



FEDERAL HOUSING FINANCE AGENCY
Office of Minority and Women Inclusion

ADVISORY BULLETIN

AB 2020-02

BOARD DIVERSITY

Purpose

This Advisory Bulletin (AB) applies to the Federal Home Loan Banks (Banks) and the Banks' Office of Finance (OF) (collectively, the System). The AB provides guidance on the diversity and inclusion (D&I) program oversight responsibilities of the System's boards of directors (Board). The AB addresses D&I programs required of the System and for which the Boards should exercise appropriate oversight. To meet oversight obligations, the Board should become familiar with the legal concepts related to D&I, its administration by the System, the role of the Federal Housing Finance Agency (FHFA or Agency) related to statutory and regulatory authorities and expectations related to D&I.

Background

Congress adopted provisions regarding D&I for regulated entities and FHFA as section 1116 of the Housing and Economic Recovery Act of 2008. 12 U.S.C. § 4520. The statute required the regulated entities to create an office or designate an office to carry out the section focused on diversity in management, employment, and business activities in accordance with standards and requirements as the Director of FHFA would establish. In December 2010, FHFA adopted a final rule implementing the law, at 12 CFR Part 1223, for its respective regulated entities. The regulation included a requirement to encourage the consideration of diversity in nominating or soliciting nominees for positions on the Board of Directors of each regulated entity. 12 CFR 1223.21(b)(7).

Formal D&I supervision of the regulated entities began after the FHFA Office of Minority and Women Inclusion (OMWI) performed baseline reviews of their D&I programs in 2015 and 2016.¹

¹ On December 19, 2012, FHFA issued Advisory Bulletin (AB) 2012-03, which implemented the Agency's decision to include D&I as a criterion in rating the Management component of CAMELSO. AB 2012-03 provides:

In 2015, the Agency amended the regulation to require each Bank and the OF to report annually on demographic information related to their Boards. 12 CFR 1223.23(b)(10)(i). Subsequently, the Agency developed and implemented a D&I Examination Module that became effective on January 1, 2017.² In July 2017, FHFA finalized regulation amendments requiring the regulated entities, among other things, to adopt strategic plans to promote and ensure the inclusion of minorities, women, and individuals with disabilities in their workforce at all levels of the organization, as well as minority-, women-, and disabled-owned businesses in their contracting activities and financial activities. 12 CFR 1223.21(d). Consistent with FHFA’s corporate governance regulation, 12 CFR 1239.4(a), the Board has ultimate responsibility for its regulated entity’s achievement of the requirements of the regulation.

Guidance

Board Oversight

Each Board of Directors is responsible for oversight of the entity’s respective D&I programs in their entirety, which includes setting the strategic goals and ensuring the appropriate management “tone at the top.” Each Board should oversee the entity’s D&I program through review of its efforts as evidenced in reports provided by management, including the Chief Executive Officer and OMWI Officer. Such reports should include information and data on D&I strategic goals; resource adequacy (human, technological, and financial); and integration of contractual parties with the entity’s businesses and activities.

To address management activities regarding D&I, directors must have ongoing familiarity with D&I requirements and pay due attention to the entity’s D&I efforts and accomplishments. The Board should seek to assure itself that the entity’s D&I program is conducted in line with statutory and regulatory requirements to promote diversity and ensure inclusion. The Board should expect ongoing reporting regarding the entity’s initiatives as well as D&I accomplishments, progress, or challenges for the entity in areas identified by statute and regulation.

Board Directors — Effective Oversight

MANAGEMENT – When rating a regulated entity’s management, examiners determine the capability and willingness of the board of directors and management, in their respective roles, to identify, measure, monitor, and control the risks of the regulated entity’s activities and to ensure that the regulated entity’s safe, sound and efficient operations are in compliance with applicable laws and regulations. When making this determination, examiners assess:

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- the regulated entity’s compliance with laws and regulations, including Prudential Management and Operational Standards (PMOS), Office of Minority and Women Inclusion (OMWI) and relevant provisions of the Dodd-Frank Act[.]

See: https://www.fhfa.gov/SupervisionRegulation/AdvisoryBulletins/AdvisoryBulletinDocuments/FHFA_AB_2012-03.pdf.
CAMELSO stands for Capital, Asset Quality, Management, Earnings, Liquidity, Sensitivity to Market Risk, and Operational Risk.

² The manual is available at: <https://www.fhfa.gov/SupervisionRegulation/ExaminerResources/Documents/062717-OMWI-Exam-Module.pdf>.

In order to facilitate effective oversight of the D&I program, the Board should be provided sufficient information on an ongoing basis on D&I obligations and progress to oversee effectively the entity's D&I programs. The Board should assure that the reporting by management and the OMWI Officer is in line with law and regulation. If necessary, the Board should seek such external assistance, as it may require, to review, understand, and provide input on the entity's D&I program. The Board should consider, as well, efforts to enhance diversity among its membership in line with law and regulation.

With respect to Board skills assessments, FHFA notes the following areas of D&I law, regulation, and programs that should be familiar to directors and be part of routine reporting by the management of each entity in the System:

1. *Diversity.* Ability to assess whether the management of each entity in the System seeks to promote D&I based on its experience working with minorities, women, and individuals with disabilities and in seeking the skill sets from a diverse group for employment and contracting.
2. *Equal Opportunity Principles.* An understanding of fundamental equal employment opportunity and D&I principles.
3. *Managing Diversity Programs and Initiatives.* The Board should be able to assess whether each entity's management and OMWI Officer have the requisite ability to develop initiatives and to deploy programs that support inclusion of diverse populations in employment and contracting. Such assessment should be founded on reports with usable standards and metrics.
4. *Change Management.* The Board should be able to assess management and the OMWI Officer leading organizational development and corporate communication and facilitate outreach and new projects with various stakeholders internal or external to the regulated entity.
5. *Strategic Leadership.* The Board should adopt and communicate D&I objectives.

Enhancing Board Oversight

Each Bank and the OF may conduct an annual assessment of skills and experience possessed by the members of its Board as a whole and may determine whether the capabilities of the Board would be enhanced through the addition of individuals with particular skills and experience. Board D&I experience and knowledge should be included in any such Board assessments. The Board or its corporate governance committee should oversee the implementation of recommendations arising from Board self-assessments. As part of its oversight duties, the corporate governance committee also may identify skills and expertise gaps among the members of the Board and may recommend that the Bank or OF indicate that it seeks persons with those skills as nominees for directorship positions. In addition, the Board should implement training for existing Board members to develop or enhance their ability to meet their obligations to oversee the entity's D&I obligations.

Board Diversity

A Board's efforts to develop, maintain, and sustain a diverse Board should be a combination of seeking diverse representation on, and providing support to, the Board to meet its D&I oversight responsibilities. This requires the Board to articulate its role in performing D&I oversight. At the same time, promoting diversity of the Board itself should be encouraged by the Board through communication of the Bank or OF's obligations under law and regulation and the value of fostering opportunities for diverse candidates for Board service to assist in this oversight responsibility.

Boards may seek to increase director diversity by requiring the Bank or OF to communicate to members its goals of identifying potential diverse candidates. Boards may engage search firms for identifying potential independent director nominees, as appropriate, and taking such other steps as may promote diversity.

FHFA has statutory responsibility to ensure that the regulated entities carry out their missions consistently with the provisions and purposes of FHFA's statute and the regulated entities' authorizing statutes. Advisory Bulletins describe supervisory expectations in particular areas and are used in FHFA examinations of the regulated entities. For comments or questions pertaining to this Advisory Bulletin, contact Sharron Levine at Sharron.Levine@fhfa.gov or James Jordan at James.Jordan@fhfa.gov.