

**Supporting Statement for the
Joint Standards for Assessing the Diversity Policies and Practices of
Entities Regulated by the Agencies
(FR 2100; OMB No. 7100-0368)**

Summary

The Board of Governors of the Federal Reserve System (Board), under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with revision, the interagency Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (Policy Statement)(FR 2100; OMB No. 7100-0368). Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)¹ requires the Board, the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, National Credit Union Administration, Bureau of Consumer Financial Protection, and Securities and Exchange Commission (collectively, the Agencies) each to establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the respective agency relating to diversity in management, employment, and business activities. Section 342 requires each OMWI Director to develop standards for “assessing the diversity policies and practices of entities regulated by the agency.”² The Policy Statement, published jointly by the Agencies in June 2015, contains these standards (“Joint Standards”).³

The Policy Statement contains a “collection of information” within the meaning of the Paperwork Reduction Act (PRA). The Policy Statement includes a standard entitled “Practices to Promote Transparency of Organizational Diversity and Inclusion,” which encourages a regulated entity to be transparent about its diversity and inclusion activities by voluntarily disclosing certain information available to the public annually on its websites or through other appropriate communication methods, in a manner reflective of the entity’s size and other characteristics (“Transparency Standard”). In addition, the Policy Statement includes a standard entitled “Entities’ Self-Assessment,” which encourages a regulated entity, in a manner reflective of its size and other characteristics, to voluntarily conduct a self-assessment of its diversity policies and practices and to report information pertaining to its self-assessment to the OMWI Director of its primary federal financial regulator, as well as to publish information pertaining to its efforts with respect to the Joint Standards (“Self-Assessment Standard”).

In order to facilitate the provision of self-assessment information to the Board that is contemplated in the Self-Assessment Standard, the Board developed a voluntary reporting template entitled “Diversity Self-Assessment Template” for use by institutions regulated by the Board (“reporting template”). The Board proposes to revise the language in the “Use of Information” section of the reporting template regarding the designation of information as confidential by respondents. The Board also proposes to eliminate the “Yes/No” check boxes

¹ Section 342 of the Dodd-Frank Act is codified at 12 U.S.C. § 5452.

² Id.

³ The Policy Statement was published at 80 Fed. Reg. 33016 (June 10, 2015).

under Section 5 (“Institution’s Self-Assessment”) of the reporting template and ask for a more detailed description of the institution’s practices during the annual self-assessment period. Additionally, the FR 2100 includes a disclosure provision for respondent institutions. The Board has revised the FR 2100 information collection to account for this disclosure provision. The Board’s share of the annual reporting burden is estimated to be 1,000 hours and would remain unchanged with the proposed revisions. The self-assessment template is available on the Board’s public website at https://www.federalreserve.gov/aboutthefed/files/omwi_policy_template.pdf

Background and Justification

Section 342(b)(2)(C) of the Dodd-Frank Act requires the OMWI Director of each of the respective Agencies to develop standards for assessing the diversity policies and practices of entities regulated by their agency. To promote consistency, the Agencies worked together to jointly develop the Joint Standards for assessing diversity policies and practices, and these Joint Standards were announced through the interagency Policy Statement.

The Board (on its own or in conjunction with the other Agencies) may use the information provided by regulated entities to monitor progress and trends in the financial services industry with regard to diversity and inclusion in employment and contracting activities, as well as to identify and highlight those policies and practices that have been successful. The Board (on its own or in conjunction with the other Agencies) may publish information disclosed by regulated entities, such as leading practices, in any form that does not identify a particular entity or individual or disclose confidential business information.

Description of Information Collection

The Policy Statement’s Joint Standards include a Transparency Standard, which encourages a regulated entity to be transparent about its diversity and inclusion activities by voluntarily making certain information available to the public annually on its websites or through other appropriate communications methods, in a manner reflective of the entity’s size and other characteristics. The specific information referenced in this standard is (a) the entity’s diversity and inclusion strategic plan; (b) its policy on its commitment to diversity and inclusion; (c) its progress toward achieving diversity and inclusion in its workforce and procurement activities (which may include the entity’s current workforce and supplier diversity demographic profiles); and (d) opportunities available at the entity that promote diversity (e.g., current employment and procurement opportunities; forecasts of potential employment and procurement opportunities; and the availability of mentorship and developmental programs for employees and contractors). The individual entity would determine the type and extent of information that demonstrates its progress toward achieving diversity and inclusion. The disclosure of information associated with the Transparency Standard is voluntary and no specific information is required to be disclosed to the public by the Agencies. In addition, the Policy Statement’s Joint Standards include a Self-Assessment Standard, which encourages a regulated entity, in a manner reflective of its size and other characteristics, to voluntarily (a) conduct an annual self-assessment of its diversity policies and practices; (b) monitor and evaluate its performance under its diversity policies and practices

on an ongoing basis; (c) provide information pertaining to its self-assessment to the OMWI Director of its primary federal financial regulator; and (d) publish information pertaining to its efforts with respect to the Joint Standards.

In 2016, in collaboration with the Agencies, the Board supplied a reporting template that Board-regulated entities could opt to use to assist with reporting information to address the “Entities’ Self-Assessment” standard. The reporting template (1) asks for general information about a respondent; (2) includes a checklist of the standards set forth in the Policy Statement; (3) seeks additional diversity data; and (4) provides an opportunity for a respondent to provide other information regarding or comment on the self-assessment of its diversity policies and practices. The Board added this reporting template to the voluntary information collections associated with the Policy Statement previously approved by OMB,⁴ and the use of it is voluntary.

Respondent Panel

The respondent panel comprises all financial institutions regulated by the Federal Reserve.

Proposed Revisions to the FR 2100

With respect to the reporting template, the Board proposes to clarify the confidentiality language in the “Use of Information” section by stating that if a regulated entity submits confidential commercial information that is both customarily and actually treated as private by the entity, the entity should separately designate such information as “confidential commercial information,” as appropriate, and that the Board will treat such designated information as confidential to the extent permitted by law, including the Freedom of Information Act, 5 U.S.C. § 552. The Board also proposes to delete the Yes/No boxes in Section 5 (“Institution’s Self-Assessment”) and to ask the institution to describe its practices during the assessment year. The Yes/No boxes are not necessary as Section 5 of the reporting template already requests a description of the programs that are proving successful as well as the challenges institutions are facing with their diversity programs.

Time Schedule for Information Collection

The Board encourages its regulated institutions to provide their diversity policies and practices, as well as information related to their self-assessments, to the Board and disclose such information to the public on an annual basis.

Public Availability of Data

The Agencies may publish information disclosed to them, such as best practices, in any form that does not identify a particular entity or individual or disclose confidential business

⁴ See 81 Fed. Reg. 66275, 66 276 (Sept. 27, 2016); 81 Fed. Reg. 89463, 89464 (Dec. 12, 2016).

information. Entities are encouraged to disclose their diversity policies and practices, as well as information related to their self-assessments, to the public.

Legal Status

The information collections contained within the Policy Statement, as well as the self-assessment reporting template, are authorized by section 342 of the Dodd-Frank Act,⁵ which requires the Board's OMWI Director to develop standards for assessing regulated entities' diversity policies and practices. The information collections associated with the Policy Statement are voluntary, as is the use of the self-assessment reporting template.

The Transparency Standard, and a portion of the Self-Assessment Standard, call for regulated entities to provide information to the public, so confidentiality is not an issue with respect to those aspects of the Policy Statement. A regulated entity may provide self-assessment material to the Board (including through use of the reporting template) containing confidential commercial information that is protectable under exemption 4 of the Freedom of Information Act.⁶ If a regulated entity submits confidential commercial information that is both customarily and actually treated as private by the entity, the entity should separately designate such information as "confidential commercial information," as appropriate, and the Board will treat such designated information as confidential to the extent permitted by law, including the Freedom of Information Act.⁷ As noted in the Policy Statement, an entity's primary federal regulator may share information obtained from regulated entities with other Agencies, but the Agencies will only publish information disclosed to them in a form that does not identify a particular entity or individual or disclose confidential business information.

Consultation Outside the Agency

The Agencies worked together to develop standards for assessing the diversity policies and practices of their regulated entities. The Board will continue to reach out to the regulated entities and other interested parties to discuss diversity and inclusion in the financial services industry and share leading practices. The primary federal financial regulator will share information with other agencies, when appropriate, to support coordination of efforts and to avoid duplication.

Public Comments

On March 2, 2020, the Board published a notice in the Federal Register (85 FR 12296) requesting comment for 60 days on the proposal to extend, with revision, the Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies. The comment period expires on May 1, 2020.

⁵ 12 U.S.C. § 5452.

⁶ 5 U.S.C. § 552(b)(4).

⁷ 5 U.S.C. § 552.

Estimate of Respondent Burden

The current annual burden is estimated to be 1,000 hours, as shown in the following table. The number of respondents is based on the average number of FR 2100 reports received in the past two years. The FR 2100 includes a disclosure provision for respondent institutions. The Board has revised the FR 2100 information collection to account for this disclosure provision. The annual burden represents less than 1 percent of the Board's total paperwork burden.

	<i>Estimated number of respondents</i> ⁸	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<i>Current</i>	125	1	8	1,000
<i>Proposed</i>				
Reporting	125	1	7	875
Disclosure	125	1	1	<u>125</u>
<i>Total</i>				1,000

The total cost to the public for this information collection is estimated to be \$57,600.⁹

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

The estimated cost to the Federal Reserve System is negligible.

⁸ Of these respondents, two are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), <https://www.sba.gov/document/support--table-size-standards>. There are no special accommodations given to mitigate the burden on small institutions.

⁹ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$19, 45% Financial Managers at \$71, 15% Lawyers at \$69, and 10% Chief Executives at \$96). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages May 2018*, published March 29, 2019 www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Standard Occupational Classification System, www.bls.gov/soc/