

United States Senate

WASHINGTON, DC 20510

March 1, 2018

Pamela Gibbs
Director
Office of Minority and Women Inclusion
U.S. Securities and Exchange Committee
100 F Street N.E.
Washington, D.C. 20549

Dear Ms. Gibbs,

We write today to request information that the U.S. Securities and Exchange Commission's (SEC) Office of Minority and Women Inclusion (OMWI) collects on the prevalence of sexual harassment within regulated entities. We are interested in learning more about OMWI's efforts to prevent workplace harassment and to promote diversity and inclusion within workplaces.

Sexual Harassment in the Financial Industry

In recent months, a series of high-profile cases of sexual harassment, abuse, and assault have come to light, forcing a national reckoning on the prevalence of sex discrimination in American workplaces. Though sexual harassment in the entertainment and political industries has dominated the news, it is pervasive throughout the workforce.

The world of finance is not immune from this harassment. The financial services industry, including banks and credit institutions, funds and trusts, securities firms, insurance companies, and monetary authorities, employs over 6 million people.¹ According to Equal Employment Opportunity Commission data, the "finance and insurance" sector generated the ninth-largest number of sexual harassment claims filed with the agency from 2005-2015.² And last year, a number of high-level financial managers were forced to step down amid harassment allegations.³

¹ U.S. Department of Labor, Bureau of Labor Statistics, "Industries at a Glance: Finance and Insurance: NAICS 52" (online at <https://www.bls.gov/iag/tgs/iag52.htm>).

² Emily Stewart, "These are the industries with the most reported sexual harassment claims," *Vox* (November 21, 2017) (online at <https://www.vox.com/identities/2017/11/21/16685942/sexual-harassment-industry-service-retail>).

³ "Fidelity chairman deals with fallout from sexual harassment claims," *Reuters* (October 22, 2017) (online at <https://www.reuters.com/article/us-fidelity-conduct/fidelity-chairman-deals-with-fallout-from-sexual-harassment-claims-idUSKBN1CR0PW>); Sarah Krouse and Kirsten Grind, "At Fidelity, New Fallout From Claims of Sexual Harassment, Bullying," *Wall Street Journal* (October 22, 2017) (online at <https://www.wsj.com/articles/at-fidelity-new-fallout-from-claims-of-sexual-harassment-bullying-1508677202>).

The financial sector, however, has had fewer public revelations of sexual harassment than other industries.⁴ This disparity is not, according to female employees, a sign that sexual harassment does not occur: in recent months, women in finance have anonymously reported being “grabbed, kissed out of the blue, humiliated, and propositioned by colleagues and bosses” at work.⁵ Rather, the silence appears to result from strong “cultural and financial forces” in the industry that discourage speaking out,⁶ including the payout of large settlements with non-disclosure agreements to harassment victims, class-action prohibitions, and forced arbitration.⁷

SEC’s Office of Minority and Women Inclusion

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) required the SEC, along with a number of other financial regulators, to establish an “Office of Minority and Women Inclusion” that would be “responsible for all matters of the agency relating to diversity in management, employment, and business activities.”⁸ The SEC regulates a number of financial entities, including investment advisors, brokers and dealers, transfer agents, and government securities brokers.⁹ It established its OMWI in July 2011.¹⁰

Among other responsibilities, the Directors of each OMWI are tasked with “assessing the diversity policies and practices of entities regulated by the agency.”¹¹ As part of fulfilling this statutory requirement, the SEC joined other financial regulators in issuing “Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies” (Joint Standards). The Joint Standards, finalized in June 2015, urge regulated entities to “ensure[] equal employment opportunities for all employees and applicants for employment and [to] not engage in unlawful employment discrimination based on gender, race, or ethnicity.”

⁴ William D. Cohan, “Women Say a Rigged System Allows Wall Street to Hide its Sexual Harassment Problem,” *New Yorker* (January 7, 2018) (online at <https://www.newyorker.com/news/news-desk/women-say-rigged-system-allows-wall-street-to-hide-sexual-harassment-problem>).

⁵ Max Abelson, “Why Wall Street Hasn’t Had Its #MeToo Moment Yet,” *Bloomberg Businessweek* (January 11, 2018) (online at <https://www.bloomberg.com/news/articles/2018-01-11/why-wall-street-hasn-t-had-its-metoo-moment-yet>).

⁶ Max Abelson, “Why Wall Street Hasn’t Had Its #MeToo Moment Yet,” *Bloomberg Businessweek* (January 11, 2018) (online at <https://www.bloomberg.com/news/articles/2018-01-11/why-wall-street-hasn-t-had-its-metoo-moment-yet>).

⁷ Susan Antilla, “How Wall Street Keeps Outrageous Gender Bias Quiet 20 Years After the Boom-Boom Room,” *The Street* (June 4, 2016) (online at <https://www.thestreet.com/story/13590242/1/how-wall-street-keeps-outrageous-gender-bias-quiet-20-years-after-the-boom-boom-room.html>); Jessica Guynn, “Enough is enough’: Gretchen Carlson says bill ending arbitration would break silence in sexual harassment cases,” *USA Today* (December 6, 2017) (online at <https://www.usatoday.com/story/money/2017/12/06/bipartisan-bill-would-eliminate-forced-arbitration-break-silence-sexual-harassment-cases/925226001/>).

⁸ Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (online at <https://www.sec.gov/about/laws/wallstreetreform-cpa.pdf#page=166>).

⁹ U.S. Securities and Exchange Commission, “Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Securities and Exchange Commission—Frequently Asked Questions” (online at <https://www.sec.gov/files/OMWI-DAR-FAQ.pdf>).

¹⁰ U.S. Securities and Exchange Commission, “Office of Minority and Women Inclusion” (online at <https://www.sec.gov/omwi>).

¹¹ Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (online at <https://www.sec.gov/about/laws/wallstreetreform-cpa.pdf#page=166>).

Though the Joint Standards are voluntary, the SEC and other financial regulators suggest that regulated entities conduct an annual self-assessment of their diversity and inclusion practices and submit that self-assessment to regulators. The SEC's OMWI can "use information submitted to them to monitor progress and trends in the financial services industry with regard to diversity and inclusion" and "reach out to regulated entities...to discuss diversity and inclusion practices."¹² In January 2018, the SEC OMWI released a "Diversity Assessment Report for Entities Regulated by the SEC," a form "designed to help regulated entities conduct self-assessments of their diversity policies and practices" that provides "a template for submitting information about their self-assessments to OMWI."¹³

Questions

The SEC OMWI's interaction with SEC-regulated financial entities on matters of employment discrimination and diversity provide it with unique insight into sexual harassment in the financial sector. To help us better understand how financial firms are working to track and combat sexual harassment, we request a response to the following questions no later than March 14, 2018. In addition, we request a staff-level briefing on your responses by March 16, 2018.

1. What steps has the SEC OMWI taken, since issuing the Joint Standards in June 2015, to encourage financial firms to institute policies and disciplinary systems that prevent inappropriate sexual behavior in the workplace, including sexual harassment? Please provide a description of any documents or other communications that the SEC OMWI has provided to regulated entities on this topic.
2. Since the issuance of the Joint Standards in June 2015, has the SEC OMWI heard from any regulated entities who have experienced problems with workplace discrimination, including sexual harassment? Please provide an overview of the employment discrimination challenges facing the SEC's regulated entities.
3. What percentage of regulated entities have filed their Diversity Assessment Reports with OMWI in the two and a half years since the Joint Standards were issued? Has OMWI analyzed these results? If so, please provide a summary of the results of this analysis.
4. Please provide an overview of how the SEC OMWI plans to further utilize data collected from its Diversity Assessment Report to identify and track employment discrimination, including sexual harassment, in the workplace. Should SEC OMWI identify a sexual harassment problem at a regulated entity, what support would SEC OMWI provide the regulated entity and its employees to address the problem?

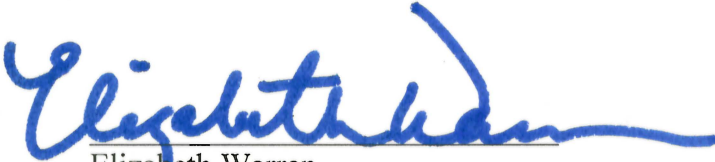
¹² *Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies* (June 10, 2015) (online at <https://www.federalregister.gov/documents/2015/06/10/2015-14126/final-interagency-policy-statement-establishing-joint-standards-for-assessing-the-diversity-policies>).

¹³ U.S. Securities and Exchange Commission, "SEC Invites Regulated Entities to Voluntarily Submit Self-Assessments of Diversity Policies and Practices" (January 25, 2018) (online at <https://www.sec.gov/news/press-release/2018-7>).

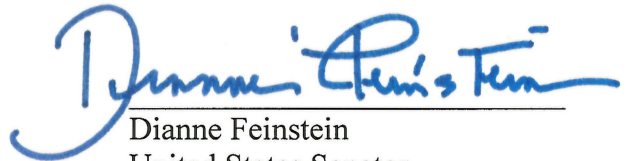
5. Has the SEC OMWI requested, or does it plan to request, additional information from regulated entities on sexual harassment and employment discrimination prevention policies? Please provide an overview of the SEC OMWI's authority to request such information, and the types of analyses that SEC OMWI could conduct upon receiving it.

Please do not hesitate to reach out to Susannah Savage of Senator Warren's staff with any questions or concerns at 202-224-4543. We look forward to working with you on this issue.

Sincerely,



Elizabeth Warren
United States Senator



Dianne Feinstein
United States Senator



Catherine Cortez Masto
United States Senator