



## "MINORITY AND WOMEN INCLUSION"

OMB NUMBER 2590-0014

SUPPORTING STATEMENT (REVISED 6/18/2015)

### A. JUSTIFICATION

#### 1. Circumstances Necessitating the Collection of Information

The Federal Housing Finance Agency (FHFA) is seeking OMB clearance under the Paperwork Reduction Act (PRA) for a new collection of information that the Federal Home Loan Banks (Banks) and the Bank System's Office of Finance<sup>1</sup> will be required to carry out under a final rule amending FHFA's regulations governing Minority and Women Inclusion, which are codified at 12 CFR part 1207. As amended by the final rule, section 1207 will require that each Bank and the Office of Finance request annually that each member of its board of directors provide, on a voluntary basis, self-identification of his or her minority and gender classification without including personally identifiable information. A copy of the final rule is attached to this Supporting Statement. FHFA expects that the final rule will be published in the *Federal Register* on May 4, 2015.

Section 1319A of the Federal Housing Enterprises Safety and Soundness Act of 1992 (Safety and Soundness Act) requires that each of the Banks establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters relating to diversity in its management, employment, and business activities, in accordance with requirements established by FHFA.<sup>2</sup> Section 1319A also requires that each Bank implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of women and minorities "at all levels" of its business and activities, and submit an annual report to FHFA detailing actions taken to achieve those goals.<sup>3</sup>

Part 1207 of FHFA's regulations implements those statutory requirements and also extends the requirements to the Office of Finance. Section 1207.21(b) provides generally that each Bank and the Office of Finance "shall develop, implement, and maintain policies and procedures to ensure, to the maximum extent possible in balance with financially safe and sound business practices,

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<sup>1</sup> The Office of Finance is a joint office of the Banks which issues the consolidated obligations on which all twelve Banks are jointly and severally liable. See 12 CFR part 1273. It is governed by a board of directors that includes the presidents of each of the Banks, as well as five additional members. See 12 CFR § 1273.7.

<sup>2</sup> See 12 U.S.C. § 4520(a).

<sup>3</sup> See 12 U.S.C. §§ 4520(b), (d). In addition, 12 U.S.C. § 1833e and Executive Order 11478 (as amended) require FHFA and the Banks to promote equal opportunity in employment and contracting.



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the inclusion and utilization of minorities, women, individuals with disabilities, and minority-, women-, and disabled-owned businesses in all business and activities and at all levels of the [Bank] and the Office of Finance, including in management, employment, procurement, insurance, and all types of contracts.”<sup>4</sup> In recognition of the fact that the Safety and Soundness Act requires that each Bank promote diversity and inclusion “at all levels” of its business and activities, section 1207.21(b) further requires that those policies and procedures “[e]ncourage the consideration of diversity in nominating or soliciting nominees for positions on boards of directors and engage in recruiting and outreach directed at encouraging individuals who are minorities, women and individuals with disabilities to seek or apply for employment with the [Bank] or the Office of Finance.”<sup>5</sup>

In conformity with the statutory requirements, section 1207.22 of FHFA’s regulations requires that each Bank and the Office of Finance submit to FHFA an annual report describing: its efforts to promote diversity at all levels of management and employment, in all of its business and activities, and in all of its contracts for services; and the results of those efforts.<sup>6</sup> In order to provide a quantitative basis upon which to assess the results of those efforts, section 1207.23(b) of the regulations requires specifically that each Bank and the Office of Finance set forth in its annual report the demographic data reported on the EEO-1 form that it is required to file annually with the Equal Employment Opportunity Commission (EEOC).<sup>7</sup> The EEO-1 form requires that each respondent provide race, ethnicity and gender information for its employees, broken down into various job categories. Although one of the job categories on the EEO-1 form is “Executive/Senior Level Officials and Managers,” the form does not require that a respondent provide information on members of its board of directors that are not also officers of the company. As a result, FHFA cannot use the EEO-1 data to assess the effectiveness of the efforts to “encourage the consideration of diversity in nominating or soliciting nominees for positions on boards of directors” that are being undertaken by the Banks and the Office of Finance.

In order to provide the data necessary to assess those efforts, FHFA is adding to part 1207 a new section 1207.23(b)(9)(i), which requires that the annual reports set forth “[d]ata showing for the reporting year by minority and gender classification, the number of individuals on the board of directors of each Bank and the Office of Finance,” using the same racial and ethnic classifications that are used on the EEO-1 form (which comply with OMB’s “Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting”). As amended, the regulation requires that each Bank and the Office of Finance collect that data “through an information collection requesting each director’s voluntary self-identification of his or her minority and gender classification without personally identifiable information” (PII).

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<sup>4</sup> See 12 CFR § 1207.21(b).

<sup>5</sup> See 12 CFR § 1207.21(b)(5).

<sup>6</sup> See 12 CFR § 1207.22(a).

<sup>7</sup> See 12 CFR § 1207.23(b)(1). As required by 29 CFR § 1602.7, each Bank and the Office of Finance annually files an EEO-1 form with the EEOC.



## **2. Use of Data**

FHFA will use the information collected under new § 1207.23(b)(9)(i) to assess the effectiveness of the policies and procedures that each Bank and the Office of Finance is required to implement to promote diversity in all of its business and activities “at all levels” and, specifically, to encourage diversity in the nomination and solicitation of nominees for members of its boards of directors. FHFA will also use the information to establish a baseline to analyze future trends related to the diversity of the boards of directors of the Banks and the Office of Finance and to assess the effectiveness of the strategies developed by the Banks and the Office of Finance for promoting, developing and retaining diverse board talent.

## **3. Use of Information Technology**

The rule does not specify the method by which the Banks and the Office of Finance are to collect the demographic information, other than to require that it be done in a way that does not garner PII. However, it is likely that the Banks and the Office of Finance will collect the information electronically, by emailing to each of their board directors a link where each director may anonymously report his or her demographic information.

## **4. Efforts to Identify Duplication**

The information collection that will be carried out under new § 1207.23(b)(9)(i) will not be duplicative because the necessary demographic information is not currently available from any other source. Existing section 1207.23(b)(1) requires that the annual report include demographic data required to be reported on the EEO-1 form, which each Bank and the Office of Finance are required to file with the EEOC pursuant to Title VII of the Civil Rights Act of 1964, as amended, and EEOC’s implementing regulations.<sup>8</sup> This avoids duplication by allowing the Banks and the Office of Finance to submit demographic information regarding their employees that they are already required to collect to satisfy those other statutory and regulatory requirements. However, because the job categories included on the EEO-1 form do not pertain to members of boards of directors, demographic information for directors must be collected separately.

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<sup>8</sup> See 42 U.S.C. § 2000e, et seq.; 29 CFR § 1602.7. The EEOC has received PRA clearance from OMB to carry out the EEO-1 information collection under control #3046-0007.



## **5. Impact on Small Entities**

The information collection is directed at individuals only and, therefore, will not have a significant economic impact on a substantial number of small entities.

## **6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction**

If the demographic information for board directors is not collected annually with the other information required to be included in the annual reports filed by the Banks and the Office of Finance, FHFA will not be able to assess fully the effectiveness of the policies and procedures each is required to implement to promote diversity in all of its business and activities "at all levels" and, specifically, to encourage diversity in the nomination and solicitation of nominees for members of its boards of directors.

## **7. Circumstances Requiring Special Information Collection**

There are no special circumstances requiring the information collection to be conducted in a manner inconsistent with the guidelines provided in Question 7.

## **8. Solicitation of Comments on Information Collection**

In accordance with the requirements of 5 CFR 1320.8(d), FHFA issued a notice of proposed rulemaking which included a request for public comments regarding this information collection. *See* 79 FR 35960 (June 25, 2014). The 60-day comment period closed on August 25, 2014. As is required by the 5 CFR 1320.11(b), FHFA submitted an analysis of the new collection of information to OMB for review in conjunction with the publication of the proposed rule. On August 1, 2014, OMB issued a Notice of Action stating that: (1) it had assigned control number 2590-0014 to the information collection; (2) it had not yet approved the collection; and (3) prior to publication of the final rule, the agency should provide to OMB a summary of all comments received on the proposed collection and identify any changes made in response to those comments.

Aside from the Notice of Action filed by OMB, FHFA received three comment letters on the proposed rule, none of which addressed the information collection. Accordingly, the agency has made no changes to the information collection in the final rule.

## **9. Provision of Payments or Gifts to Respondents**

No payment or gift will be provided to any respondent.



## **10. Assurance of Confidentiality**

The Banks, the Office of Finance, and FHFA will maintain the confidentiality of information obtained from respondents as required by applicable statute, regulation and agency policy.

## **11. Questions of a Sensitive Nature**

The information collection requests information regarding an individual's minority and gender classification using the same classifications as those used on the EEO-1 form.

## **12. Estimates of the Hour Burden of the Information Collection**

The estimated annualized hour burden for respondents is 21 hours. This estimate is based on the following calculations:

Board director receives email link to electronic form and completes form:

- Processing time: 0.1 hours
- Total respondents: 210 directors
- Total hours: 21

## **13. Estimated Total Annualized Cost Burden to Respondents**

There will be no costs imposed upon the respondents by this information collection.

## **14. Estimated Cost to the Federal Government**

The estimated annual cost burden to the Federal government is \$0.

## **15. Reasons for Change in Burden**

This is a new collection of information and, therefore, there is no change in burden.



**16. Plans for Tabulation, Statistical Analysis and Publication**

The results of this information collection may be published in aggregated form in FHFA's annual report to Congress, showing summed totals and percentages among the demographic categories. There will be no statistical analysis.

**17. If Seeking Approval to Not Display the Expiration Date for OMB Approval of the Information Collection, Explain the Reasons Why Display Would Be Inappropriate**

FHFA plans to display the expiration date for OMB approval.

**18. Explain Each Exception to the Topics of the Certification Statement Identified in "Certification for Paperwork Reduction Act Submission."**

There are no exceptions to the certification statement identified in Item 18.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.