



League of Southeastern
Credit Unions & Affiliates

February 7, 2014

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Interagency Proposal Establishing Joint Standards for Assessing Diversity Policies and Practices

Dear Mr. Poliquin:

Thank you for the opportunity to comment on the proposed interagency policy statement regarding joint standards for assessing the diversity policies and practices of regulated entities, issued jointly by the "Agencies" made up of Consumer Financial Protection Bureau (CFPB), Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration Board (NCUA), and the Securities and Exchange Commission (SEC). By way of background, LSCU is an advocacy organization representing state and federal credit unions throughout Alabama and Florida that currently serve over 6 million members.

Like our affiliate members, LSCU strongly supports opportunity in the workplace. As provided below, however, we have concerns about specific aspects of the joint proposal. Most troubling is the fact that congress has not authorized new rules or delegated enforcement authority to the Agencies involved in the proposed interagency policy statement regarding diversity assessments

Under Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act the Agencies initiated the proposed standards because they are required to address diversity assessment issues per the Act. Under Section 342, Congress directed the creation of an Office of Minority and Women Inclusion (OMWI Office) and the development of standards for assessing diversity policies and practices of the institutions they each regulate under subsection 342(b)(2)(C) of the Act.

Congress, however, provided very limited authority to the Agencies under the Act regarding issues of diversity at credit unions and other financial institutions. To attempt to impose new requirements or to attempt to enforce new standards under the Act would exceed the limits established by Congress.

The Act states in Subsection 342(b)(4) that nothing in subsection 342(b)(2)(C) "may be construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the findings of the assessment." After a review of the

subsection, we believe an approach by the Agencies that does not impose new regulations or additional enforcement powers is more closely aligned with the initial intent of Congress with regard to the Dodd-Frank Act.

The Supplementary Information to the proposal provides that the Agencies agree that an assessment of diversity policies and practices need not be one of a traditional examination or other supervisory assessment and that the Agencies will not include procedures from the examination or supervision process in connection with the proposed standards. One agency, the Office of the Comptroller of the Currency has included the following statement in its official summary of the proposed standards: "The proposed standards are not mandates, nor do they require any action based on the findings of an assessment." It would be beneficial to credit unions and other institutions if the Agencies include both statements in the introduction to the final standards.

In addition, we urge the Agencies to clarify at the beginning of the document that others may not rely on the document as a whole or on individual provisions in their efforts to challenge employment practices at a credit union or other financial institution. It is further important that the Agencies provide that the standards offered may be tailored to take into consideration a credit union's characteristics. Characteristics that include total assets, number of employees, governance structure, revenues, number of members and/or customers, contract volume, geographic location, and community characteristics.

For many credit unions, we believe it to be important to include in the final standards where an institution is located along with the demographics in that location as this will offer great insight as to the available pool of employable applicants and/or contractors.

The standards adopted in the final rule should take into account that many credit unions may face difficulties in attaining measurable diversity, despite their best efforts to do so, because the community where they are located offers little diversity from which to draw. This is especially true in many states and rural areas. It is also critical that the standards acknowledge that credit union employers may give appropriate weight to the qualifications of applicants for open positions within the institution while at the same time promoting diversity in their internal practices and procedures.

The third proposed standard is of great concern to us and can almost be viewed as inoperable in an institutional setting. This proposed standard would require regulated entities to assess diversity practices in their relationships with their suppliers and contractors. This standard is very troubling and we are concerned because credit unions have no reliable way to measure the diversity of their contractors or suppliers. In addition, why would a credit union want to venture into the internal practices of another legal and fully licensed organization under the guise of judging their "diversity balance"? While it is true that this information could be requested, most vendors are not obligated to provide the data and credit unions generally have little recourse when requests go unanswered. We strongly urge the Agencies to consider the realities of such a provision and the difficulties it will present for credit unions. It is our belief that this provision should be removed from the proposed assessment standards.

The fourth proposed standard also gives us great pause and we are concerned with the unintended consequences of such a standard. The fourth proposed standard addresses transparency of a credit union's diversity and its inclusion programs and the related disclosure of internal information on an institution's website and in other promotional material. We would ask the Agencies how having an institution disclose their diversity policy publicly benefits that institution in the performance of its primary mission as a financial institution. In the age of social media with Facebook, Twitter, Instagram, etc., disclosure of information regarding a credit union's employee makeup, supplier demographics and practices could be misinterpreted making the institution vulnerable to a variety of claims, charges, comments, and questionable postings. Further, many of the communications could be irrefutable and ultimately damaging to the reputation of the credit union, its staff, and management. We believe this to be a very bad idea and urge the Agencies to remove from the final diversity standards any requirement that credit unions publically disclose its diversity policies and practices.

In conclusion, it has been confirmed that Congress has directed the Agencies to develop standards for assessing diversity at the entities they regulate as part of the Dodd-Frank Act. However, the Act did not authorize the Agencies to issue rules or enforce any new standards. Therefore, we recommend the Agencies revisit the boundaries of their authority and consider the impact of the proposal presented upon credit unions, both large and small. We would further urge the Agencies to limit the application of the proposed standards to those institutions currently required to report under the EEOC.

As we previously stated, LSCU strongly supports opportunity in the workplace and we therefore urge the Agencies to consider our recommendations offered to help in the development of a well-qualified workforce.

We understand that the Agencies have already extended the original comment from December 24, 2013 to February 7 but based on the complexity of the standards and the impact on numerous areas of an institution's operations, we believe it would be helpful to effected credit unions if the Agencies would issue a revised proposal that further explains the goals of the Agencies. We also urge the scheduling of another round of comments for all stakeholders. This would prove to be beneficial as well.

Again, thank you for the opportunity to comment. If there are any questions, we welcome the opportunity to talk further about our views. If you have any questions about our comments, please do not hesitate to contact me at 1-866-231-0545.

Sincerely,



Scott Morris
Director of Regulatory Advocacy