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REGULATORS SHOULD LOOK LIKE AMERICA

Ensuring Full Implementation of the Offices of Minority and Women Inclusion

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Introduction

The **Dodd/Frank Wall Street Reform and Consumer Protection Act**, signed into law by President Barack Obama on July 21, 2010, represents a major victory for all communities, and especially for communities of color.

Among its most important features is a little known provision, Section 342, which establishes an **Office of Minority and Women Inclusion (OMWI)** in each of the twelve Federal Reserve Banks and eight federal financial regulatory agencies (the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of Comptroller of the Currency, Securities and Exchange Commission, Department of the Treasury, National Credit Union Administration, Federal Housing Finance Agency, and the new Consumer Financial Protection Bureau).

These new offices present a historic opportunity to ensure that the financial regulatory structure is more reflective of a diverse America. The proper implementation of the OMWIs can also ensure institutionalization of racial equity in the financial sector.

What Will the Offices of Minority and Women Inclusion Do?

Section 342 has the power to expand gender and racial diversity at each of the federal financial regulatory agencies. The new offices will require the inclusion of minority- and women-owned businesses at all levels of business activities, including in procurement, insurance, and all types of contracts. They will also require contractors with the federal government to guarantee inclusion of women and people of color in their workforces. Furthermore, the very existence of these offices will ensure that the people watching over the financial sector will be sensitive to the particular experiences of diverse communities.

Why Are the Offices of Minority and Women Inclusion Necessary?

Fully implemented, these offices will be able to expand gender and racial diversity (in



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**Selected Text from
the Dodd/Frank Wall Street Reform
and Consumer Protection Act**

SEC. 342. OFFICE OF MINORITY AND WOMEN INCLUSION.

(a) OFFICE OF MINORITY AND WOMEN INCLUSION. —

(1) ESTABLISHMENT. —

(A) IN GENERAL. — Except as provided in subparagraph (B), not later than 6 months after the date of enactment of this Act, each agency shall establish an Office of Minority and Women Inclusion that shall be responsible for all matters of the agency relating to diversity in management, employment, and business activities.

...

(b) DIRECTOR. —

(2) DUTIES. — Each Director shall develop standards for —

(A) equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the agency;

(B) increased participation of minority-owned and women-owned businesses in the programs and contracts of the agency, including standards for coordinating technical assistance to such businesses; and

(C) assessing the diversity policies and practices of entities regulated by the agency.

...

(c) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES. —

(1) IN GENERAL. — The Director of each Office shall 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 of the agency at all levels, including in procurement, insurance, and all types of contracts.

(2) CONTRACTS. — The procedures established by each agency for review and evaluation of contract proposals and for hiring service providers shall include, to the extent consistent with applicable law, a component that gives consideration to the diversity of the applicant. Such procedure shall include a written statement, in a form and with such content as the Director shall prescribe, that a contractor shall ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors.

...

(d) APPLICABILITY. — This section shall apply to all contracts of an agency for services of any kind, including the services of financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. ...

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(e) REPORTS. — Each Office shall submit to Congress an annual report regarding the actions taken by the agency and the Office pursuant to this section,

f) DIVERSITY IN AGENCY WORKFORCE. — Each agency shall take affirmative steps to seek diversity in the workforce of the agency at all levels of the agency in a manner consistent with applicable law. ...

both personnel and procurement) at each of the federal financial regulatory agencies. Their existence is also likely to support the prevention of future predatory financial practices in targeted communities, complementing the role of the new Consumer Financial Protection Bureau.

The Offices of Minority and Women Inclusion have the potential to ensure that:

1. Diverse community leaders have an additional mechanism to hold government accountable.
2. Government is more transparent.
3. Both government regulators and the financial sector reflect the diversity of America's population.
4. Both government regulators and the financial sector make a concerted effort to provide contracts to businesses that reflect the diversity of America's entrepreneurs.
5. The financial sector no longer engages in negative behavior that disproportionately impacts communities of color, including minority- and women-owned businesses.

**How Do We Make Sure the Offices of
Minority and Women Inclusion Have
Teeth?**

The passage of the law creating these offices is the first step; now comes the implementation effort. Greenlining recognizes that a seat at the table doesn't guarantee the end of racially biased predatory financial practices. But this enhancement to the regulatory structure, combined with community based accountability, represents an important step in institutionalizing racial equity and fairness.

In this spirit, Greenlining sent the following memo to each of the twenty entities required to create Offices of Minority and Women Inclusion. Our ideas were strengthened and endorsed by more than forty regional and national civil rights and consumer protection organizations.

Together we will work immediately to ensure that these recommendations are seriously considered and adopted.

COMMUNITY RECOMMENDATIONS FOR THE IMPLEMENTATION OF THE OFFICE OF MINORITY AND WOMEN INCLUSION

[A version of the following memo was sent to each of the financial regulatory agencies required by the Dodd/Frank law to establish an Office of Minority and Women Inclusion]

1) Swift Implementation with Community Input

There remain approximately four months before the office must be established. We know that you have begun initial conversations to plan for the office, and we would encourage you, if you have not done so already, to begin to meet with community and policy organizations to gather their input on this process. We recommend an immediate convening of key stakeholders at the agency to discuss goals and activities for the Offices of Minority and Women Inclusion. We are willing to facilitate this meeting at your earliest convenience.

2) Release Current Diversity Data for Each Federal Reserve Bank

We urge and request that you quickly release diversity data for your agency. We recommend that this diversity data be released with breakdowns by board, senior staff, and non-management staff. In addition, we request that you release your agency's contracting data to firms owned by women and minorities. This diversity data should be broken down for women, African Americans, Latinos, Asian Americans/Pacific Islanders, and Native Americans.

3) Set Concrete Aspirational Goals

The statute charges the office with responsibility for all matters of the agency relating to racial/ethnic and gender diversity in *management, employment, and business activities*.

With respect to diversity within your agency, we encourage you to benchmark the current status of each of these areas (with concrete raw numbers and percentages) and to set voluntary leadership goals to significantly improve upon these figures. In each area, as a baseline, *we recommend that this office immediately sets annual goals to reflect of the current*

diversity of the American population, based on 2010 Census figures, to be achieved within five years. Progress toward these goals should be made available on an annual basis through quantifiable data reporting.

With respect to the diversity of entities regulated by your agency, we encourage you to use your authority to benchmark current progress in the regulated sector, and to compel *voluntary* goal setting by these entities. A mechanism for this is proposed below.

4) Select the Best Director that Reports Directly to the Agency Chair

The success of this new office will depend in large part, in addition to your own prioritization of it, on the skill and commitment of the new director. The director of this office should report directly to the chair of the agency in order to avoid being "buried" in the bureaucracy.

We strongly recommend an open search to bring fresh ideas and energy to the three-fold mission of the office. Your applicant pool should include several experts and leaders who have experience and vision from each relevant sector outside the regulatory one (including the community, policy, advocacy, and private sectors).

We would suggest, at minimum, that any applicant that qualifies as a finalist for the position demonstrates the following criteria: a significant history of experience on issues of diversity related to the mandate of the office; a history of work in or on behalf of underserved communities; a proven ability to engage multiple stakeholder groups in the mission of the office, including in the public, private and nonprofit sectors; a commitment to transparency in the spirit of President Obama's Open Government Initiative; relevant business experience; and demonstrated success in exhibiting innovative and creative leadership that builds both business and community.

***Financial Regulatory Agencies
Required by the Dodd/Frank Law to
Establish an Office of Minority and
Women Inclusion***

Federal Reserve Board
Federal Deposit Insurance Commission
Office of the Comptroller of the Currency
U.S. Department of the Treasury
Securities and Exchange Commission
National Credit Union Administration
Federal Housing Finance Agency
Consumer Financial Protection Bureau
Federal Reserve Bank–San Francisco
Federal Reserve Bank–Kansas City
Federal Reserve Bank–Minneapolis
Federal Reserve Bank–Dallas
Federal Reserve Bank–St. Louis
Federal Reserve Bank–Chicago
Federal Reserve Bank–Atlanta
Federal Reserve Bank–Cleveland
Federal Reserve Bank–Richmond
Federal Reserve Bank–Philadelphia
Federal Reserve Bank–New York
Federal Reserve Bank–Boston

The applicant pool should be a representative group that includes candidates from diverse racial and ethnic backgrounds. A gender balance should be ensured across the demographics of this pool. These applicant pool demographics, without identifying names, should be made available to interested parties.

5) Diversity in Workforce and Senior Management of the Agency

Despite a more diverse government under the Obama Administration, no federal administration or regulatory agency currently reflects the diversity of the constituency it is charged to serve, especially at the management level. We therefore see a trend toward tokenization rather than real representation sensitive to the needs and strengths of diverse

communities and businesses. This new office, of course, is best poised to change this.

The problem in many agencies has long been one of execution rather than intention. Similar to the open search necessary to find the best office director, the search for the best workforce and senior management must go beyond typical channels. We can make introductions to several large networks of professionals in the relevant fields, and we would encourage early meetings with the directors of each of these networks to prepare for the proactive search that will follow. We can also be helpful with outreach in diverse communities through the minority media.

As mentioned above, to know where we’re going, we must know where we currently stand. An immediate goal must therefore be to benchmark current status of agency workforce and senior management (with concrete raw numbers and percentages) and to set leadership goals that significantly exceed this current status, mirroring the nation’s diversity within five years. Progress toward these goals must be made available on an annual basis through quantifiable data reporting, as required by statute.

6) Diversity in Business Activities of the Agency

The statute requires the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts. In gathering data, these types of business activity should be disaggregated for easy monitoring of trends across different manners of contracting.

Early on, the office must develop a procedure, including a written form and statement that requires all contractors to ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and subcontractors. We strongly urge drafts of this procedure and form/statement to be shared with key stakeholders prior to implementation for feedback on potential revisions. It would also be

useful to privately asterisk any problem contractors identified through initial reporting for additional technical assistance to meet fair inclusion goals.

Again, to know where we're headed, we must know where we find ourselves currently. The required reporting will quickly establish a benchmark for total contracts and the number and percentage going to diverse firms. We urge an aspirational leadership goal to significantly increase the agency's current diverse contracting figures and to, within five years, reflect the diversity of the American population. While not set high enough, the Small Business Administration, for example, has at least set goals for women and small disadvantaged businesses (SDB/8 (a)).

As required by statute, progress toward these goals will be made available on an annual basis through quantifiable data reporting.

Another useful and adaptable model for data collection is Senator Robert Menendez's 2010 Fortune 500 corporate diversity survey. The design of this survey offers insight into both contracting and workforce/management issues.

The agency should also make transparent all contracting opportunities available at the agency via a website and regular newsletter to those that subscribe. In addition, we urge the agency to hold community forums on a regular basis to educate the public on upcoming contracting opportunities within the agency. The FDIC has developed a model for such forums on issues related to asset management and other contracting opportunities.

When appropriate, the agency shall strive to advertise programs and services through minority-owned media outlets.

7) Diversity in Entities Regulated by the Agency

Perhaps the most important power of this new office will be its impact not just on contracting by the agency, but within the private sector. This is where the federal government has had the least influence but enjoys the most potential. The simple power of

your agency to ask questions to encourage diversity without quotas, through regulatory influence, will be especially at home in the new Office of Minority and Women Inclusion.

We wish to draw your attention to a tremendously successful model based on the California Public Utilities Commission's General Order 156 (GO 156). By requiring simple goal setting and transparency by regulated energy utilities and telecommunications companies through this program, the Commission has moved the supplier diversity of major utilities and telecoms in California to as high as 30% (while they hover around 5% in many other states) without the use of quotas, mandates or set-asides.

As noted above, this model focuses not on government contracts themselves, but instead how government can encourage diverse contracting within the private sector. GO 156 shows proven results in encouraging competition, enlisting private dollars to stimulate the economy through small business growth, and creating jobs in the most impacted communities ... all through simple goal setting and transparency.

The office should immediately develop a GO 156-type program by:

- a) requiring all regulated entities to set voluntary goals for their diverse contracting
- b) institutionalizing a basic form and annual date for collection of these stated voluntary goals on an annual basis
- c) collecting this data on an annual basis
- d) establishing a clearinghouse on Data.gov to make public these voluntary goals, and any progress of the entities toward these goals
- e) holding an annual hearing for regulated entities to report efforts and progress on staff diversity and contracting.

Delineating this process will make up for an omission in the reporting requirements of the statute, which instead focuses primarily on direct contracting by your agency. Your agency is also best poised to use its authority to also gather data about contracting within the private sector itself.

8) Establish an Internship and Affinity Program with Diverse Colleges and Universities

We urge the early establishment of an internship and affinity program with historically black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority-minority populations.

While such a program goes beyond the mandate of the statute, it will be the best way to facilitate this mandate. An enormous talent pool that can benefit both the Office of Minority and Women Inclusion and the agency as a whole can be found on these campuses. An internship and affinity program will create a formal pipeline into the agency.

9) Required Reporting on Progress and Interagency Coordination and Competition

In addition to the creation of the above-described new data collection and reporting process for regulated entities *within* the private sector, the new office must also submit an annual report to Congress. We encourage you to meet with relevant community and policy organizations in the preparation of these annual reports. We are confident that we can provide insight to develop the best reporting possible, and on-the-ground realities to match.

References

1. The statute also encourages the following recruitment tools: a) recruiting at historically black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations; b) sponsoring and recruiting at job fairs in urban communities; c) placing employment advertisements in newspapers and magazines oriented toward minorities and women; d) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions; and e) where feasible, partnering with inner-city high schools, girls' high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring; and (f) any other mass media communications.
2. The statute applies to all contracts of an agency for services of any kind, including (but not limited to) the services of financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services (including contracts for the issuance or guarantee of any debt, equity, or security, the sale of assets (including franchise sales, structured sales, and other asset sales), the management of the assets of the agency, the making of equity investments by the agency, and the implementation by the agency of programs to address economic recovery.
3. This report must include: a statement of the total amounts paid by the agency to contractors since the previous report; the percentage of diverse contracts; the successes achieved and challenges faced by the agency in operating minority and women outreach programs; and the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses.

The following organizations have endorsed the preceding memo:

Allen Temple Baptist Church
Americans for Financial Reform
Asian Business Association
Asian Journal
Bay Area Black United Fund
Black Economic Council
California Community Economic Development Association
California Hispanic Chambers of Commerce
California Journal for Filipino Americans
California Reinvestment Coalition
Causa Justa: Just Cause
Center for Responsible Lending
CHARO Community Development Corp.
Consumer Action
Council of Asian American Business Associations
El Concilio of San Mateo County
Ella Baker Center for Human Rights
FAME Corporation
Greater Phoenix Urban League
Greenlining Institute
Insight Center for Community Economic Development
KHEIR Center
Korean Churches for Community Development
Latino Business Chamber of Greater Los Angeles
Mabuhay Alliance
Minority Business Round Table
Mission Economic Development Agency
Mission Language Vocational School
National Association of Consumer Advocates
National Council of Asian American Business Associations
National Fair Housing Alliance
National Financial Services Consortium, LLC
New Jersey Citizen Action
Oakland Land Trust
Project Amiga
Promerica Bank
San Francisco Black Chamber of Commerce
San Francisco Housing Development Corporation
Sargent Shriver National Center on Poverty Law
Silicon Valley Advisors
The Leadership Conference on Civil and Human Rights
The Unity Council
The Way Christian Center
Urban Strategies Council



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The Greenlining Institute is a national policy, organizing, and leadership institute working for racial and economic justice. We ensure that grassroots leaders are participating in major policy debates by building diverse coalitions of grassroots leaders that work together to advance solutions to our nation's most pressing problems.

Our mission is to empower communities of color and other disadvantaged groups through multi-ethnic economic and leadership development, civil rights and anti-redlining activities.

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