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Regulators Continue to Take on Diversity

WRITTEN BY

Jacob A. Lutz III | Brenna Sheffield | Wynter L. Deagle

If it were not for the word "coronavirus," the word of the year might have been "diversity" — the social unrest in 2020 pushed diversity and inclusion matters to the forefront of private and public institutions alike, and has also triggered similar responses within the agencies that regulate those institutions. On February 4 and March 3, the Federal Reserve Bank of San Francisco (Federal Reserve SF) and the Federal Deposit Insurance Corporation (FDIC) announced a Framework for Change and a Strategic Plan, respectively, to confront and promote diversity within their own ranks and the communities they serve.

Per their respective plans, successfully tackling diversity and inclusion as a government agency is not just a matter of revamping their own ranks, but also includes a promotion of these same values in the institutions they regulate and the policies they promote — a trickle-down strategy so to speak. In describing its Strategic Plan, FDIC Director of the Office of Minority and Women Inclusion Nikita Pearson noted that in addition to "embedding diversity, equity and inclusion (DEI) into every aspect of [its] operations … [the FDIC] will partner with [its] supervised institutions to identify and promote diversity, equity, and inclusion policies and practices to make their communities more inclusive." Similarly, Federal Reserve Bank SF's Framework for Change is a "commit[ment] to racial and ethnic equity in [its] organization and the communities [it] serve[s]."

Following the release of the Strategic Plan, on March 15, the FDIC's Office of Minority and Women Inclusion also released a Financial Institution Letter regarding the Financial Institution Diversity Self-Assessment. In accordance with Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the FDIC is calling on its supervised institutions with 100 or more employees to submit self-assessments of their diversity policies and practices on or before June 30. While the letter notes that participation in the self-assessment is "voluntary but encouraged," Financial Services Committee Chairwoman Maxine Waters (D-CA) remains focused on identifying methods to increase compliance among federal financial regulatory agencies tracking diversity and inclusion efforts.

On March 18, Congresswoman Waters and Congresswoman Joyce Beatty (D-OH) sent requests to the United States' 31 largest investment firms — those with a minimum of $400 billion of assets under management — seeking information about each institution's diversity and inclusion data and policies from 2016 through the present, including: (i) workforce and board diversity; (ii) spending with diverse suppliers, including the use of diverse asset management firms; and (iii) challenges implementing diversity and inclusion policies and practices. Congresswoman Waters stated in her corresponding press release that "Chair Beatty and I are requesting this information both to gain specific data about the diversity and inclusion policies, practices and outcomes from this sector, and to make clear that these firms will be held publicly accountable."

During the March 18 hearing held by the U.S. House Committee on Financial Services titled, "By the Numbers:

How Diversity Data Can Measure Commitment to Diversity, Equity and Inclusion," Congresswoman Beatty announced that she is planning to introduce legislation — Diversity Data Accountability Act — that would require all regulated entities to share diversity data with regulators. In the meantime, while we wait to see whether these diversity and inclusion efforts will manifest into statutes or regulations, it will be interesting to see how such internal measures from public agencies push the needle on issues of diversity and inclusion, and whether they truly foreshadow future rules for regulated entities.

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