

ROBERT MENENDEZ
NEW JERSEY

COMMITTEES:
BANKING, HOUSING, AND URBAN
AFFAIRS
ENERGY AND NATURAL RESOURCES
FINANCE
FOREIGN RELATIONS

United States Senate

WASHINGTON, DC 20510-3005

528 SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-4744

ONE GATEWAY CENTER
11TH FLOOR
NEWARK, NJ 07102
(973) 645-3030

208 WHITE HORSE PIKE
SUITE 18-19
BARRINGTON, NJ 08007
(856) 757-5353

January 14, 2011

The Honorable Thomas M. Hoenig
President
Federal Reserve Bank of Kansas City
1 Memorial Drive
Kansas City, MO 64198

Dear President Hoenig,

I write to you today concerning Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires each federal regulatory agency or regional Federal Reserve Bank to establish an Office of Minority and Women Inclusion. As the primary Senate sponsor of this provision, I believe that the implementation of this new office is of paramount importance and want to work with you to ensure that it is consistent with the legislative intent.

This provision was included to expand the opportunities available to women, minorities and women- and minority-owned businesses in the banking industry as a whole. Unfortunately, we continue to see inequalities both at financial regulators and in the private financial services industry.

According to the most recent Census estimates, women are 50.7% of the population, and minorities are 40.7%.¹ It would follow that these numbers should be relatively proportional at banks, their contractors and their regulators, but they are not. In a recent survey I conducted of Fortune 500 companies, women represented only 19% of corporate board seats among financial services companies, while minorities represented only 16%. Among contractors of financial services companies, minority-owned firms comprised only 12.6% of all contractors.² Of 73 prime contracts³ awarded by the Department of Treasury under TARP as of August 2010, four were awarded to women- or minority-owned small businesses, reflecting 1.7% of total contracting dollars.⁴ With respect to diversity of regulators' employees, the Office of Personnel Management found that women are only 34% of financial institution examiners and minorities represent only 18.7%.⁵

These statistics all point to the clear need for a renewed focus on diversity in the financial services industry by both the federal government and the private sector. This sentiment is shared by many members of Congress who supported this provision during final negotiations of the Dodd-Frank bill. A strong initial establishment of each Office of Minority and Women Inclusion is critical to ensure that it has a lasting impact on diversity of voices and perspectives.

¹ http://factfinder.census.gov/servlet/ACSSAFFacts?_submenuId=factsheet_1&_sse=on

² <http://menendez.senate.gov/imo/media/doc/CorporateDiversityReport2.pdf>

³ Prime contract is defined as an original contract.

⁴ <http://cop.senate.gov/documents/cop-101410-report.pdf> p. 54

⁵ <http://waters.house.gov/News/DocumentSingle.aspx?DocumentID=155744>

The statute has several important goals highlighted below, and to meet these goals, I urge you to give strong consideration to the following:

- **High-Level Director:**⁶ The statute provides for a Director who is appointed by and reports to the agency administrator. In keeping with the high-level status of the Director, I urge you to conduct an open, public search for the Director rather than automatically promoting whomever leads the current diversity office at the agency or only allowing “internal” applications. The Director should be a qualified individual with a significant history of experience on issues of diversity; a history of work on behalf of underserved communities; a commitment to transparency; and a proven ability to engage multiple internal and external groups.
- **Publicly Report Diversity Data for Agency Employment,⁷ Agency Contractors, Agency Subcontractors,⁸ and Regulated Entity Employment:⁹** So that future progress can be clearly measured, one of the first orders of business of each office should be compiling and publicly releasing data on diversity of (1) agency employment, (2) agency contractors, (3) agency subcontractors, and (4) regulated entity employment. The employment data and contracting data should be comprehensive and include thorough statistical breakdowns. Regulated entities, as part of the Office’s “assessing the[ir] diversity policies and practices,” should at a minimum be required to publicly report breakdowns of the board, senior management staff, and non-management staff for each minority group.
- **Establish Annual Voluntary Goals:** Meeting the statutory goal of increasing opportunity will require more than just publicly reporting the data. I would also urge you to establish voluntary diversity goals for (1) agency employment,¹⁰ (2) agency contractors, (3) agency subcontractors,¹¹ and (4) regulated entity employment.¹² This will encourage continual improvements in diversity in each of these areas with the eventual goal of reflecting and matching the diversity of the American people.
- **Establish College Internship and Mentoring Programs:¹³** Colleges, and particularly historically black, Hispanic-serving, and women’s colleges, should be immediately engaged to establish recruiting relationships and internship programs that will feed the pipeline of opportunity. You might also consider well-implemented mentoring programs within the agency.

⁶ PL 111-203, 12 USC 5452, Sec. 342, par. (b)

⁷ PL 111-203, 12 USC 5452, Sec. 342, par. (b) (2) (A)

⁸ PL 111-203, 12 USC 5452, Sec. 342, par. (b) (2) (B); PL 111-203, 12 USC 5452, Sec. 342, par. (e) (1) and (2)

⁹ PL 111-203, 12 USC 5452, Sec. 342, par. (b) (2) (C)

¹⁰ PL 111-203, 12 USC 5452, Sec. 342, par. (b) (2) (A)

¹¹ PL 111-203, 12 USC 5452, Sec. 342, par. (b) (2) (B); PL 111-203, 12 USC 5452, Sec. 342, par. (e) (1) and (2)

¹² PL 111-203, 12 USC 5452, Sec. 342, par. (b) (2) (C)

¹³ PL 111-203, 12 USC 5452, Sec. 342, par. (f) (1)

- **Annual Diversity Reports to Congress:**¹⁴ The statute requires annual reports on diversity to Congress. To make those reports as thorough as possible, the Office should meet on a regular basis with relevant community and policy organizations for input and suggestions for improvement.
- **Improve Contracting and Subcontracting Practices:**¹⁵ The Director is charged with “develop[ing] and implement[ing] standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization” of women- and minority-owned businesses and contractors. As such, contracting opportunities within each agency should be transparent and made easily accessible online in a searchable format. They should also be available through newsletters, community forums, and other forms of communication. Each office should use its power to strongly encourage diversity within the private sector both among contractors and subcontractors. As noted above, agency contractors should be required to report statistics on the diversity of their subcontractors that would be made public, and they should be encouraged to have minorities and women fairly represented among their subcontractors.
- **Eliminating Fraud:** A strong and regular review process should be instituted to ensure that each office is properly instituting its own goals and standards. Particular attention should be paid to ensuring that “front organizations” that are not actually minority- or women-owned are not being counted as such in the statistics you report.

Public transparency and outreach should be key goals of each office. Access and communication lines continue to be problematic for many women- and minority-owned firms, and a renewed focus within these offices would certainly help address many of these problems. I urge you to consult with a wide array of community and policy organizations when establishing the goals, activities, and personnel decisions of each Office. This will ensure broader perspectives are being brought to bear on issues and will enhance the likelihood that solutions will be comprehensive and inclusive of a wide range of views.

If you have any questions or concerns, please do not hesitate to contact me or my staff. I look forward to working with you to set up these important offices. Thank you for your attention to this matter, and I look forward to your response.

Sincerely,



ROBERT MENENDEZ
United States Senator

cc: All federal agencies and departments setting up Offices of Minority and Women Inclusion.

¹⁴ PL 111-203, 12 USC 5452, Sec. 342, par. (e)

¹⁵ PL 111-203, 12 USC 5452, Sec. 342, par. (c) (1)