

February 7, 2020

## Memorandum

**To:** Members, Committee on Financial Services

**From:** FSC Majority Staff

**Subject:** February 12, 2020, “A Review of Diversity and Inclusion at America’s Large Banks”

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The Subcommittee on Diversity and Inclusion will hold a hearing entitled, “A Review of Diversity and Inclusion at America’s Large Banks” at 10:00 a.m. on Wednesday, February 12, 2020, in room 2128 of the Rayburn House Office Building. The witnesses for this one-panel hearing are:

- **Kenneth Bentsen**, President and Chief Executive Officer, Securities Industry and Financial Markets Association (SIFMA)
- **Dr. Naomi Mercer**, Senior Vice President, Diversity, Equity and Inclusion, American Bankers Association (ABA)
- **Rawan Elhalaby**, Senior Economic Equity Program Manager, The Greenlining Institute
- **Joseph Vaughan**, Executive Director, Corporate Diversity and Inclusion Forum
- **Subha Barry**, President, Working Mother Media
- **Dr. Gail Greenfield**, Principal, Workforce Strategy and Analytics, Mercer

### Purpose

This hearing will review the findings and recommendations of a report prepared by the Majority staff of the Committee on Financial Services entitled, “Diversity and Inclusion: Holding America’s Large Banks Accountable” (Committee Staff Report or Report).<sup>1</sup>

### Background

Congress included provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) to promote diversity and inclusion in the financial services industry, including the collection of diversity data.<sup>2</sup> Specifically, Section 342(e) of the Dodd-Frank Act established and requires the Offices of Minority Women and Inclusion (OMWI) to submit an annual report to Congress regarding the actions taken by the respective financial

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<sup>1</sup> This report has been distributed along with this memo.

<sup>2</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act 12 U.S.C. § 5452 (2010).

services agencies and the OMWI office, which shall include “the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses,” and “in operating minority and women outreach programs,” among other things.<sup>3</sup> To comply with this section of the law, the financial services regulatory agencies adopted the Joint Standards for Assessing the Diversity and Policies and Practices of Entities Regulated (Joint Standards) in June 2015.<sup>4</sup> Regulators agreed that industry compliance in sharing diversity data per the Joint Standards would be voluntary. As a result, regulators have received limited information from their regulated entities, including banks. For example, the prudential banking regulators—the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System—noted in their 2018 annual OMWI reports that they had 16.7%, 9.3% and 5% percent response rates to their diversity survey, respectively.<sup>5</sup>

After the megabank CEOs testified before the Financial Services Committee in April 2019, Subcommittee Chair Beatty asked the financial institutions to more share detailed information on their banks’ diversity and inclusion data and practices. Chairwoman Waters and Chair Beatty subsequently expanded that request to all bank holding companies and savings and loan holding companies with assets over \$50 billion. In keeping with diversity information that would also be requested annually by OMWIs, a total of 44 banks were asked to respond to diversity and inclusion questions on the following topics:

1. Demographic totals on employees, including:
  - a. Total number of employees (full- and part-time),
  - b. Career level of employees (executive and manager versus employees in other roles),
  - c. Gender, race and ethnic identity of employees, as otherwise known or provided voluntarily, and,
  - d. Employee compensation by gender, race and ethnicity;
2. Number and dollar value invested with minority- and women-owned vendors and asset managers as compared to all vendor and asset manager investments;
3. Title(s) and reporting structure for each institution’s lead diversity officer(s) including the number of staff and budget dedicated to diversity initiatives;
4. Description of performance measures and compensation tied to diversity initiatives;

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<sup>3</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act 12 U.S.C. § 5452(e) (2010).

<sup>4</sup> Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (CFPB); and Securities and Exchange Commission (SEC). “Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies,” *Federal Register* (June 10, 2015.) <https://www.federalregister.gov/documents/2015/06/10/2015-14126/final-interagency-policy-statement-establishing-joint-standards-for-assessing-the-diversity-policies> <https://www.federalregister.gov/documents/2015/06/10/2015-14126/final-interagency-policy-statement-establishing-joint-standards-for-assessing-the-diversity-policies>. The standards were adopted jointly by the Office of the Comptroller of the Currency, the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Consumer Financial Protection Bureau, and the Securities and Exchange Commission. The standards were adopted jointly by the Office of the Comptroller of the Currency, the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Consumer Financial Protection Bureau, and the Securities and Exchange Commission.

<sup>5</sup> House Financial Services Committee review of 2018 OMWI reports: FDIC at <https://www.fdic.gov/about/diversity/pdf/rte32919.pdf>, OCC at <https://www2.occ.gov/publications-and-resources/publications/omwi-publications/files/2018-omwi-annual-report.html>, and the Federal Reserve at <https://www.federalreserve.gov/publications/files/omwi-report-20180330.pdf>.

5. Company-wide diversity policies and practices, including:
  - a. Recruitment strategies,
  - b. Outreach to diverse organizations, such as historically black colleges and universities and professional organizations, and,
  - c. Gender pay equity data and efforts to close any identified gaps;
6. Corporate board demographic data, including:
  - a. Total number of board members,
  - b. Gender, race and ethnic identity of board members, as otherwise known or provided voluntarily, and,
  - c. Board position title, as well as any leadership and subcommittee assignments;
7. Institution's diversity policies and practices; and,
8. Any challenges the institution faces in implementing its diversity goals and initiatives.

The full text of the request letter that was sent to the 44 banks can be found in Appendix I of the Committee Staff Report attached to this memo.

### **Key Findings of the Committee Staff Report**

The key findings of the Committee Staff Report are that: 1) large banks' boards of directors are not diverse; 2) their senior employees are not diverse; and, 3) they have limited spending and investments with diverse firms. Despite these shortcomings, the Report also found that some banks are implementing diversity-focused policies and practices including: 1) recruiting diverse talent; 2) establishing employee resource groups; and, linking diversity and inclusion results to performance. The Report also details how some banks have achieved pay equity between male and female employees, and at nearly all banks, the ratio of male to female employees approximately mirrors the U.S. general population. In addition, the overall proportion of racial and ethnic minorities at the large banks approximates the U.S. general population.

While all 44 banks acknowledged in some way that they need to improve with respect to diversity and inclusion, nearly half of the banks surveyed did not share any specific challenges in implementing their diversity and inclusion goals. For those banks that identified challenges, the most prevalent challenges reported: the competition for talent in science, technology, engineering, math (STEM) and finance; the absence of a consistent definition of diversity and inclusion; and, data collection and self-identification problems.

### **Key Recommendations of the Committee Staff Report**

The Committee Staff Report recommends that Congress consider the following legislative actions to improve diversity and inclusion at American's largest banks:

- Require that banks share diversity and inclusion data with their regulators and the public;
- Require banks to track and make efforts to increase their spending with diverse firms; and,
- Require banks to publicly disclose the diversity of their boards.

## **Legislative Proposals**

This hearing will also consider the following legislation, which are also discussed in the Committee Staff Report:

**H.R.\_\_\_\_, Diversity Data Accountability Act.** This bill makes reporting requirements under Section 342 of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) mandatory. Under the bill, regulated entities, including banks, would be required to disclose their diversity policies and practices to the OMWI at their respective regulators.

**H.R.\_\_\_\_, Mergers and Acquisition Disclosure of Diversity and Inclusion Act (Clever).** This bill would require banks subject to a merger or acquisition to include diversity and inclusion data with their merger application.

**H.R.\_\_\_\_, Promoting Diversity and Inclusion in Banking Act.** This bill would require the bank regulators to examine financial institutions' diversity and inclusion efforts, including reviewing bank diversity and inclusion policies. The bill would also require banks and other regulated institutions to respond to OMWI requests for information related to assessments of their diversity policies and practices.

**H.R.\_\_\_\_, Diverse Investment Advisers Act (Beatty).** This bill would require companies that register and are registered with the Securities and Exchange Commission (SEC) to consider at least one diverse asset manager when contracting out for asset management services and report to the SEC on the extent to which they use diverse asset managers.

**H.R. 5084, Improving Corporate Governance Through Diversity Act of 2019 (Meeks).** This bill would require public companies to annually disclose the voluntarily, self-identified gender, race, ethnicity and veteran status of their board directors, nominees, and senior executive officers. Among other requirements, the SEC OMWI would publish best practices for compliance with diversity disclosures. This bill passed the House of Representatives in November 2019.