

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

February 22, 2019

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: February 27, 2019, “Diversity Trends in the Financial Services Industry”

The Committee on Financial Services will hold a hearing entitled, “Diversity Trends in the Financial Services Industry” on Wednesday, February 27, 2019, at 2:00 p.m. in room 2128 of the Rayburn House Office Building. This will be a one-panel hearing with the following witness:

- **Daniel Garcia-Diaz**, Director, Financial Markets and Community Investment, U.S. Government Accountability Office

Purpose

This hearing will examine trends in diversity in the financial services industry, including management-level diversity and diversity among potential talent pools. The hearing will also explore challenges that financial services firms have identified in trying to increase workforce diversity and practices that firms have used to address such challenges.

Background

According to academics, researchers, historians, authors, and economists, diversity is one of America’s greatest assets. In 2011, for example, research from Forbes concluded that a diverse set of experiences, perspectives, and backgrounds is crucial to innovation and the development of new ideas.¹ In 2014, the international management consultancy, McKinsey & Company, released its “Diversity Matters” report, which demonstrated a statistically significant positive correlation between racial and ethnic diversity and improved financial performance.²

Federal Laws in Support of Inclusion and Advancement of Minorities and Women in the Workplace

Congress has enacted laws, federal agencies have issued regulations, and Administrations have issued Executive Orders to support the inclusion and professional advancement of minorities and women in the workplace.

¹ Forbes Insights, “GLOBAL DIVERSITY AND INCLUSION: FOSTERING INNOVATION THROUGH A DIVERSE WORKFORCE” (July 2011), available at:

https://i.forbesimg.com/forbesinsights/StudyPDFs/Innovation_Through_Diversity.pdf.

² Hunt, Layton and Prince, McKinsey & Company, “DIVERSITY MATTERS” (Nov. 24, 2014), available at:

<https://assets.mckinsey.com/~media/857F440109AA4D13A54D9C496D86ED58.ashx>.

In 1963, Congress passed the Equal Pay Act of 1963,³ which amended the Fair Labor Standards Act to abolish the wage disparity between men and women doing the same jobs. The following year, Congress enacted the Civil Rights Act of 1964⁴ (“1964 Act”). Title VII of the 1964 Act prohibits discrimination against an employee or applicant on the basis of race, color, sex, or national origin and retaliation against employees because of an employee’s filing of a discrimination claim. It also established the Equal Employment Opportunity Commission (“EEOC”) to enforce the Title VII requirements. The EEOC works on behalf of aggrieved employees to seek justice through mediation, counseling, and legal measures to promote equal opportunity and combat employment discrimination. The EEOC’s reporting requirements mandate that each federal agency annually review its progress in providing policy guidance and standards for equal employment opportunity so as to identify barriers that may work against this aim.⁵

In reaction to certain Supreme Court decisions that shifted the landscape of anti-discrimination laws,⁶ Congress enacted the Civil Rights Act of 1991, which created avenues for successful litigants to recover compensatory and punitive damages, subject to statutory caps, under Title VII for intentional discrimination. It also codified the disparate impact theory of discrimination in employment practices. In 2002, Congress passed additional legislation designed to deter discriminatory practices in the federal workplace. The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002⁷ buttressed anti-discrimination laws by instructing each federal agency to provide training, every two years, to its employees about the rights and remedies available under the employment discrimination and whistleblower protection laws. Additionally, each federal agency must submit to Congress, the EEOC, the Department of Justice, and the Office Personnel Management, an annual report about its efforts to improve compliance with the employment discrimination and whistleblower protection laws, as well as a status update regarding any complaints brought against the agency under these laws.

Responding to the 2008 financial crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act⁸ (“Dodd-Frank”) and the Housing and Economic Recovery Act of 2008⁹ (“HERA”). These Acts also included provisions to address the lack of women and minority representation in the public and private sectors of the financial industry. Section 342 of the Dodd-Frank Act directed the establishment of Offices of Minority and Women Inclusion (OMWIs) across most of the Federal financial services agencies,¹⁰ and required the OMWIs to develop of standards to promote diverse employment within the agencies, increase participation of minority- and women-owned businesses contracting with the agencies, and assess the diversity policies and practices of entities that are regulated by the agencies.

Democratic Staff Report on Diversity in the Financial Services Agencies

³ Pub. L. No. 88-38 (1963).

⁴ Pub. L. No. 88-352 (1964).

⁵ As stipulated in Sec. 717 of Title VII and Sec. 501 of the Rehabilitation Act by Management Directive 715.

⁶ See *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (considering gender discrimination claims); and *Wards Cove Packing Co. v. Antonio*, 490 U.S. 642 (1989) (considering racial discrimination claims).

⁷ Pub. L. No. 107-174 (2002).

⁸ Pub. L. No. 111-203 (2010).

⁹ Pub. L. No. 110-289 (2008).

¹⁰ Pursuant to Section 342 of Dodd-Frank, the agencies required to establish an OMWI are: (A) the Departmental Offices of the Department of the Treasury; (B) the Federal Deposit Insurance Corporation (FDIC); (C) the Federal Housing Finance Agency (FHFA); (D) the 12 regional Federal Reserve Banks; (E) the Federal Reserve Board of Governors (FBG); (F) the National Credit Union Administration (NCUA); (G) the Office of the Comptroller of the Currency (OCC); (H) the Securities and Exchange Commission (SEC); and (I) Consumer Financial Protection Bureau (CFPB). Pub. L. No. 111-203, § 342 (2010). Similarly, Section 1116 of HERA required the FHFA to establish an OMWI or a functional equivalent. Pub. L. No. 110-289, §1116 (2008).

In 2015, five years after the enactment of Dodd-Frank, the Committee on Financial Services (FSC) Democratic Staff released a report on diversity in the financial services agencies.¹¹ The staff report found that at the agencies they reviewed and analyzed,¹² minorities and women were underrepresented in their workforces and at the senior-level management in proportion to their overall participation rates. Additionally, African-American employees generally received lower performance management review (PMR) scores than White employees. Given the findings, the staff report delineated several recommendations for the agencies. Some of the recommendations include that the agencies: 1) investigate whether discrimination was the root cause of the underrepresentation and PMR score differences; 2) ensure accountability of all managers by evaluating them on their progress in achieving diversity objectives; and 3) re-evaluate the purpose and content of their OMWI's annual reports. The report also recommended that agencies' Offices of Inspectors General (OIG) periodically review the agencies' representation of minorities and women within their workforces, along with their personnel practices, policies, and any other efforts to ensure that the workplaces are free of systemic discrimination and provide equal opportunity.¹³

GAO Report: "Financial Services Industry: Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015"¹⁴

In recent years, the GAO has completed several reports on workforce diversity.¹⁵ Most reports generally conclude that minorities and women remain underrepresented in their industries and challenges to a diverse workforce and equal opportunity still exist. One of the most recent GAO reports on workforce diversity is the November 2017 report entitled, "Financial Services Industry: Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015," which was produced at the request of Chairwoman Maxine Waters, along with Senator Sherrod Brown and Congressman Al Green.

The report analyzed (1) trends in management-level diversity in the financial services industry from 2007 through 2015, (2) trends in diversity among potential talent pools, and (3) challenges financial services firms identified in trying to increase workforce diversity and practices firms used to address them. Four sectors of the financial services industry were analyzed: banks and other credit institutions, securities and other related activities, insurance, and funds and trusts.

Trends in Management-Level Diversity

The GAO reported that from 2007 to 2015, the overall representation of women among managers at financial services firms remained generally unchanged, while the overall

¹¹ THE DODD-FRANK ACT FIVE YEARS LATER: DIVERSITY IN THE FINANCIAL SERVICES AGENCIES, Dem. Staff Report, Comm. on Fin. Serv. (2015) [https://financialservices.house.gov/uploadedfiles/fsc_dems - staff report - dodd-frank five years later - diversity in the financial services agencies - final.pdf](https://financialservices.house.gov/uploadedfiles/fsc_dems_-_staff_report_-_dodd-frank_five_years_later_-_diversity_in_the_financial_services_agencies_-_final.pdf).

¹² Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the Federal Housing Finance Agency, the National Credit Union Administration, and the Securities and Exchange Commission. *Ibid.* at I.

¹³ For a complete list, see pages 10-11 of the staff report.

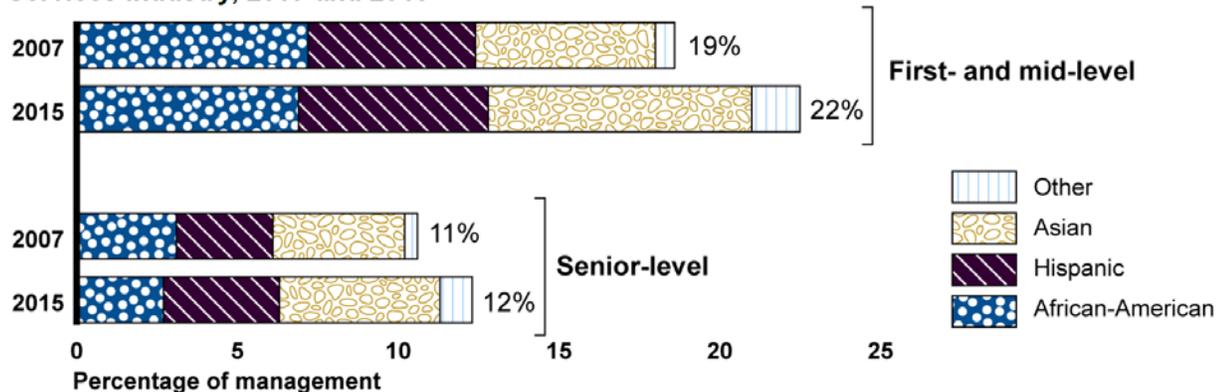
¹⁴ "FINANCIAL SERVICES INDUSTRY: Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015," GAO (Nov. 2017) , <https://www.gao.gov/products/GAO-18-64>.

¹⁵ See *ibid.*; "INVESTMENT MANAGEMENT: Key Practices Could Provide More Options for Federal Entities and Opportunities for Minority- and Women-Owned Asset Managers," GAO (Sept. 2017) <https://www.gao.gov/products/GAO-17-726>; "CORPORATE BOARDS: Strategies to Address Representation of Women Include Federal Disclosure Requirements," GAO (Dec. 2015) <https://www.gao.gov/products/GAO-16-30>.

representation of minorities among managers marginally increased, except for African-Americans whose representation decreased.¹⁶

In the report, there were two categories of management, based on EEOC descriptions of two management positions: (1) senior-level management and (2) first- and mid-level management. Representation of women in both categories of management remained generally unchanged from 2007 to 2015. Women remained at about 29% among senior-level managers and at about 48% among first- and mid-level managers.¹⁷ During the same time period, minority representation increased by 1% among senior-level managers and by 3% among first- and mid-level managers:

Representation of Specific Races/Ethnicities in Various Management Levels in the Financial Services Industry, 2007 and 2015



Source: GAO analysis of Equal Employment Opportunity Commission data. | GAO-18-64

Asians, Hispanics, and other¹⁸ minorities experienced a marginal increase in representation, with Asians representing most of the increase among minority managers. From 2007 to 2015, representation in overall management increased from 5.4% to 7.7% for Asians, increased from 4.8% to 5.5% for Hispanics, and increased from 0.6% to 1.4% for other minorities.¹⁹ Overall representation for African-Americans decreased from 6.5% to 6.3% during the time period,²⁰ with the one exception being in manager representation in the insurance sector.²¹ Additionally, African-Americans experienced decreased representation in both senior-level management, from 3.1% to 2.7%, and first- and mid-level management, from 7.2% to 6.9%.²²

Trends in Diversity Among Potential Talent Pools

The GAO noted that from 2007 to 2015, the proportion of minority managers in the financial services industry increased at a lower rate than the rate of minority degree attainment, even though bachelor’s and master’s degree attainment for minorities had consistently increased from 2011 to

¹⁶ “FINANCIAL SERVICES INDUSTRY: Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015,” GAO (Nov. 2017), <https://www.gao.gov/products/GAO-18-64>. In 2010, the GAO released a report that similarly stated diversity in management in the financial services industry had not substantially changed during 1993 to 2008. FINANCIAL SERVICES INDUSTRY: Overall Trends in Management-Level Diversity and Diversity Initiatives, 1993-2008, GAO, May 12, 2010, <https://www.gao.gov/products/GAO-10-736T>.

¹⁷ “FINANCIAL SERVICES INDUSTRY: Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015,” GAO at 15 (Nov. 2017), <https://www.gao.gov/products/GAO-18-64>.

¹⁸ “The ‘Other’ category includes Native Hawaiian or Pacific Islander, Native American or Alaska Native, and ‘two or more races.’” *Ibid.* at 12.

¹⁹ *Ibid.* at 10.

²⁰ *Ibid.*

²¹ *Ibid.* at 20.

²² *Ibid.* at 12.

2015,²³ Over this same period, women consistently attained a degree, except for a Master of Business Administration, at a higher rate than men.²⁴ These statistics suggest that the potential talent pool is not in and of itself an obstacle to greater diversity in the industry.

Challenges and Suggested Practices in Recruiting and Retaining a Diverse Workforce

Firm representatives and diversity advocates noted several obstacles to recruiting a diverse workforce: negative perceptions of the industry; the failure of firms to recruit from more than a “small number of elite universities;”²⁵ unconscious bias against women and minorities; and, occasionally, geographical considerations. Stakeholders either believe or have found several practices to be effective in overcoming some of these obstacles including: engaging in broad-based recruiting; establishing relationships with student and professional organizations; intentionally recruiting diverse candidates; and, offering programs to increase awareness of the financial services industry.²⁶ It is notable that federal financial services agencies face similar challenges in recruitment, and as a result, the Federal Deposit Insurance Corporation OIG has recommended that the FDIC formalize recruiting procedures to ensure “consistent and comprehensive outreach to diverse populations.”²⁷

In addition to recruitment obstacles, the GAO also noted that financial services firms have challenges in retaining a diverse workforce when there is a lack of diverse managers and when unconscious bias against women and minorities affect promotion opportunities.²⁸ Stakeholders suggested to the GAO several practices to overcome these obstacles: establishing affinity groups, employee resource groups, or networking programs; training managers and employees on inclusion and unconscious bias; establishing management-level accountability; offering staff mentors and sponsors; and implementing family-friendly policies.²⁹

²³ *Ibid.* at 26.

²⁴ *Ibid.* at 29.

²⁵ *Ibid.* at 32.

²⁶ *Ibid.* at 33-34.

²⁷ FDIC, OIG, THE FDIC’S EFFORTS TO PROVIDE EQUAL OPPORTUNITY AND ACHIEVE SENIOR MANAGEMENT DIVERSITY, 21 (EVAL-15-001, Nov. 28, 2014).

²⁸ “FINANCIAL SERVICES INDUSTRY: Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015,” GAO at 35 (Nov. 2017), <https://www.gao.gov/products/GAO-18-64>.

²⁹ *Ibid.* at 36.