

DIVERSITY & INCLUSION/DODD-FRANK COMPLIANCE

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") has been the focus of significant commentary since its enactment. However, there is one aspect of Dodd-Frank that has not been examined in great detail: its requirement that various federal agencies set up Offices of Minority and Women Inclusion ("OWMIs"). Section 342 of Dodd-Frank empowers these OWMIs to examine the diversity practices of their respective contractors and subcontractors, and to make referrals to the Office of Federal Contract Compliance Programs ("OFCCP") in some instances where deficiencies are found.

The OFCCP's increased compliance reviews and enforcement actions should incentivize contractors to be more thoughtful and deliberate in their actions regarding diversity. Contractors' failure to do so, based on the misperception that Dodd-Frank only applies to financial services companies, could have devastating financial consequences: not only could they lose revenues from government contracts terminated for diversity-related failures, they could also incur substantial fines for deficient diversity-related practices (e.g., a global food-packaging company's \$900,000 hiring discrimination settlement).

Separate and apart from its impact on government contractors, Section 342 of Dodd-Frank also empowers OWMIs to assess the diversity and inclusion policies and practices of entities *regulated* by the agencies in question. Dodd-Frank's diversity provisions, then, impact all financial services companies, even those who are not party to any federal contract.

Epstein Becker Green's attorneys assist companies in complying with Dodd-Frank's diversity requirements, positioning such companies to create favorable outcomes in connection with *any* review of their diversity-related activities. Our services include:

- Developing diversity mission statements
- Developing internal policies and practices that identify talented employees and maximize the contributions of all employees
- Designing training programs to institute changes to employment policies and practices
- Ensuring that these internal policies and practices are consistent with Dodd-Frank and other compliance obligations
- Consulting with labor unions to ensure that changes can be implemented consistently with collective bargaining agreement obligations
- Structuring external efforts to maximize the business mission and charitable impacts
- Designing mentoring and coaching programs
- Designing employee resource (affinity) group programs
- Developing assessment metrics
- Developing internal and external communication strategies
- Identifying diverse professional organizations as resources/strategic partners
- Identifying third-party organizations with whom the company can partner to achieve diversity goals
- Conducting comprehensive workplace audits to assess progress

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- Implementing and managing long-term diversity strategy components
- Guiding government contractors through the OFCCP compliance review process
- Providing a rigorous defense to contractors that are subject to OFCCP compliance reviews
- Negotiating fair and equitable OFCCP conciliation agreements
- Aggressively defending OFCCP enforcement proceedings

In addition, we help clients connect all of their diversity-related efforts to bottom-line objectives and fulfill their compliance obligations -- Dodd-Frank and otherwise -- without being constrained by them.

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