversity Assessment Report.

Thank you for the opportunity to provide information about the SEC OMWI's implementation of its statutory responsibilities related to the diversity policies and practices of SEC-regulated entities. Please do not hesitate to contact me or Bryan Wood at (202) 551-2010 if you have any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Pamela A. Gibbs". The signature is written in a cursive, flowing style.

Pamela A. Gibbs
Director