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Office of Inspector General
Office of Audits

Audit of the Representation of Minorities and Women in the SEC's Workforce



November 20, 2014
Report No. 528



OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

M E M O R A N D U M

November 20, 2014

TO: Mary Jo White, Chair
Pamela Gibbs, Director, Office of Minority and Women Inclusion
Alta Rodriguez, Director, Office of Equal Employment Opportunity

FROM: Carl W. Hoecker, Inspector General, Office of Inspector General

SUBJECT: *Audit of the Representation of Minorities and Women in the SEC's Workforce,*
Report No. 528

Attached is the Office of Inspector General's (OIG) final report detailing the results of our audit of the representation of minorities and women in the U.S. Securities and Exchange Commission's (SEC) workforce. The report contains five recommendations for corrective action that, if fully implemented, should help the SEC in its efforts to identify and eliminate potential barriers to equal opportunity, measure the effectiveness of its diversity efforts, and fully comply with Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203).

On November 4, 2014, we provided you with a draft of our report for review and comment. In your November 17, 2014, response, you concurred with our recommendations. We have included your response as Appendix VI in the final report.

Within the next 45 days, please provide the OIG with a written corrective action plan that addresses the recommendations. The corrective action plan should include information such as the responsible official/point of contact, timeframe for completing required actions, and milestones identifying how your offices will address the recommendations.

We appreciate the courtesies and cooperation extended to us during the audit. If you have questions, please contact me or Rebecca L. Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects.

Attachment

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Executive Summary

Audit of the Representation of Minorities and Women in the SEC's Workforce Report No. 528 November 20, 2014

Why We Did This Audit

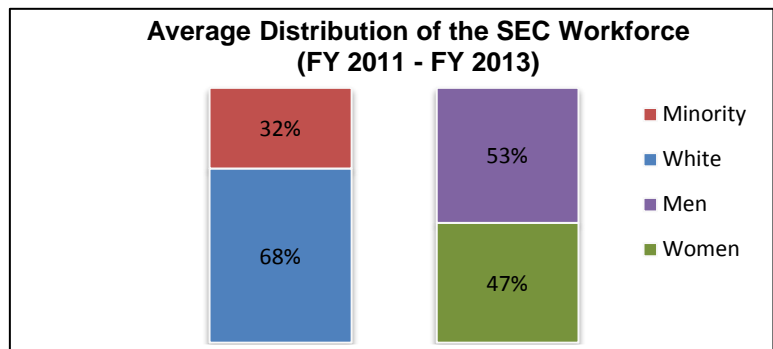
Embracing diversity increases the U.S. Securities and Exchange Commission's (SEC) ability to attract the best and brightest in the securities industry, thereby empowering the agency to achieve professional excellence and remain steadfast in its commitment to protect the investing public. Members of the U. S. House of Representatives Committee on Financial Services affirmed the importance of diversity in a March 2014 letter to the SEC Office of Inspector General (OIG). Committee members requested that the OIG review the SEC's internal operations to determine whether any personnel practices have created a discriminatory workplace or otherwise systematically disadvantaged minorities. The OIG was also asked to assess the operations of the SEC's Office of Minority and Women Inclusion (OMWI).

What We Recommended

In order to identify and eliminate potential barriers to equal opportunity, we made five recommendations for corrective action. The recommendations address OEEEO policies and procedures; review and submission of required data to the U.S. Equal Employment Opportunity Commission; performance of barrier analyses; and OMWI policies, procedures, and workforce diversity standards. Management concurred with the recommendations, which will be closed upon completion and verification of corrective action.

What We Found

We assessed diversity at the SEC and compared the agency's workforce between fiscal year (FY) 2011 and FY 2013 to U.S. civilian labor force, Federal, and securities industry workforce data. We found that the SEC has made efforts to promote diversity. For example, its annual reports for the years reviewed state that the SEC will maintain an environment that attracts, engages, and retains a technically proficient and diverse workforce. In addition, the SEC's Office of Equal Employment Opportunity (OEEEO) did not identify any proven employment discrimination for cases closed between FY 2011 and FY 2013. However, some minority groups and women: (1) were underrepresented in the SEC workforce; (2) received relatively fewer and smaller cash awards and bonuses; (3) experienced statistically significant lower performance management and recognition scores; and (4) filed equal employment opportunity complaints at rates higher than their percentage of the workforce.



Source: OIG summary of Federal Personnel Payroll System data.

These conditions may have occurred or may not have been remedied, in part, because OEEEO did not take required initial steps to identify areas where barriers may operate to exclude certain groups. Therefore, the SEC did not examine, eliminate, or modify, where appropriate, policies, practices, or procedures that create barriers to equal opportunity. As a result, the SEC lacks assurance that it has uncovered, examined, and removed barriers to equal participation at all levels of its workforce.

We also found that OMWI lacks a systematic and comprehensive method of evaluating the effectiveness of its programs and diversity efforts. Specifically, the office has not fully established internal policies and procedures or required workforce diversity standards needed to monitor, evaluate, and, as necessary, improve its operations and fully comply with Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

For additional information, contact the Office of Inspector General at (202) 551-6061 or http://www.sec.gov/about/offices/inspector_general.shtml.

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ABBREVIATIONS

CLF	Civilian Labor Force
CFR	Code of Federal Regulation
DAS	Data and Analytic Solutions, Inc.
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FPPS	Federal Personnel Payroll System
FY	Fiscal Year
GAO	Government Accountability Office
MD-715	Management Directive 715
NAICS	North American Industry Classification System
OEEEO	Office of Equal Employment Opportunity
OHR	Office of Human Resources
OIG	Office of Inspector General
OMWI	Office of Minority and Women Inclusion
PMR	Performance Management and Recognition
SEC	U.S. Securities and Exchange Commission
SEC-OP	SEC Operating Procedures
SECR	SEC Administrative Regulation
SECU	SEC University
SES	Senior Executive Service

Background and Objectives

Background

Federal laws and guidance provide a comprehensive set of requirements relating to workforce diversity.¹ For example, *Title VII of the Civil Rights Act of 1964* prohibits employment discrimination based on race, color, religion, sex, and national origin, and established the U.S. Equal Employment Opportunity Commission (EEOC) to prevent unlawful employment practices. Under EEOC regulations, Federal agencies are required to promote equal opportunity, identify and eliminate discriminatory practices, and provide counseling to aggrieved persons.² Further, EEOC's *Management Directive 715 (MD-715)* requires agencies to conduct a self-assessment at least annually to monitor equal employment opportunity (EEO) progress and identify areas where barriers may operate to exclude certain groups. In addition, *Executive Order 13583*, dated August 18, 2011, directs executive departments and agencies to “develop and implement a more comprehensive, integrated, and strategic focus on diversity and inclusion as a key component of their human resources strategies” and to “promote diversity and remove barriers to equal employment opportunity....”³

As an employer, the U.S. Securities and Exchange Commission (SEC) seeks to hire and retain a skilled and diverse workforce, and to ensure that all decisions affecting employees and applicants are fair and ethical.⁴ According to the agency's annual reports for fiscal year (FY) 2011 through FY 2013,⁵ the SEC maintains “a work environment that attracts, engages, and retains a technically proficient and diverse workforce....” In order to effectively protect the interests of the investing public, the SEC's workforce must include a wide range of backgrounds, skills, and experiences. Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established an Office of Minority and Women Inclusion (OMWI) in

¹ U.S. Office of Personnel Management, Office of Diversity and Inclusion, “Government-Wide Diversity and Inclusion Strategic Plan 2011” defines “workforce diversity” as a “collection of individual attributes that together help agencies pursue organizational objectives efficiently and effectively. These include, but are not limited to, characteristics such as national origin, language, race, color, disability, ethnicity, gender, age, religion, sexual orientation, gender identity, socioeconomic status, veteran status, and family structures. The concept also encompasses differences among people concerning where they are from and where they have lived and their differences of thought and life experiences.”

² 29 Code of Federal Regulations (CFR) Part 1614, U.S. Equal Employment Opportunity Commission Regulations, *Federal Sector Equal Employment Opportunity, Subpart A—Agency Program to Promote Equal Employment Opportunity*.

³ *Executive Order 13583—Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*, August 18, 2011.

⁴ U.S. Securities and Exchange Commission Strategic Plan, FYs 2014 – 2018, p. 4.

⁵ As described in Appendix I, our audit scope covered the period between FY 2011 and FY 2013.

financial regulatory agencies, including the SEC, to ensure agencies, among other things, take affirmative steps to seek diversity in the workforce.⁶

On March 24, 2014, members of the United States House of Representatives Committee on Financial Services requested that the SEC's Office of Inspector General (OIG) review the SEC's internal operations to "determine whether any personnel practices have created a discriminatory workplace or otherwise systematically disadvantaged minorities from obtaining senior management positions." In their letter to the OIG, the members asserted that, despite the Dodd-Frank Act's statutory mandate about diversity, a 2013 report by the U.S. Government Accountability Office (GAO) concluded that management-level representation of minorities and women among Federal financial agencies did not change substantially between 2007 and 2011.⁷ Letters requesting similar reviews were sent to the Inspectors General of five other financial regulatory agencies. The OIGs, including the SEC OIG, determined that each would review the representation of minorities and women in its agency's workforce and report on the results.

SEC Workforce Distribution. As of September 30, 2013, the SEC's workforce included 4,138 employees, of which about two-thirds were located at the SEC's headquarters in Washington, D.C. and one-third were at the SEC's 11 regional offices. In FY 2013, about 72 percent of the agency's workforce consisted of attorneys, accountants, economists, and compliance examiners. The remaining 28 percent of the employees occupied other professional and administrative positions.

As shown in Chart 1, the SEC's workforce includes employees of various racial and ethnic categories,⁸ including White, Black or African American, Hispanic or Latino, Asian, and Other.⁹ Also, between FY 2011 and FY 2013, the SEC workforce averaged 53 percent men and 47 percent women.¹⁰

⁶ Public Law 111-203 § 342, July 11, 2010. Unless otherwise stated, references in this report to the Dodd-Frank Act are to Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, *Office of Minority and Women Inclusion*.

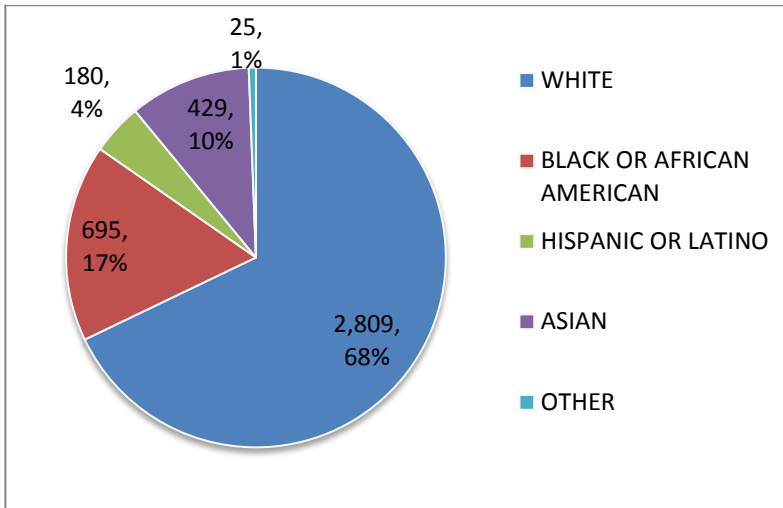
⁷ U.S. Government Accountability Office, *Diversity Management: Trends and Practices in the Financial Services Industry and Agencies after the Recent Financial Crisis* (GAO-13-238, April 2013).

⁸ We used the racial and ethnic categories established by the U.S. Office of Personnel Management Standard Form 181, "Ethnicity and Race Identification," and relied on information SEC employees reported on the form, where available. Employees who identified their race and ethnicity as a category other than White are classified in this report as minorities.

⁹ In Chart 1 and throughout this report, "Other" includes the following racial and ethnic categories: Two or More Races, American Indian or Alaska Native, and Native Hawaiian or other Pacific Islander. The "Other" category was used to consolidate, where necessary, racial and ethnic categories that had populations too small to analyze.

¹⁰ Appendix II presents additional SEC workforce distribution data for race, ethnicity, and gender between FY 2011 and FY 2013.

Chart 1: Average Distribution of the SEC Workforce by Race and Ethnicity (FY 2013)



Source: OIG-generated based on FY 2013 MD-715 data (Table A1).

For the purposes of our audit, we separated the SEC workforce into three groups: (1) Senior Officers,¹¹ (2) supervisors,¹² and (3) non-supervisors.¹³ At the end of FY 2013, the SEC had 134 Senior Officers, 667 supervisors, and 3,331 non-supervisors.¹⁴

Organizational Roles and Responsibilities

Three SEC offices – OMWI, the Office of Equal Employment Opportunity (OEEO), and the Office of Human Resources (OHR) – have specific and

interrelated responsibilities to ensure equal employment opportunity and diversity in the agency’s workforce.

OMWI. The Dodd-Frank Act required the SEC to establish OMWI by January 2011. The SEC determined that it required Congressional approval to reprogram the appropriated funds necessary to create the office. Following House and Senate appropriations committees’ approval, the SEC formally established OMWI in July 2011. In January 2012, OMWI’s first permanent Director joined the SEC. Since its creation, OMWI has grown from two full-time employees and an acting Director to eight permanent employees, three contract employees, and a permanent Director. According to the Dodd-Frank Act, OMWI’s Director is responsible for, among other things, developing standards for:

- “equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the agency;
- increased participation of minority-owned and women-owned businesses in the programs and contracts of the agency...; and

¹¹ The SEC’s primary pay scale is the SK pay scale, which ranges from SK-1 to SK-17. Senior Officers comprise the SEC’s senior management.

¹² Supervisors represent all employees who occupy supervisory (i.e., SK-15 and SK-17) positions.

¹³ Non-supervisors represent all employees who are not Senior Officers or do not occupy supervisory positions.

¹⁴ Our analysis did not include non-SK pay scales used by the SEC. In FY 2013, 6 SEC employees occupied positions that were not on the SK pay scale, which accounts for the difference in the total number of Senior Officers, supervisors, and non-supervisors (4,132) and the total number of all SEC employees (4,138) at the end of the year.

- assessing the diversity policies and practices of entities regulated by the agency.”

OMWI is required to submit to Congress an annual report on actions taken and challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses. The report must also address the successes and challenges faced by the agency in operating minority and women outreach programs.

OEE0. The SEC’s OEE0 is responsible for the agency’s EEO programs. OEE0 administers the EEO administrative complaint process. OEE0 counselors meet with aggrieved employees, provide information about the complaint process, and strive to work out mutually satisfactory resolutions of issues. OEE0 also supports the SEC’s diversity and inclusion programs by sponsoring, with OHR, employee groups that provide educational and cultural programs. Such programs include celebrations of ethnic, racial, and gender history; seminars; employee mentoring and development; and community service projects.

MD-715 requires OEE0 to conduct on at least an annual basis a self-assessment “looking at the racial, national origin, and gender profiles of relevant occupational categories in an agency’s workforce.” The assessment includes evaluating data including but not limited to total workforce distribution by race, national origin, and sex; participation rates in supervisory and management positions by race, national origin, and sex; and the rates of selections for promotions, training opportunities, and performance incentives by race, national origin, and sex. According to MD-715, “this ‘snapshot’ can serve as a diagnostic tool to help agencies determine possible areas where barriers may exist and may require closer attention.” The results of the self-assessment are reported to the EEOC as a set of prescribed tables and data. OEE0 must use the self-assessment to conduct analyses that identify barriers to inclusion (referred to as barrier analyses) allowing the agency to take immediate steps to eliminate those barriers.

OHR. The SEC’s OHR develops and oversees the agency’s staff-related programs including hiring, retention, promotion, and separation; compensation and benefits; performance management and awards; and overall employee relations. OHR is also responsible for staff training and development through SEC University (SECU), an in-house function that provides internal courses, assists employees in enrolling for classes outside the SEC, and consults with office and division management to identify and deliver needs-based training. SECU provides training on diversity topics. For example, it hosts a required class for SEC supervisors titled “Unconscious Bias and Performance Management Training for SEC Supervisors,” which aids participants in understanding the nature of bias and how it influences key decisions that affect the SEC.

Collectively, OMWI, OEE0, and OHR strive to improve and enhance the SEC’s workforce diversity. Appendix III provides additional information on such efforts.

SEC Policies, Procedures, and Administrative Regulations

The SEC has established policies, procedures, and administrative regulations (SECR) that promote diversity and inclusion and prohibit discrimination. For example, on March 24, 2014, the SEC Chair issued the *Equal Employment Opportunity Policy*, which establishes as a goal a workplace that is respectful, inclusive, and allows contribution to the best of one's ability.¹⁵ The policy also reminds managers and supervisors of their responsibility to participate in inquiries into allegations of discrimination, harassment, or retaliation. In addition, *A Personnel System Based on Merit Principles*, posted on the SEC Insider (the SEC's internal website) states that SEC employees should adhere to Merit System Principles such as: (1) recruiting so the workforce represents all segments of society, and (2) selecting and promoting solely on relative ability, knowledge, and skills. Further, *EEO at the SEC: Overview*, also on the SEC Insider, states that discrimination on the basis of sex, color, race, or national origin is prohibited, and provides an overview of the EEO complaint process.

The SEC has also issued various diversity-related administrative regulations. For example, SECR 6-6, *Delegated Examining Policy* (September 19, 2011), places responsibility on SEC OHR staff to conduct "...special outreach and affirmative recruitment to secure an adequate pool of highly qualified candidates that includes minorities, women and disabled persons." In addition, the SEC issued SECR 6-23, *Merit Promotion Plan for Bargaining Unit Employees* (March 2, 2012), and SECR 6-24, *Merit Promotion Policy for Non-Bargaining Unit Positions* (May 17, 2012), to ensure the implementation of a fair and systematic approach to identify, recruit, examine, and select employees.¹⁶ Further, SECR 6-33, Revision 1, *Excepted Service Hiring Authority* (May 10, 2013), provides a streamlined approach for hiring accountants, economists, securities compliance examiners, and information technology specialists, and states that actions taken shall be made without regard to race, color, national origin, or sex. Finally, SEC Operating Procedures (SEC-OP) provide implementation guidance for the information in SECRs, and include SEC-OP 6-45, *Pathways Programs* (January 13, 2014), which provides guidance for developmental programs tailored to promote employment opportunities for students and recent graduates.

Appendix I contains other relevant SEC policies, procedures, and administrative regulations.

Objectives

Our objective was to assess the SEC's personnel operations and other efforts to increase the agency's representation of minorities and women, create a workplace free of systemic discrimination of minorities and women, and provide equal opportunity for

¹⁵ In FY 2011 and FY 2012, respectively, Chairman Schapiro and Chairman Walter also issued messages expressing the SEC's commitment to equal employment opportunity, diversity, and inclusion.

¹⁶ The National Treasury Employees Union represents staff at the SEC. Bargaining unit employees include nonprofessional and professional employees employed by the SEC, excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

minorities and women to obtain senior management positions. We also sought to identify factors that may impact the SEC's ability to increase the representation of minorities and women at the SEC, in general, and in senior management positions, in particular.

We met with officials from OMWI, OEEA, and OHR, and analyzed SEC data from FY 2011 through FY 2013. Such data included hiring and promotion data, performance management and recognition (PMR) scores, cash awards, time-off awards, Senior Officer bonuses, and EEO complaint data.¹⁷ We contracted with Data and Analytic Solutions, Inc. (DAS) to analyze the SEC's PMR scores for FY 2011 through FY 2013 and determine if there were statistically significant differences based on race, ethnicity, and gender. We also compared the SEC's workforce data to the most current civilian labor force (CLF) data prepared by the Department of Labor Bureau of Labor Statistics,¹⁸ Federal workforce data,¹⁹ and securities industry workforce data.²⁰

Appendix I includes additional information on our scope and methodology; review of internal controls; prior coverage; and applicable Federal laws and guidance and SEC policies, procedures, and administrative regulations.

¹⁷ Complaints include EEO complaints filed by employees, former employees, applicants for employment, and contractors.

¹⁸ The U.S. Bureau of Labor Statistics provides projections of the CLF including labor force participation rates, and the civilian non-institutional population by gender, race, and ethnic groups. The CLF includes individuals 16 years of age or older, employed or unemployed, U.S. and non-U.S. citizens. MD-715 directs agencies, when conducting annual self-assessments, to compare their internal participation rates with corresponding participation rates in the relevant CLF. As of the date of this report, 2010 CLF data was the most recent available for racial and ethnic categories, and 2013 CLF data was the most recent available for gender.

¹⁹ U.S. Office of Personnel Management, "FedScope: Federal Human Resources Data."

²⁰ U.S. Equal Employment Opportunity Commission, "2013 Job Patterns for Minorities and Women in Private Industry."

Results

Finding 1: Additional Efforts are Needed to Identify and Eliminate Potential Barriers to Equal Opportunity

According to the SEC's Annual Performance Reports for FY 2011 through FY 2013, one of the agency's strategic objectives is to maintain an environment that attracts, engages, and retains a technically proficient and diverse workforce. To assess the diversity of the SEC workforce, we considered the representation of minorities and women at the SEC in comparison to the CLF, the Federal workforce, and the securities industry. Although the SEC has made efforts to promote diversity, we determined that some minority groups and women were underrepresented at the SEC between FY 2011 and FY 2013.²¹ We also found that, during the same time, minorities and women received fewer awards and bonuses (based on their relative percentages of the workforce). Moreover, the average sizes of the awards received by minorities and women were smaller. Also, statistically significant differences were found in the PMR scores for some minority groups and women. Lastly, the percentage of EEO complaints filed by Black or African American employees and women was greater than their respective representational percentages in the SEC workforce.

These conditions may have occurred or may not have been remedied, in part, because OEE0 did not take required initial steps to identify areas where barriers may operate to exclude certain groups. Specifically, for FY 2011 through FY 2013, OEE0's MD-715 self-assessment was incomplete because the office was unable to collect and evaluate all required information and data.

As a result, OEE0 did not complete barrier analyses needed for the agency to examine, eliminate, or modify, where appropriate, policies, practices, or procedures that create barriers to equal opportunity. Therefore, the SEC lacks assurance that it has uncovered, examined, and removed barriers to equal participation at all levels of its workforce. Further, although OEE0 did not identify any proven employment discrimination for EEO cases closed between FY 2011 and FY 2013, the agency lacks assurance that it is in compliance with 29 CFR Part 1614, which establishes the regulatory framework supporting the U.S. Government's policy to provide equal employment opportunity for all persons, and to prohibit discrimination in employment because of race, color, sex, or national origin.²²

²¹ According to 5 CFR, § 720.202, underrepresentation is a situation in which the number of women or members of a minority group within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage of women or the minority group constitutes within the CLF.

²² U.S. Equal Employment Opportunity Commission, "Federal Sector Equal Employment Opportunity."

Minorities and Women Were Generally Underrepresented and Received Fewer and Smaller Awards, Had Lower PMR Scores, and Filed EEO Complaints at Higher Rates

We determined that additional efforts are needed to identify and eliminate potential barriers to equal opportunity at the SEC. Specifically, we found that:

- some minority groups were underrepresented, including at the supervisor and Senior Officer levels;
- women were underrepresented, including at the supervisor and Senior Officer levels;
- some categories of newly hired minorities and newly hired women were underrepresented;
- some minority groups promoted were underrepresented and women promoted to supervisor and Senior Officer levels were underrepresented;
- minorities and women received fewer awards and bonuses (based on their relative percentages of the workforce), and the average size of their awards was smaller;
- statistically significant differences existed in PMR scores for some minority groups and for women when race and ethnicity was considered; and
- the percentage of complaints filed by Black or African American employees and women was greater than their respective representational percentages in the SEC workforce.

The following sections examine each of these topics in turn.

Some Minority Groups Were Underrepresented Including at the Supervisor and Senior Officer Levels. We found that the overall representation of minorities at the SEC stayed fairly constant during the period reviewed. For all races and ethnicities, only the representation of Asian employees changed by more than 1 percent between FY 2011 and FY 2013. Although the overall SEC workforce had a higher representation of Black or African American employees and Asian employees than the CLF, SEC employees who identified themselves as Hispanic or Latino²³, Two or More Races, American Indian and Alaska Native, and Native Hawaiian or Other Pacific Islander were underrepresented (See Table 1).

²³ According to the U.S. Office of Personnel Management, "Federal Equal Opportunity Recruitment Program for Fiscal Year 2012" report, similar to the rest of the Federal government, the SEC also faced challenges with regards to Hispanic or Latino full employment.

**Table 1: Workforce Distribution by Race and Ethnicity
(as a percentage of the total)**

Race and Ethnicity	CLF 2010	SEC FY 2011	SEC FY 2012	SEC FY 2013
White	72.36%	68.61%	68.39%	67.88%
Black or African American	12.02%	16.74%	16.56%	16.80%
Hispanic or Latino	9.96%	4.78%	4.59%	4.35%
Asian	3.90%	9.35%	9.84%	10.37%
Two or More Races	0.54%	0.08%	0.16%	0.14%
American Indian or Alaska Native	1.08%	0.34%	0.36%	0.34%
Native Hawaiian or Other Pacific Islander	0.14%	0.10%	0.11%	0.12%
<i>Total</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.01%^</i>	<i>100.00%</i>

Source: OIG-generated based on 2010 CLF data and MD-715 data (Table A1) for FY 2011 through FY 2013. Totals with an “^” indicate that the percentages did not total to 100.00% due to rounding.

Furthermore, Table 2 shows race and ethnicity data for the CLF, the Federal workforce at the Senior Executive Service (SES) level, the securities industry separated by supervisor level, and the average of the SEC workforce separated by supervisor level.²⁴ As shown in the table, the SEC workforce had a greater percentage of Asian and Native Hawaiian or Other Pacific Islander employees at the supervisor level than the CLF; however, all other minority races and ethnicities were underrepresented at both the supervisor and Senior Officer levels.

In addition, although the SEC workforce had lower percentages of Black or African American and Hispanic or Latino employees at the Senior Officer level when compared to the SES, it did have a greater percentage of employees of these two racial and ethnic categories when compared to the securities industry.

²⁴ Comparisons to other workforce measures such as the Federal workforce and the securities industry are presented to provide context.

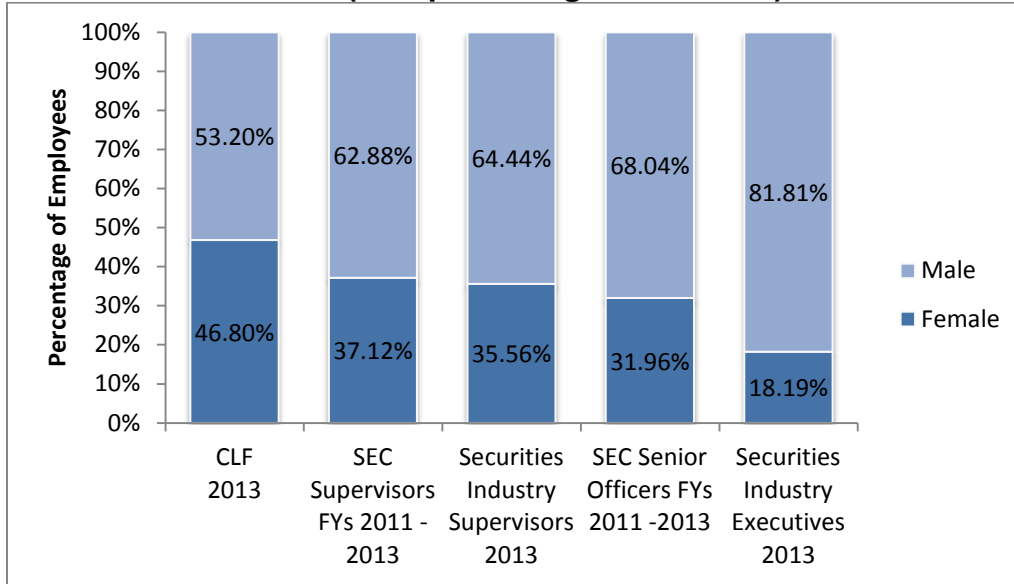
Table 2: Workforce Distribution by Race and Ethnicity and Supervisory Status (as a percentage of the total)

Race and Ethnicity	CLF 2010	Average Percentage of SEC Supervisors FYs 2011 - 2013	Securities Industry Supervisors 2013	Average Percentage of SEC Senior Officers FYs 2011 - 2013	SES Federal Workforce FY 2012	Securities Industry Executives 2013
White	72.36%	79.33%	79.40%	87.44%	80.6%	89.59%
Black or African American	12.02%	8.66%	4.11%	4.34%	10.5%	1.48%
Hispanic or Latino	9.96%	3.92%	4.11%	3.88%	4.1%	2.48%
Asian	3.90%	7.50%	11.44%	3.42%	N/A	5.86%
Two or More Races	0.54%	0.05%	0.66%	0.23%	0.6%	0.41%
American Indian or Alaska Native	1.08%	0.34%	0.11%	0.68%	1.4%	0.10%
Native Hawaiian or Other Pacific Islander	0.14%	0.19%	0.17%	0.00%	N/A	0.09%
<i>Total</i>	<i>100.00%</i>	<i>99.99%[^]</i>	<i>100.00%</i>	<i>99.99%[^]</i>	<i>97.2%[*]</i>	<i>100.00%</i>

Source: OIG-generated based on 2010 CLF data; Federal Personnel Payroll System (FPPS) data for FY 2011 through FY 2013 received on July 25, 2014; EEOC EEO-1 data for the North American Industry Classification System (NAICS) code 523; and data from the U.S. Office of Personnel Management "Federal Equal Opportunity Recruitment Program for FY 2012 Report to Congress." Totals with an "A" indicate that the percentages did not total to 100.00% due to rounding. "N/A" indicates that data was not available. "*" indicates the sum did not total to 100.00% due to unavailability of all data.

Women Were Underrepresented Including at the Supervisor and Senior Officer Levels. According to the Bureau of Labor Statistics, women made up 46.80 percent of the CLF in 2013. At the SEC, the overall representation of women in the workforce decreased slightly for each year reviewed, from 47.8 percent in FY 2011, to 46.9 percent in FY 2012, and to 46.4 percent in FY 2013. Thus, in FY 2013, women were underrepresented. In addition, between FY 2011 and FY 2013, women on average made up 37.12 percent of the SEC’s supervisory workforce and 31.96 percent of the SEC’s Senior Officers. Both of these percentages were lower than the CLF percentage of 46.80 percent. These results are a potential indicator that women were not promoted to or hired for supervisor and Senior Officer levels at the same rate as their male counterparts. As shown in Chart 2, we also determined that the percentages of both female supervisors and Senior Officers at the SEC were higher than the percentage of female supervisors and executives in the securities industry.

**Chart 2: Workforce Distribution by Gender and Supervisory Status
(as a percentage of the total)**



Source: OIG-generated based on 2013 CLF data, FPPS data for FY 2011 through FY 2013 received on July 25, 2014, and 2013 EEOC EEO-1 data for NAICS code 523.

Some Categories of Newly Hired Minorities and Newly Hired Women Were Underrepresented. During the period reviewed, the SEC hired²⁵ 1,053 new employees which, after accounting for separations, increased the SEC’s workforce by over 300 positions (or about 8 percent).²⁶ Of these 1,053 newly hired employees, as shown in Table 3, the percentage of Black or African American, Asian, and Native Hawaiian or Other Pacific Islander employees was greater than their respective representational CLF percentages. However, all other races and ethnicities were underrepresented when compared to the CLF. For example, of the 1,053 newly hired employees:

- 38 (or 3.61 percent) were Hispanic or Latino, which was less than the corresponding CLF percentage of 9.96 percent;
- 4 (or 0.38 percent) were of Two or More Races, which was less than the corresponding CLF percentage of 0.54 percent; and
- 4 (or 0.38 percent) were American Indian or Alaska Native, which was less than the corresponding CLF percentage of 1.08 percent.

²⁵ The SEC is required by 5 U.S. Code § 2301 to hire qualified individuals based solely on their relative ability, knowledge, and skills. In FY 2011 the SEC hired 214 employees, in FY 2012 the SEC hired 372 employees, and in FY 2013 the SEC hired 467 employees. All new hires represent employees from outside the SEC who began employment with the SEC.

²⁶ According to the SEC’s MD-715 reports, the agency’s workforce totaled 3,829, 3,942, and 4,138 employees at the end of FY 2011, FY 2012, and FY 2013, respectively, which represents an 8 percent increase over those 3 years.

Also, 412 of the 1,053 new hires (or 39.1 percent) were women. Therefore, newly hired women at the SEC were underrepresented when compared to the percentage of women in the CLF, which was 46.80 percent.

**Table 3: New Hires by Race and Ethnicity
(as a percentage of the total)**

Race and Ethnicity	CLF 2010	SEC's Average New Hires FYs 2011-2013
White	72.36%	68.76%
Black or African American	12.02%	13.68%
Hispanic or Latino	9.96%	3.61%
Asian	3.90%	12.92%
Two or More Races	0.54%	0.38%
American Indian or Alaska Native	1.08%	0.38%
Native Hawaiian or Other Pacific Islander	0.14%	0.28%
<i>Total</i>	<i>100.00%</i>	<i>100.01%^</i>

Source: OIG-generated based on 2010 CLF and FPPS data for FY 2011 through FY 2013 retrieved on July 3, 2014. Totals with an “^” indicate that the percentages did not total to 100.00% due to rounding.

Of the 1,053 new hires, 55 were hired at the SK-15 or SK-17 supervisory levels, including 20 minorities. The breakdown of these 20 minorities and their percentage of the 55 new hires into the SK-15 or SK-17 supervisory levels were as follows:

- 12 (or 22 percent) were Black or African American;
- 5 (or 9 percent) were Asian;
- 1 (or 2 percent) was Hispanic or Latino;
- 1 (or 2 percent) was of Two or More Races; and
- 1 (or 2 percent) was Native Hawaiian or Other Pacific Islander.

No American Indian or Alaska Natives were hired at the SK-15 or SK-17 supervisory levels during the period reviewed.

Based on these percentages, the Hispanic or Latino and American Indian or Alaska Native racial and ethnic categories were underrepresented for new hires at the supervisor level when compared to the CLF. Conversely, individuals of other racial and ethnic categories were hired at rates greater than their respective representational CLF percentages.

Additionally, 29 of the SEC’s 1,053 new hires were hired as Senior Officers, including 6 (or 21 percent) minorities. Of these 6 minorities, 1 (or 3 percent) was Black or African American, 2 (or 7 percent) were Hispanic or Latino, and 3 (or 10 percent) were Asian. Based on these percentages, all minority races and ethnicities were underrepresented for new hires at the Senior Officer level except Asian.

Finally, of the 55 supervisors hired by the SEC during the 3 years reviewed, 19 (or 35 percent) were women. Of the 29 Senior Officers hired, 8 (or 28 percent) were women. Thus, for the period reviewed, newly hired women were underrepresented when compared to the CLF at both the supervisor and Senior Officer levels.

Some Minority Groups Promoted Were Underrepresented and Women Promoted to Supervisor and Senior Officer Levels Were Underrepresented. Between FY 2011 and FY 2013, the SEC promoted 1,600 employees.²⁷ Sixty-nine (or 4.31 percent) were Hispanic or Latino, 6 (or 0.38 percent) were American Indian or Alaska Native, and 2 (or 0.13 percent) were of Two or More Races (See Table 4). Thus, for promotions, these races and ethnicities were underrepresented when compared to the CLF. Conversely, the percentage of promotions of Black or African American, Asian, and Native Hawaiian or Other Pacific Islander employees exceeded their respective representational CLF percentages. In addition, during the period reviewed, 51 percent of the 1,600 promotions were granted to women, which also exceeded their respective representational CLF percentage.

**Table 4: Promotions by Race and Ethnicity
(as a percentage of the total)**

Race and Ethnicity	CLF 2010	Overall SEC Workforce FYs 2011 - 2013	SEC’s Average Promotions FYs 2011 - 2013
White	72.36%	68.45%	65.06%
Black or African American	12.02%	16.66%	20.44%
Hispanic or Latino	9.96%	4.58%	4.31%
Asian	3.90%	9.75%	9.38%
Two or More Races	0.54%	0.11%	0.13%
American Indian or Alaska Native	1.08%	0.34%	0.38%
Native Hawaiian or Other Pacific Islander	0.14%	0.11%	0.31%
<i>Total</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.01%[^]</i>

Source: OIG-generated based on 2010 CLF data and FPPS data for FY 2011 through FY 2013 retrieved on July 3, 2014. Totals with an “^” indicate that the percentages did not total to 100.00% due to rounding.

In addition, 314 of the 1,600 promotions between FY 2011 and FY 2013 were promotions to supervisor positions. Of these 314 promotions, 30 (or 10 percent) were

²⁷ Promotions include SEC employees who moved at least one grade higher than their previous grade.

granted to Black or African American employees, 12 (or 4 percent) were granted to Hispanic or Latino employees, none were granted to employees of Two or More Races, and 2 (or 1 percent) were granted to American Indian or Alaska Native employees. Further, of these 314 promotions, 132 (or 42 percent) were granted to women. Therefore, for promotions to the supervisor level, these races and ethnicities, as well as women, were underrepresented when compared to the CLF. Conversely, Asian and Native Hawaiian or Other Pacific Islander employees were promoted to supervisor positions at rates exceeding their respective representational CLF percentages.

Next, there were 108 promotions to Senior Officer positions between FY 2011 and FY 2013. Of these 108 promotions, 16 were granted to minorities. Specifically, 8 (or 7 percent) were granted to Black or African American employees, 2 (or 2 percent) were granted to Hispanic or Latino employees, and 6 (or 6 percent) were granted to Asian employees. No other minority races or ethnicities were promoted to the Senior Officer level during the period reviewed. Therefore, for promotions to the Senior Officer level, Asian was the only racial and ethnic category that was not underrepresented when compared to the CLF.

Finally, of the 108 promotions to the Senior Officer level, 32 (or 30 percent) were granted to women. Thus, for promotions to the Senior Officer level, women were also underrepresented when compared to the CLF.

Minorities and Women Received Fewer Awards and Bonuses, and the Average Award Size Was Smaller. To determine whether disparities existed in the SEC's distribution of awards and bonuses, we analyzed the rates at which employees received cash awards, time-off awards, and Senior Officer bonuses. Cash awards and time-off awards are not linked to employee performance ratings. Rather, they are given in recognition of special acts or as on the spot awards. Senior Officer bonuses, however, are tied to performance.

Cash Awards for Minorities. As shown in Table 5, the SEC awarded a total of 4,454 cash awards between FY 2011 and FY 2013, which resulted in 37.40 percent²⁸ of the SEC's total workforce receiving a cash award. However, Black or African American, Asian, and Other employees received fewer cash awards than the overall workforce average (37.40 percent) and White employees, relative to their representational percentages of the workforce. Specifically, White employees received 3,164 cash awards, which resulted in 39.25 percent of the SEC's White employees receiving a cash award. In comparison, 31.98 percent, 36.26 percent, and 30.89 percent of Black or African American, Asian, and Other employees, respectively, received cash awards. Only Hispanic or Latino employees received cash awards at a rate higher than both the average of the entire workforce and Whites (41.70 percent of the SEC's Hispanic or Latino employees received cash awards).

²⁸ We calculated the percentage (37.40 percent) of the SEC's total workforce that received a cash award by dividing the total number of cash awards granted between FY 2011 and FY 2013 (4,454) by the total SEC workforce during the same period (11,909). It is possible that one employee received more than one cash award.

In addition, on average White employees received larger cash awards than both the overall workforce and all racial and ethnic categories. Specifically, the average cash award received by White employees was \$1,609, while the average cash award distributed to the SEC workforce was \$1,529. The average cash award received by Asian and Other employees was slightly higher than the average received by the entire workforce, but their awards were still less than the average White employee's. In addition, Black or African American and Hispanic or Latino employees received cash awards that were less than both the workforce average and the average of their White counterparts. On average, Black or African American employees received cash awards of \$1,195, and Hispanic or Latino employees received awards of \$1,287, which was 22 percent and 16 percent, respectively, less than the average cash award of the SEC workforce.

Table 5: Cash Awards by Race and Ethnicity (FY 2011 - FY 2013)

Race and Ethnicity	Total Number of Cash Awards / Weighted Average Percentage of Population	Average Cash Award Amount
White	3,164	\$1,609
	39.25%	
Black or African American	627	\$1,195
	31.98%	
Hispanic or Latino	227	\$1,287
	41.70%	
Asian	415	\$1,549
	36.26%	
Other	21	\$1,574
	30.89%	
<i>Totals</i>	<i>4,454</i>	<i>\$1,529</i>
	<i>37.40%</i>	

Source: OIG-generated based on MD-715 data (Table A1) and FPPS data for FY 2011 through FY 2013 received on July 25, 2014.

Senior Officer Bonuses for Minorities. As shown in Table 6, the SEC awarded a total of 225 Senior Officer bonuses between FY 2011 and FY 2013, which resulted in an average of 51 percent²⁹ of the SEC's Senior Officers receiving a bonus. In FY 2013, the make-up of the SEC's Senior Officers by race and ethnicity was: 133 White, 7 Black or African American, 5 Hispanic or Latino, 6 Asian, and 1 Other.

The average amount of each Senior Officer bonus distributed between FY 2011 and FY 2013 was \$9,274, and only White and Hispanic or Latino employees received a higher average bonus than the overall average. In comparison, the remaining Senior Officers of other racial and ethnic categories received lower average bonuses.

²⁹ We calculated the percentage (51 percent) of the SEC's Senior Officers that received a bonus by dividing the total number of Senior Officer bonuses granted between FY 2011 and FY 2013 (225) by the total number of Senior Officers during the same period (438). It is possible that one Senior Officer received more than one bonus.

Similar to cash awards, the average Senior Officer bonus was lower for Black or African American employees when compared to the average of all Senior Officers that received a bonus. Specifically, Black or African American Senior Officers received an average bonus of \$7,375 (or 20 percent less than the average bonus of \$9,274). Additionally, Asian Senior Officers received an average bonus of \$8,474 (or 9 percent less than the average bonus of \$9,274).

Table 6: Senior Officer Bonuses by Race and Ethnicity (FY 2011 - FY 2013)

Race and Ethnicity	Total Number of Bonuses Awarded	Average Bonus Amount
White	195	\$9,379
Black or African American	12	\$7,375
Hispanic or Latino	9	\$10,859
Asian	8	\$8,474
Other	1	\$3,803
<i>Totals</i>	225	\$9,274

Source: OIG-generated based on FPPS data for FY 2011 through FY 2013 received on July 25, 2014.

Cash Awards, Time-Off Awards, and Senior Officer Bonuses for Women. Our analysis also showed that, between FY 2011 and FY 2013, when compared to men, women received fewer cash awards (2,388 awards versus 2,066 awards), more time-off awards (1,475 awards versus 1,650 awards), and fewer Senior Officer bonuses (153 bonuses versus 72 bonuses).

The SEC's Chief Human Capital Officer stated that often employees can elect the type of award they want to receive (cash versus time-off) and many women frequently request time-off. However, when women did receive cash awards at the non-supervisor level, the average cash award paid to them between FY 2011 and FY 2013 was smaller than the average cash award paid to men (\$1,428 versus \$1,307). Also, the average Senior Officer bonus paid to women during the same time was lower than the average Senior Officer bonus paid to men (\$9,688 versus \$8,396).

Statistically Significant Differences Existed in PMR Scores For Some Minority Groups and Women When Race and Ethnicity Was Considered. PMR scores are the numeric results of employee performance appraisals and range from 1 to 5 as follows:

- 1 - Unacceptable
- 2 - Needs Improvement
- 3 - Meets Expectations
- 4 - Exceeds Expectations
- 5 - Greatly Exceeds Expectations

As described in Appendix IV, between FY 2011 and FY 2013, the SEC had different rating systems of record for various employees based on supervisory level and bargaining unit status. In October 2006, the Federal Services Impasse Panel set forth several provisions related to the SEC's performance management system. In response, the SEC developed and implemented the Evidence Based Performance Management System Pilot Program that was in place during the period reviewed. An SEC employee's official rating of record was either "Acceptable," "Unacceptable," or a PMR score of 1 through 5 based on the employee's supervisory level and bargaining unit status.³⁰

Although certain SEC employees received an official rating of record of "Acceptable" or "Unacceptable," we obtained all available underlying numerical PMR scores used to determine the official rating of record for SEC employees between FY 2011 and FY 2013. Employees with only "Acceptable" or "Unacceptable" ratings may still use their underlying numerical PMR score when applying to job announcements or promotions, and therefore we considered this information relevant for our analysis. However, numerical PMR scores for Senior Officers in FY 2011 and for bargaining unit employees in FY 2013 were unavailable.

We contracted with DAS to analyze the SEC's PMR scores for FY 2011 through FY 2013 and determine if there were statistically significant differences based on race, ethnicity, and gender. Statistical significance means that, based on a 90 percent confidence level, differences observed between the average PMR scores for the groups of interest, no matter how small in relative magnitude, were real and not due to chance. As shown in the following analysis, there were statistically significant differences in PMR scores based on race, ethnicity, and gender. However, these findings only indicate that there were statistically significant differences in average PMR scores that existed across a number of different characteristics. The findings do not indicate that discrimination was necessarily the cause. Further research is needed to determine the cause of statistically significant differences in PMR scores and, as necessary, how to remedy the cause so that individuals are afforded the same opportunities for advancement within the SEC.³¹

The following racial and ethnic categories were analyzed and combined into one group: Two or More Races, American Indian or Alaska Native, and Native Hawaiian or other Pacific Islander. Even so, this category proved too sparse for analysis and was

³⁰ According to an August 2014 Memorandum of Understanding between the SEC and the National Treasury Employees Union, both parties agreed to work collaboratively towards developing a new four-level system for performance management and merit pay that makes relevant and meaningful distinctions between each performance level.

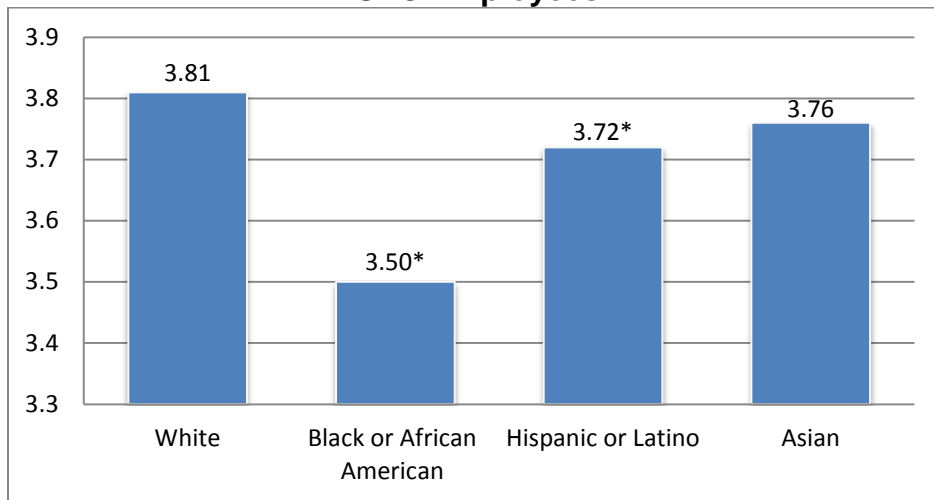
³¹ As stated in MD-715, ". . . statistics are only a starting point and alone rarely serve to provide a complete picture of the existence of workplace barriers. Agencies must look at statistics in the context of the totality of the circumstances. A statistical snapshot may be useful as an initial diagnostic tool, but conclusions concerning the existence of workplace barriers cannot be drawn from gross numerical assessments. Rather, the identification of workplace barriers will require a thorough examination of all of the circumstances."

subsequently excluded. Appendix V further describes DAS’s methodology and analysis.

Findings by Race and Ethnicity. White employees received an average PMR score of 3.81, compared to 3.50 for Black or African American employees, and 3.72 for Hispanic or Latino employees. The differences in PMR scores for Black or African American employees and Hispanic or Latino employees were statistically significant.³² The difference between the average PMR score for White and Asian employees was not statistically significant (See Chart 3).

During the period reviewed, the average SEC PMR score was 3.75. The difference in the average PMR score for Black or African American employees (3.50) was statistically significant when compared to the average SEC PMR score of 3.75, and the difference in the average PMR score for White employees (3.81) was statistically significant when compared to the average SEC PMR score of 3.75. There were no statistically significant differences between employees of other races and ethnicities (i.e., Hispanic and Latino and Asian employees) and the average SEC PMR score.

Chart 3: Average PMR Score by Race and Ethnicity for All SEC Employees

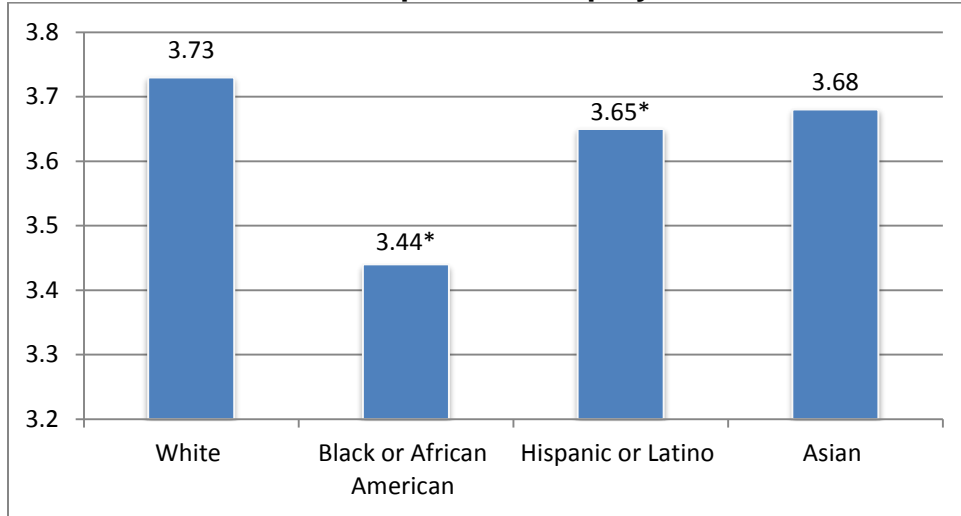


Source: DAS analysis of SEC workforce data from FY 2011 through FY 2013.

DAS also examined the differences in PMR scores of the SEC’s non-supervisor employees, supervisor employees, and Senior Officers. Statistically significant differences in the average PMR score for Black or African American and Hispanic or Latino non-supervisor employees compared to White non-supervisor employees are presented below in Chart 4. Differences among minorities in supervisor positions were not statistically significant, and therefore are not presented.

³² For each of the charts that follow, a determination of significance was made using a 90 percent confidence interval. Significance is denoted with *.

Chart 4: Average PMR Score by Race and Ethnicity for Non-Supervisor Employees

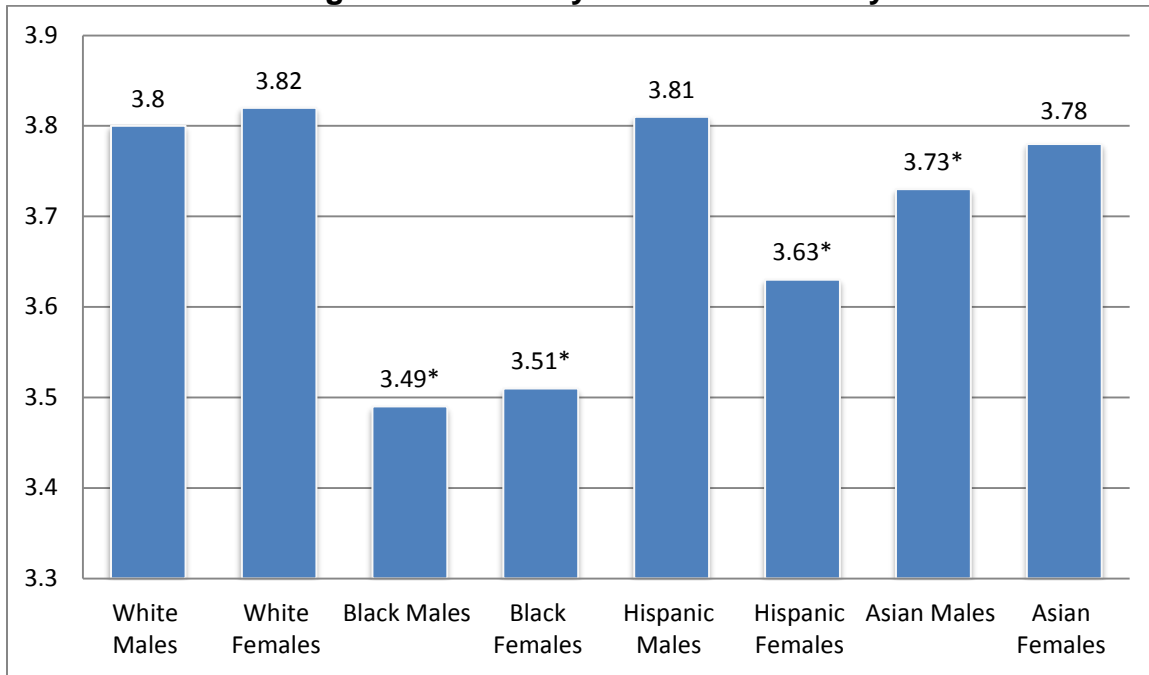


Source: DAS analysis of SEC workforce data from FY 2011 through FY 2013.

Findings by Gender. DAS also analyzed the relationship between gender and PMR score to determine whether statistically significant differences existed. Based on the analysis conducted by DAS, there were no statistically significant differences between the average PMR scores for men and women at the SEC between FY 2011 and FY 2013.

However, DAS further analyzed the intersection of race and ethnicity and gender and found statistically significant differences. As shown in Chart 5, compared to White males, Black or African American males and females received lower PMR scores as did Hispanic or Latino females and Asian males, and these differences were statistically significant. There were no significant differences for White females or Asian females or Hispanic or Latino males as compared to White males.

Chart 5: Average PMR Score by Race and Ethnicity and Gender



Source: DAS analysis of SEC workforce data from FY 2011 through FY 2013.

DAS also analyzed the relationship between gender and position type (Senior Officer, supervisor, and non-supervisor employees). The results of the analyses conducted were not statistically significant and neither were the analyses examining the intersection of race and gender and position type.

The Percentage of Complaints Filed by Black or African American Employees and Women Was Greater than Their Respective Representational Percentages in the SEC Workforce. We determined that a higher percentage of EEO complaints were filed by Black or African American employees and women than their respective representational percentages in the SEC workforce. Minority category information was available for 77 of the 93 total complaints³³ filed during the 3 fiscal years reviewed. Of these 77 complaints, 26 (or 34 percent) were filed by Black or African American employees. The average percentage of Black or African American employees at the SEC between FY 2011 and FY 2013 was 17 percent, a difference of 17 percent. Similarly, of the 93 total complaints filed, 55 (or 59 percent) were filed by women. The average percentage of women employed at the SEC between FY 2011 and FY 2013 was 47 percent, a difference of 12 percent.

The Director of OEEA responded to these differences by stating that OEEA is currently overseeing a barrier analysis, which began in April 2014 and will be completed by the end of the calendar year. It is expected that this analysis will help determine if there

³³ The 93 total complaints included 47 formal complaints and 46 informal complaints as well as any instances where an individual filed more than one complaint.

are particular barriers to employment and provide recommendations for corrective action.

The SEC Did Not Fully Implement MD-715 Requirements

MD-715: EEO Reporting Requirements for Federal Agencies³⁴ requires agencies to conduct on at least an annual basis a self-assessment of the racial, national origin, and gender profile of relevant occupational categories in the agencies' workforce. The results of the self-assessment are reported to the EEOC as a set of prescribed tables and data. The self-assessment may be useful as an initial diagnostic tool to identify possible areas that may require closer attention. For example, when an agency's self-assessment indicates that minorities or women may have been denied equal access to employment opportunities, MD-715 requires agencies to identify, eliminate, or modify, where appropriate, any policy, practice, or procedure that creates a barrier to equal opportunity. This is done by conducting a barrier analysis which allows agencies to uncover, examine, and remove barriers to equal participation at all levels of the workforce.³⁵

An effective barrier analysis pinpoints the particular phase or facet of a process that is causing a workforce discrepancy. For example, as identified in this report, between FY 2011 and FY 2013, women on average made up 37.12 percent of the SEC's supervisory workforce and 31.96 percent of the SEC's Senior Officers, both percentages lower than the CLF percentage of 46.80 percent. This information may present an indicator that women were not promoted to or hired for supervisor and Senior Officer positions at the same rate as their male counterparts, and therefore could present a potential barrier for analysis.

For FY 2011 through FY 2013, OEEO's MD-715 self-assessments were incomplete because the office was unable to collect and evaluate all required information and data. Specifically, all of the required workforce data tables that could not be completed without applicant flow data were either not submitted by OEEO or the submissions were incomplete. In addition, OEEO did not submit the workforce data table allowing examination of the distribution of opportunities to participate in Career Development programs.

As a result, OEEO did not complete barrier analyses needed for the agency to examine, eliminate, or modify, where appropriate, policies, practices, or procedures that create barriers to equal opportunity. In addition, during the period reviewed, OEEO did not have formal policies or procedures for submitting workforce data or conducting barrier analyses. Rather, OEEO relied on existing EEOC guidance.

OEEO officials stated that, during the period reviewed, they were unable to obtain and submit to the EEOC certain MD-715 tables because, in part, applicant flow data from

³⁴ U.S. Equal Employment Opportunity Commission, "MD-715: EEO Reporting Requirements for Federal Agencies."

³⁵ U.S. Equal Employment Opportunity Commission, "Instructions to Federal Agencies for EEO MD-715."

the U.S. Office of Personnel Management was unavailable.³⁶ Also, in FY 2011, OEE0 contracted with a vendor to provide a comprehensive 5-year barrier analysis. However, OEE0 determined that reports drafted by the vendor were unacceptable and terminated the contract. Therefore, barrier analyses were not completed during the period reviewed.

In May 2013 and April 2014, officials from the EEOC met with OEE0 personnel and raised concerns about the SEC's lack of full implementation of MD-715 requirements. In addition, OEE0's FY 2013 and FY 2014 internal control self-assessments included the office's inability to meet external reporting requirements as an area of high risk. The SEC's OEE0 Director stated that, historically, the office has not had the necessary staffing resources with the appropriate knowledge and skill sets to conduct in-depth barrier analyses. OEE0 is overseeing a new vendor that is conducting a barrier analysis expected to be completed by the end of 2014. In the future, and with additional resources and required expertise, OEE0's goal is to conduct detailed barrier analyses itself.

The SEC Lacks Assurance That It Has Removed Barriers to Equal Participation and Is In Compliance with Diversity Regulations

Because OEE0 did not take required initial steps to identify areas where barriers may operate to exclude certain groups, the SEC did not examine, eliminate, or modify, where appropriate, policies, practices, or procedures that create barriers to equal opportunity. As a result, the SEC lacks assurance that it has uncovered, examined, and removed barriers to equal participation at all levels of its workforce. Further, although OEE0 did not identify any proven employment discrimination for EEO cases closed between FY 2011 and FY 2013, the agency lacks assurance that it is in compliance with 29 CFR Part 1614, which establishes the regulatory framework supporting the U.S. Government's policy to provide equal employment opportunity for all persons, and to prohibit discrimination in employment because of race, color, sex, or national origin.

According to OMWI's "Frequently Asked Questions for SEC Hiring Managers," in order to effectively protect the interests of the investing public, the SEC's workforce must include a wide range of backgrounds, skills, and experiences. It is equally important that the SEC attract and retain a diverse workforce to work collaboratively to execute its mission. Fully embracing diversity increases the SEC's ability to attract the best and brightest in the securities industry, thereby empowering the agency to achieve professional excellence and remain steadfast in its commitment to protect the investing public. Our audit found that additional efforts are needed to identify and eliminate potential barriers to equal opportunity at the SEC.

³⁶ MD-715 defines "applicant flow data" as information reflecting characteristics of the pool of individuals applying for an employment opportunity.

Recommendations, Management's Response, and Evaluation of Management's Response

In order to identify and eliminate potential barriers to equal opportunity, we recommend that:

Recommendation 1: The Office of Equal Employment Opportunity create policies and procedures documenting how the office (a) collects, evaluates, and submits all information and workforce data tables, and (b) conducts barrier analyses that allow the SEC to uncover, examine, and remove barriers to equal participation at all levels of the workforce, as required by Management Directive 715.

Management's Response. The Office of Equal Employment Opportunity concurred with the recommendation and is in the process of reviewing, assessing, and documenting its policies and procedures for collecting, evaluating, and submitting all information and workforce data tables, as required by Management Directive 715. The Office also is in the process of reviewing, assessing, and documenting its policies and procedures for conducting barrier analyses that allow the SEC to uncover, examine, and remove barriers to equal participation at all levels of the workforce, as required by Management Directive 715. The Office of Equal Employment Opportunity is committed to the timely, effective, and responsible handling of both of these matters.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive; therefore, the recommendation is resolved and will be closed upon verification of the action taken.

Recommendation 2: The Office of Equal Employment Opportunity complete and submit to the U.S. Equal Employment Opportunity Commission all data and tables required by Management Directive 715, beginning with the fiscal year 2014 submission.

Management's Response. The Office of Equal Employment Opportunity concurred with the recommendation and is committed to the timely completion and submission of all data and tables required by Management Directive 715, consistent with the availability of the data to the Office.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive; therefore, the recommendation is resolved and will be closed upon verification of the action taken.

Recommendation 3: The Office of Equal Employment Opportunity complete the ongoing barrier analysis, aimed at determining if there are particular barriers to equal employment opportunity at the U.S. Securities and Exchange Commission, as soon as practicable, and complete future barrier analyses as appropriate.

Management's Response. The Office of Equal Employment Opportunity concurred with the recommendation and is committed to the completion of the

ongoing barrier analysis, aimed at determining if there are particular barriers to equal employment opportunity regarding promotions at the SEC, as soon as practicable. The Office also is committed to the completion of future barrier analyses, as appropriate, consistent with the availability of data and additional resources and expertise required.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive; therefore, the recommendation is resolved and will be closed upon verification of the action taken.

Recommendation 4: The Office of the Chair ensure that the SEC responds to the findings of the ongoing barrier analysis by eliminating or modifying, where appropriate, any practice or procedure that creates a barrier to equality of opportunity, as required by Management Directive 715.

Management's Response. The Office of the Chair concurred with the recommendation and will ensure that the SEC works to eliminate or modify, where appropriate, any practice or procedure that creates a barrier to equal opportunity, as required by Management Directive 715.

OIG's Evaluation of Management's Response. Management's proposed actions are responsive; therefore, the recommendation is resolved and will be closed upon verification of the action taken.

Finding 2: OMWI Needs Additional Policies, Procedures, and Standards to Measure the Effectiveness of its Diversity Efforts and Fully Comply with the Dodd-Frank Act

The Dodd-Frank Act requires OMWI to be responsible for “all matters of the agency relating to diversity in management, employment, and business activities”³⁷ and to submit annual reports to Congress regarding OMWI’s efforts.³⁸ The Dodd-Frank Act also requires OMWI’s Director to develop standards for “equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the agency”³⁹ (workforce diversity standards) and to take specific actions to seek diversity in the agency’s workforce. In addition, GAO provides guidance on establishing and maintaining an effective internal control system, including policies and procedures.

We determined that the SEC’s OMWI submitted annual reports to Congress in FY 2011 through FY 2013 and made many efforts⁴⁰ to enhance diversity in the SEC’s workforce, to include:

- participating in diversity job fairs sponsored by minority-serving groups;
- posting job opportunities in minority- and women-serving publications; and
- partnering with various women and minority focused organizations.

Additionally, OMWI established the following performance standard included in the Performance Work Plans for all SEC SK-15 and SK-17 supervisors:

Champions and promotes a diverse and inclusive work environment in which all employees have an opportunity to be productive by managing, developing, and treating staff equitably regardless of individual differences. Contributes to a culture of respecting and appreciating diversity and the benefits of a diverse workforce through participating in diversity awareness activities.

However, the office lacks a systematic and comprehensive method of delivering its program and evaluating its effectiveness. Specifically, the office has not established internal policies and procedures or required workforce diversity standards. This occurred because the OMWI Director determined that other requirements of Section 342 of the Dodd-Frank Act were a higher priority. As a result, OMWI lacks the controls necessary to monitor, evaluate, and, as necessary, improve its operations and fully comply with the Dodd-Frank Act.

³⁷ Public Law 111-203 § 342(a)(1)(a), July 21, 2010.

³⁸ Public Law 111-203 § 342(e), July 21, 2010.

³⁹ Public Law 111-203 § 342(b)(2)(a), July 21, 2010.

⁴⁰ Appendix III describes OMWI’s efforts to comply with the Dodd-Frank Act.

OMWI Needs Additional Internal Policies and Procedures and Workforce Diversity Standards

Although the SEC's OMWI was created over 3 years ago and internal control, performance measurement, and evaluation methods would help OMWI monitor, evaluate, and improve its operations, the office has not fully established internal policies and procedures to guide its work. Also, as of October 2014, OMWI had not developed workforce diversity standards as required by the Dodd-Frank Act.

Federal Internal Control Requirements. The Federal Managers' Financial Integrity Act⁴¹ requires the Comptroller General to issue standards for internal control in the Federal government. The GAO "Standards for Internal Control in the Federal Government" provide the overall framework for establishing and maintaining an effective internal control system.⁴² According to the document, control activities, such as policies, procedures, techniques, and mechanisms that enforce management's directives, are "an integral part of an entity's planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results." Additionally, GAO states that one example of a control activity is the establishment and review of performance measures and indicators. Specifically, "activities need to be established to monitor performance measures and indicators. These controls could call for comparisons and assessments relating different sets of data to one another so that analyses of the relationships can be made and appropriate actions taken."

Although not a Federal internal control requirement, GAO's "Performance Measurement and Evaluation"⁴³ provides definitions of performance measurement and different types of evaluations. The document states that "performance measurement is the ongoing monitoring and reporting of program accomplishments, particularly progress toward pre-established goals. It is typically conducted by program or agency management. Performance measures may address the type or level of program activities conducted (process), the direct products and services delivered by a program (outputs), or the results of those products and services (outcomes)." In addition "outcome evaluation" assesses "the extent to which a program achieves its outcome-oriented objectives. It focuses on outputs and outcomes (including unintended effects) to judge program effectiveness but may also assess program process to understand how outcomes are produced."

OMWI's Efforts to Establish Internal Control. According to the Director of OMWI, the office uses established mechanisms to guide its work. Specifically, the Director stated that the office uses a number of existing agency-wide administrative policies and

⁴¹ Public Law 97-255, September 8, 1982.

⁴² U.S. Government Accountability Office, "Standards for Internal Control in the Federal Government" (GAO/AIMD-00-21.3.1, November 1999). In September 2014, GAO revised the "Standards for Internal Control in the Federal Government" (GAO-14-704G, September 2014). However, the revised standards are not effective until FY 2016, although agency management may adopt them earlier.

⁴³ U.S. Government Accountability Office, "Performance Measurement and Evaluation" (GAO-11-646SP, May 2011).

protocols such as guidance from the Office of the Chief Operating Officer for its budget process. The OMWI Director also said that SECR 6-33 and SECR 6-45 provide some standards regarding OMWI's diversity efforts. Specifically, SEC-OP 6-33, Section 7, states that the OHR Director shall "partner with the Office of Minority and Women Inclusion (OMWI) . . . to ensure outreach to minority and women organizations." SECR 6-45, Section 7.5, states that the OMWI Director shall "assist the OHR and agency selecting officials by taking affirmative steps to enhance diversity at all levels within the SEC" in accordance with the Dodd-Frank Act; "partner with the OHR to ensure diversity and equal opportunity at the SEC;" and, "assess the outcomes of the Pathways Programs on an ongoing basis and evaluate the impact on the hiring of qualified minority and women candidates."

Finally, the Director pointed out that OMWI has developed an internal strategic plan for FY 2014 through FY 2017, which includes strategic goals, tasks, and metrics to measure the progress of each strategic goal. One goal included in the strategic plan is to "develop and deploy standards for assessing the diversity policies and practices of SEC entities."

However, for its diversity efforts and programmatic activities, the OMWI Director stated the office did not have internal policies and procedures and instead has relied on Section 342 of the Dodd-Frank Act, as well as the experience, knowledge, and leadership of OMWI's Director and staff. We found that OMWI tracked and disclosed in its annual reports certain outputs of its diversity efforts, such as the number and type of outreach events SEC employees attended; the number of high school students that participated in the SEC's Student Shadowing Program; and its efforts to share SEC employment information with minority students, faculty, and administrators. Furthermore, in OMWI's FY 2013 annual report, the office presented workforce metrics for the representation of the employment of minorities and women in: (1) the SEC's workforce; (2) "mission critical" occupations of attorneys, accountants, compliance examiners, and economists; (3) supervisory and management positions; (4) Senior Officer positions; (5) new hires; (6) separations; and (7) promotions. However, information evaluating the effectiveness of OMWI's diversity efforts and activities, including information about the outcomes of OMWI's diversity efforts, is not reported or directly linked to the changes in the SEC's workforce metrics for the representation of the employment of minorities and women.

Development of Policies, Procedures, and Workforce Diversity Standards Has Not Been a Priority

When we asked why OMWI had not developed policies, procedures, or workforce diversity standards, the OMWI Director emphasized that the office was created in 2011 and the first permanent Director did not join the SEC until January 2012. Since that time, the OMWI Director determined that other requirements of Section 342 of the Dodd-Frank Act were a higher priority. Such requirements included those for (1) developing an interagency policy statement establishing joint standards for assessing the diversity policies and practices of entities regulated by the financial

regulatory agencies required under Dodd-Frank 342(b)(2)(C),⁴⁴ (2) working on a “good faith contract standard” required under Dodd-Frank 342(c)(2), and (3) gathering information and understanding SEC policies, processes, and potential best practices.

OMWI Lacks Controls to Monitor, Evaluate, and Improve its Operations

Because OMWI does not have a systematic and comprehensive method of evaluating the effectiveness of its programs and diversity efforts, the office lacks the controls necessary to monitor, evaluate, and, as necessary, improve its operations and fully comply with the Dodd-Frank Act. OMWI’s Director told us that she hopes to begin developing policies, procedures, and workforce diversity standards, and measuring the effectiveness of OMWI’s programs in the coming year.

Recommendation, Management’s Response, and Evaluation of Management’s Response

To measure the effectiveness of its diversity efforts and to fully comply with Section 342 of the Dodd-Frank Act, we recommend that:

Recommendation 5: The Office of Minority and Women Inclusion use the U.S. Government Accountability Office’s “Standards for Internal Control in the Federal Government” and “Performance Measurement and Evaluation” to develop (a) internal policies and procedures to guide its diversity efforts and programmatic activities, and (b) workforce diversity standards required by the Dodd-Frank Act, including methods to monitor and evaluate its activities.

Management’s Response. The Office of Minority and Women Inclusion concurred with the recommendation and has begun developing internal policies and procedures to guide its diversity efforts and programmatic activities. A comprehensive outline for its internal policies and procedures has been developed in collaboration with the Office of the Chief Operating Officer. The Office of Minority and Women Inclusion is in the process of adding content and anticipates the completion of its Program Manual in early 2015 using the U.S. Government Accountability Office’s “Standards for Internal Control in the Federal Government” and “Performance Measurement and Evaluation” as guides.

The Office of Minority and Women Inclusion also concurred with the recommendation that it develop workforce diversity standards as required by Section 342(b)(2)(A) of the Dodd Frank Act. The Office is committed to ensuring that the workforce diversity standards include methods to monitor and evaluate its activities, as outlined in the recommendation.

⁴⁴ “Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Request for Comment.”

OIG's Evaluation of Management's Response. Management's proposed actions are responsive; therefore, the recommendation is resolved and will be closed upon verification of the action taken.

Appendix I: Scope and Methodology

We conducted this performance audit from June 2014 through November 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Scope and Methodology. The audit covered FY 2011 through FY 2013 (the period between October 1, 2010, and September 30, 2013). To address our audit objectives, we reviewed (1) Federal laws and guidance and SEC policies, procedures, and administrative regulations; (2) internal controls of OMWI, OEEO, and OHR related to diversity; (3) efforts of OMWI, OEEO, and OHR to achieve diversity in the SEC workforce, to detect and prevent discrimination in the workplace, and to increase the representation of minorities and women at the SEC; (4) diversity-related data for the period reviewed; and (5) PMR scores analyzed by a firm with statistical expertise contracted by the SEC OIG. We also interviewed officials from OMWI, OEEO, and OHR to gain an understanding of the SEC's processes related to diversity; reviewed a selection of closed or settled EEO complaints to determine if they were handled in accordance with EEO and SEC policy; and reviewed OEEO's annual reports to determine compliance with MD-715.

The Federal laws and guidance, as well as the SEC policies, procedures, and administrative regulations we reviewed included:

Federal Laws and Guidance:

- *Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203* (July 21, 2010).
- *Civil Rights Act of 1964, Public Law 88-352, Title VII, 42 U.S. Code, Equal Employment Opportunities* (July 2, 1964).
- *Equal Employment Opportunity Commission, Equal Employment Opportunity, Management Directive 715 (MD-715)*, (October 1, 2003).
- *U.S. Equal Opportunity Commission Regulations, Part 1614—Federal Sector Equal Employment Opportunity, Subpart A—Agency Program to Promote Equal Opportunity* (last modified June 1, 2010).
- *Executive Order 13583—Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce* (August 18, 2011).

- *Government-Wide Diversity and Inclusion Strategic Plan 2011*, issued by the U.S. Office of Personnel Management, Office of Diversity and Inclusion.
- *Overview of Federal Sector EEO Complaint Process*, U.S. Equal Employment Opportunity Commission.
- *Federal Equal Opportunity Recruitment Program for FY 2012 Report to the Congress*, issued by the U.S. Office of Personnel Management (January 2014).
- *Performance Measurement and Evaluation*, GAO-11-646SP, Government Accountability Office (May 2011).
- *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1, Government Accountability Office (November 1999) and revision *Standards for Internal Control in the Federal Government*, GAO-14-704G, Government Accountability Office (September 2014).

SEC Policies, Procedures, and Administrative Regulations:

- *Equal Employment Opportunity Policy and Preventing EEO-Based Harassment Policy (PEHP)* (March 24, 2014).
- *A Personnel System Based on Merit Principles*, SEC Insider [the SEC's internal site].
- *EEO at the SEC: Overview*, SEC Insider (Revised February 2014).
- *Office of Equal Employment Opportunity – Standard Operating Procedures for Complaints Processing and Related Processes* (Revised March 13, 2014).
- *SEC Administrative Regulation, SECR 6-6, Delegated Examining Policy* (September 19, 2011).
- *SEC Administrative Regulation, SECR 6-23, Merit Promotion Plan for Bargaining Unit Employees* (March 2, 2012).
- *SEC Administrative Regulation, SECR 6-24, Merit Promotion Policy for Non-bargaining Unit Positions* (May 17, 2012) and related *Merit Staffing Plan Standard Operating Procedures for Non-Bargaining Unit Positions*.
- *SEC Administrative Regulation, SECR 6-33, Revision 1, Excepted Service Hiring Authority* (May 10, 2013) and related *SEC Operating Procedures, SEC OP 6-33, Excepted Service Hiring Authority* (May 3, 2013).
- *SEC Administrative Regulation, SECR 6-45, Pathways Programs* (January 13, 2014) and related *SEC Operating Procedures, SEC-OP 6-45* (January 13, 2014).

Internal Controls. We reviewed and evaluated the internal controls associated with the SEC's activities related to diversity. For our review of internal control, we considered the following:

Control Environment – We identified OMWI, OEE0, and OHR as the three offices directly related to promoting diversity at the SEC. Further, we identified the Directors of these offices as the internal control officials and determined that these persons are responsible for ensuring that their offices' responsibilities related to diversity are operating in accordance with Federal laws and guidance and SEC policies, procedures, and administrative regulations.

Risk Assessment – We determined that OMWI, OEE0, and OHR completed annual internal control self-assessments, and we reviewed the self-assessments for items related to diversity. We also reviewed control objectives identified to mitigate the stated risks.

Monitoring – We discussed with the Directors of OMWI, OEE0, and OHR their programs for monitoring their offices' diversity-related efforts. In addition, we assessed their monitoring effectiveness and awareness of issues affecting their offices through interviews and by reviewing documents prepared by their offices.

Control Activities – We reviewed Federal laws and guidance and SEC policies, procedures, and administrative regulations related to diversity and identified where compliance needed improvement. We also reviewed the control activities that OMWI, OEE0, and OHR identified in their annual internal control self-assessments and reported as mitigating controls to diversity-related risks. As discussed in this report, we identified two compliance-related issues: OEE0's incomplete MD-715 tables and required execution of barrier analyses, and OMWI's lack of policies, procedures, and required workforce diversity standards.

Information and Communication – We determined that the SEC disseminated diversity-related information to SEC staff through the SEC Insider internal site and SECU training. We reviewed relevant communications by OMWI, OEE0, and OHR and ascertained from SECU the SEC's education program related to diversity. In addition, we reviewed the annual reports issued by OMWI and OEE0 for the audit scope period.

Computer-processed Data. We relied on computer-processed data to analyze the demographic information of the SEC workforce. This computer-processed data consisted of FPPS data used by the SEC to process and document human resources-related actions such as new hires and promotions. We used GAO Report 09-680G, "Assessing the Reliability of Computer-Processed Data" as a guide to design the steps used to assess the data's reliability. Specifically, we interviewed SEC personnel involved with FPPS, performed electronic testing of FPPS data, and traced a sample of FPPS data to source documentation. Based on these steps, we determined the FPPS data were sufficiently reliable for the purposes of the audit.

Sampling. To assess the reliability of computer-processed data, we traced a sample of 30 employee records from FPPS to related source documentation. We judgmentally selected the sampled items and did not project based on our sample results. Our primary objective was to determine whether FPPS data existed for sampled items, and whether that data was accurate.

Prior Coverage. During the last 5 years, the SEC OIG and GAO issued two reports of particular relevance to this audit. Unrestricted reports can be accessed over the Internet at http://www.sec.gov/about/offices/oig/inspector_general_audits_reports.shtml (SEC OIG) and <http://www.gao.gov> (GAO).

SEC OIG:

- “Establishment of the Office of Minority and Women Inclusion” (June 15, 2011).

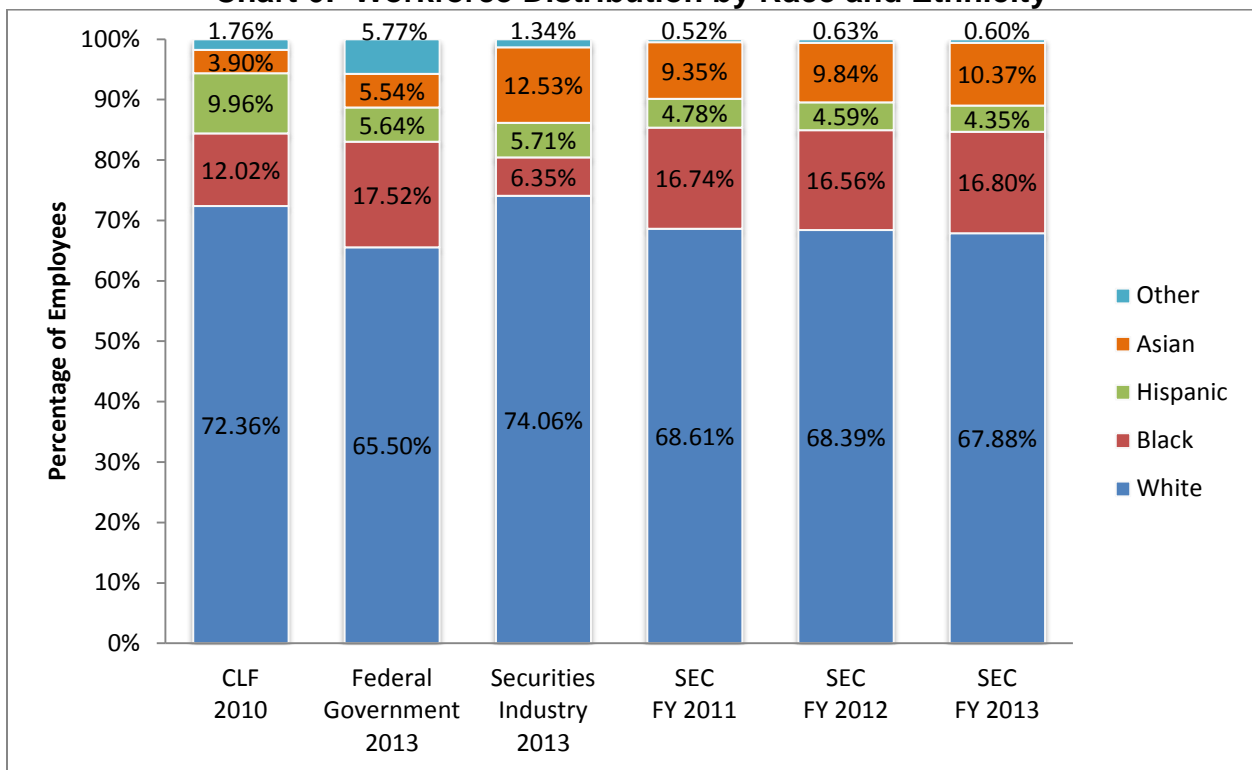
GAO:

- “Diversity Management: Trends and Practices in the Financial Services Industry and Agencies after the Recent Financial Crisis” (GAO-13-238, April 2013).

Appendix II: Workforce Distribution Data for FY 2011 through FY 2013

The charts below describe the SEC’s workforce distribution between FY 2011 and FY 2013 and compare the representation of minorities and women at the SEC with the CLF, the Federal government, and the securities industry. As shown in Chart 6, the SEC had more minorities in its workforce during the period reviewed than the CLF and the securities industry, but had fewer minorities in its workforce than the Federal government.

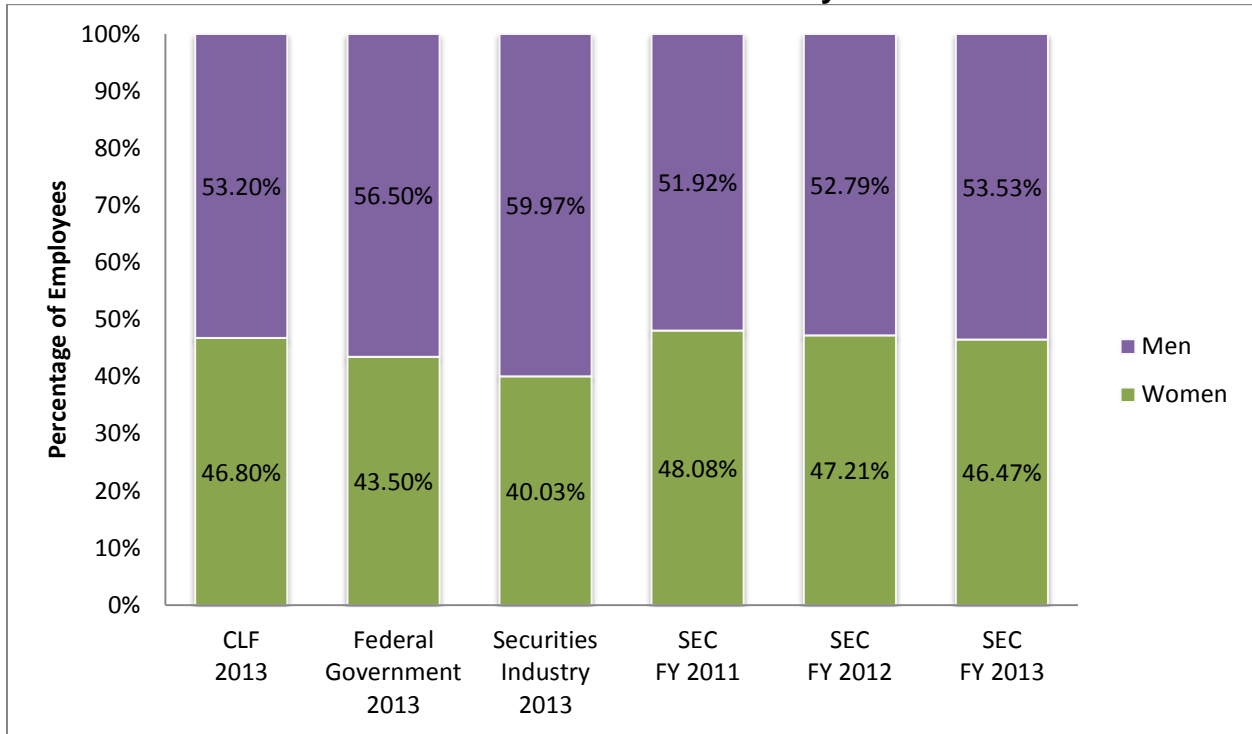
Chart 6: Workforce Distribution by Race and Ethnicity



Source: OIG-generated based on 2010 CLF data, MD-715 data (table A1), U.S. Office of Personnel Management “FedScope Federal Human Resources Data,” and EEOC EEO-1 data for NAICS code 523. Totals within this chart may not total to 100.00% due to rounding.

As shown in Chart 7, the SEC had more women in its workforce during the period reviewed than the securities industry, the Federal government, and (for FY 2011 and FY 2012), the CLF.

Chart 7: Workforce Distribution by Gender



Source: OIG-generated based on 2013 CLF data, MD-715 data (table A1), U.S. Office of Personnel Management "FedScope Federal Human Resources Data," and EEOC EEO-1 data for NAICS code 523.

Appendix III: Additional Diversity Efforts at the SEC

As previously discussed, the SEC seeks to promote a results-oriented work environment that attracts, engages, and retains a technically proficient and diverse workforce. The SEC’s *Equal Employment Opportunity Policy* establishes as a goal a workforce that is respectful, inclusive, and allows contribution to the best of one’s ability. Additionally, the Dodd-Frank Act established an OMWI in financial regulatory agencies, including the SEC, to ensure agencies, among other things, take affirmative steps to seek diversity in the workforce. In order to meet these goals and requirements, SEC’s OMWI, OEEO, and OHR strive to improve and enhance the SEC’s workforce diversity as described below.

OMWI Efforts. OMWI engages in various outreach efforts to support diversity at the SEC. For example, OMWI has participated in a variety of outreach activities and formed strategic partnerships with professional associations and organizations that disseminate SEC-related information, including job announcements, to their members. OMWI also sponsors “Diversity Champions” and “Regional Outreach Coordinators” to assist its diversity efforts at the SEC’s headquarters and regional offices.

Table 7 further describes OMWI’s efforts to satisfy the requirements of the Dodd-Frank Act during the period reviewed.

Table 7: OMWI’s Implementation of Selected Dodd-Frank Act Requirements

Section	Requirement	OMWI Implementation Efforts
342(e)	Submit annual reports to Congress regarding the actions taken by the SEC and OMWI, including: <ul style="list-style-type: none"> (1) a statement of the total amounts paid by the agency to contractors since the previous report; (2) the percentage of the amounts described in paragraph (1) that were paid to women-owned and minority-owned contractors; (3) the successes achieved and challenges faced by the agency in operating minority and women outreach programs; (4) the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and (5) any other information, findings, conclusions, and recommendations for legislative or agency action, as the Director determines appropriate. 	OMWI has prepared and submitted annual reports between FY 2011 and FY 2013, meeting all requirements in the Dodd-Frank Act, Section 342(e) (1-5).
342(f)(1)	Recruiting at historically black colleges and universities, Hispanic-serving institutions, women’s colleges, and colleges that typically serve majority minority populations.	OMWI reported on efforts to recruit from historically black colleges and universities and other minority-serving institutions.

Section	Requirement	OMWI Implementation Efforts
342(f)(2)	Sponsoring and recruiting at job fairs in urban communities.	OMWI participated in diversity job fairs sponsored by minority-serving groups. Examples include the Federal Bar Association – Washington, D.C./Baltimore Public Service Career Fair, the National Society of Hispanic Professionals Diversity Job Fair, and the Vault/Minority Corporate Counsel Association Annual Legal Diversity Career Fair.
342(f)(3)	Placing employment advertisements in newspapers and magazines oriented toward minorities and women.	OMWI reported on efforts to place advertisements in minority- and women-serving publications. For example, the office posted job opportunities in publications of the National Association of Black Accountants, the Association of Latino Professionals in Finance and Accounting, and the Hispanic National Bar Association.
342(f)(4)	Partnering with organizations focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions.	OMWI partnered with various minority- and women-focused organizations, including the Association of Latino Professionals in Finance and Accounting, the National Association of Asian MBAs, and the Women’s Bar Association.
342(f)(5)	Partnering with inner-city high schools, girls’ high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring.	OMWI and the SEC sponsor an annual student shadowing program called Professionals Reaching Out to Promote Excellence and Learning for Students. This program matches interested high school juniors and seniors with SEC professionals for a day of mentoring and financial education. Participating high schools met the Section 342(f)(5) criteria. OMWI reported that approximately 250 students from 18 high schools participated in the FY 2014 program.
342(f)(6)	Any other mass media communications that the OMWI determines necessary.	OMWI placed advertisements providing general information about the SEC in publications such as Black Enterprise and Diverse Careers.

Source: OIG-generated summary of Section 342 of the Dodd-Frank Act and information provided by OMWI.

OEEO Efforts. OEEO supports SEC’s diversity and inclusion programs by sponsoring, with OHR, employee groups. The groups provide educational and cultural programs for SEC employees, such as annual celebrations of history, seminars, employee mentoring and development, and community service projects. The SEC’s OEEO-sponsored groups are as follows:

- African American Council
- American Indian Heritage Committee
- Asian Pacific American Committee
- Caribbean American Heritage Committee

- Disability Issues Advisory Committee
- Hispanic and Latino Opportunity, Leadership, and Advocacy Committee
- Lesbian, Gay, Bisexual, and Transgender Committee
- Veterans Committee
- Women's Committee

OHR Efforts. OHR, through its training and development unit, SECU, works with OMWI and OEEO to offer a range of diversity-related trainings. Such trainings include:

- No Fear Act training for all employees;
- diversity training required for all SEC managers and supervisors;
- employee and management workshops on diversity and inclusion;
- EEO training for hiring managers and committees; and
- unconscious bias and performance management training for managers and supervisors.

In addition, through its eLearning capability, the SEC offers diversity-related on-line courses including:

- Understanding Workplace Diversity;
- Managing Diversity; and
- Diversity on the Job: Diversity and You.

Appendix IV: PMR Rating Systems for FY 2011 through FY 2013

Between FY 2011 and FY 2013, the SEC had different rating systems of record for employees based on their supervisory level and bargaining unit status. As shown in Table 8, during this period, an SEC employee’s official rating of record was either “Acceptable,” “Unacceptable,” or a PMR score from 1 through 5.

Table 8: SEC’s PMR Rating Systems of Record for FY 2011 through FY 2013

FY	Employee Type	Rating System	OIG Comments
2011	Bargaining Unit	Acceptable / Unacceptable	The five point rating system was used to calculate whether an employee’s performance was acceptable or unacceptable. A PMR score of 1 was “Unacceptable” and all other PMR scores were “Acceptable.” However, employees were not provided a numerical rating; rather their official rating of record was only “Acceptable” or “Unacceptable.”
	Non-Bargaining Unit (Non-Supervisory)	Acceptable / Unacceptable	The five point rating system was used to calculate whether an employee’s performance was acceptable or unacceptable. A PMR Score of 1 was “Unacceptable” and all other PMR scores were “Acceptable.” However, employees were not provided a numerical rating; rather their official rating of record was only “Acceptable” or “Unacceptable.”
	Non-Bargaining Unit (Supervisory)	5 point	Non-bargaining unit supervisors received ratings on a numerical 5 point rating system. However, this score was then converted to a rating of record of either “Acceptable” or “Unacceptable.” A PMR score of 1 was “Unacceptable” and all other PMR scores were “Acceptable.”
	Senior Officers	Acceptable / Unacceptable	Senior Officers received a numerical rating that was translated to a rating of record of either “Acceptable” or “Unacceptable.” OHR did not manage the rating process for Senior Officers, and does not have these numerical ratings. Therefore, the OIG was unable to obtain any numerical data for this population.
2012	Bargaining Unit	Acceptable / Unacceptable	The five point rating system was used to calculate whether an employee’s performance was acceptable or unacceptable. A PMR score of 1 was “Unacceptable” and all other PMR scores were “Acceptable.” However, employees were not given a numerical rating; rather their official rating of record was only “Acceptable” or “Unacceptable.”
	Non-Bargaining Unit (Non-Supervisory)	5 point	Employees were given a PMR score from 1 through 5.
	Non-Bargaining Unit (Supervisory)	5 point	Employees were given a PMR score from 1 through 5.
	Senior Officers	5 point	Employees were given a PMR score from 1 through 5.

FY	Employee Type	Rating System	OIG Comments
2013	Bargaining Unit	Acceptable / Unacceptable	Employees were not given a numerical rating and were only rated "Acceptable" or "Unacceptable." The OIG was unable to obtain any numerical data for this population since OHR did not maintain this information.
	Non-Bargaining Unit (Non-Supervisory)	5 point	Employees were given a PMR score from 1 through 5.
	Non-Bargaining Unit (Supervisory)	5 point	Employees were given a PMR score from 1 through 5.
	Senior Officers	5 point	Employees were given a PMR score from 1 through 5.

Source: OIG-generated based on data obtained from OHR.

Appendix V: DAS Data and Methodology

We contracted with DAS to analyze the SEC's PMR scores for FY 2011 through FY 2013 and determine if there were statistically significant differences based on race, ethnicity, and gender. As discussed in Finding 1, statistically significant differences existed in PMR scores for minorities and for women when race and ethnicity was considered. Additional analysis showed that there were no significant differences in average PMR scores across occupations (accountants, economists, general attorneys, and securities compliance examiners) by racial/ethnic groups. However, the analysis examining the relationship between race and gender on occupation found that significant findings were observed. Results for economists were not significant; however, there were statistically significant differences across the remaining occupations of interest (accountants, general attorneys, and securities compliance examiners).

Statistical significance in this case means that the differences observed between the average PMR scores for the groups of interest, no matter how small in relative magnitude, are real and not due to chance. In this study, DAS used a 90 percent confidence interval to determine statistical significance. This means that there is a 10 percent chance that the characteristics of the sample these analyses are based on do not accurately reflect or represent the real distribution of scores, if we were to have had complete data over several years.

About the Data – For FY 2011 through FY 2013, data was not portioned by year and trend analyses were not conducted due to insufficient sample sizes for selected years. A composite data set comprised of cases with complete information for the variable of interest—the average PMR score for each of the 3 years—was created. The final data set contained approximately 8,000 cases covering FY 2011 through FY 2013. Actual sample sizes for each individual analysis may vary.

Selected Methods and Rationale – In order to better understand if PMR scores indicate if minorities and women and other groups of interest were systematically disadvantaged, several different analyses were conducted. First, an exploratory descriptive analysis was conducted. This analysis was necessary to help gain an understanding of what the sample distribution looked like and the appropriate significance tests to conduct. During these analyses, DAS examined the proportion of sample groups that fell into each occupational group, into the supervisory versus non-supervisory categories, as well as into each division, bargaining unit, occupational category, and duty location. In addition, similar analyses were conducted for the demographic variables (race, age, and gender) which examined the proportion of individuals in each racial/ethnic group, age group, or gender group which fell into each division, occupational category, tier, and duty location. The resultant contingency tables (crosstabs) were then examined to help DAS gain a richer understanding of the data and to identify data which was to be excluded because it was too sparse for statistical analysis. Typically, categories with fewer than 30 observations were excluded.

These exploratory analyses were then coupled with a combination of several tests for statistical significance. A classificatory discriminant analysis⁴⁵ was used to classify observations into groups on the basis of the quantitative variable (i.e., PMR score). Logistic regression was preferable to parametric discriminant analysis in cases for which the variables might not have multivariate normal distributions within classes. Significant differences were noted from the Wald χ^2 statistic.

⁴⁵ A classificatory discriminant analysis is an analysis where the characteristics used to predict an outcome are categorical (e.g., gender, race, office), rather than continuous numeric characteristics such as years of tenure or salary.

Appendix VI: Management Comments

MEMORANDUM

To: Rebecca Sharek, Deputy Inspector General for Audits

From: Erica Y. Williams, Deputy Chief of Staff, Office of the Chair *EYW*
Alta G. Rodriguez, Director, Office of Equal Employment Opportunity (OEEO) *AGR by RTH*
Pamela A. Gibbs, Director, Office of Minority and Women Inclusion (OMWI) *PAG*

Date: November 17, 2014

Subject: Response to SEC Inspector General's, *Audit of the Representation of Minorities and Women in the SEC's Workforce, Report No. 528*

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG) report on the *Audit of the Representation of Minorities and Women in the SEC's Workforce, Draft Report No. 528*. We concur with the OIG's recommendations and are in the process of commencing remedial actions.

Recommendation 1: The Office of Equal Employment Opportunity create policies and procedures documenting how the office (a) collects, evaluates, and submits all information and workforce data tables, and (b) conducts barrier analyses that allow the SEC to uncover, examine, and remove barriers to equal participation at all levels of the workforce, as required by Management Directive 715.

Management Response: OEEO concurs with this recommendation, and is in the process of reviewing, assessing, and documenting its policies and procedures for collecting, evaluating, and submitting all information and workforce data tables, as required by Management Directive 715. OEEO also is in the process of reviewing, assessing and documenting its policies and procedures for conducting barrier analyses that allow the SEC to uncover, examine, and remove barriers to equal participation at all levels of the workforce, as required by Management Directive 715. OEEO is committed to the timely, effective, and responsible handling of both of these matters.

Recommendation 2: The Office of Equal Employment Opportunity complete and submit to the U.S. Equal Employment Opportunity Commission all data and tables required by Management Directive 715, beginning with the fiscal year 2014 submission.

Management Response: OEEO concurs with this recommendation, and is committed to the timely completion and submission of all data and tables required by Management Directive 715, consistent with the availability of the data to OEEO.

Recommendation 3: The Office of Equal Employment Opportunity complete the ongoing barrier analysis, aimed at determining if there are particular barriers to equal employment opportunity at the U.S. Securities and Exchange Commission, as soon as practicable, and complete future barrier analyses as appropriate.

Management Response: OEEO concurs with this recommendation, and is committed to the completion of the ongoing barrier analysis, aimed at determining if there are particular barriers to equal employment opportunity regarding promotions at the U.S. Securities and Exchange Commission, as soon as practicable. OEEO also is committed to the completion of future barrier analyses, as appropriate, consistent with the availability of data and additional resources and expertise required.

Recommendation 4: The Office of the Chair ensure that the SEC responds to the findings of the ongoing barrier analysis by eliminating or modifying, where appropriate, any practice or procedure that creates a barrier to equality of opportunity, as required by Management Directive 715.

Management Response: The Office of the Chair concurs with this recommendation and will ensure that the SEC works to eliminate or modify, where appropriate, any practice or procedure that creates a barrier to equal opportunity as required by Management Directive 715.

Recommendation 5: The Office of Minority and Women Inclusion use the U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government" and "Performance Measurement and Evaluation" to develop (a) internal policies and procedures to guide its diversity efforts and programmatic activities, and (b) workforce diversity standards required by the Dodd-Frank Act, including methods to monitor and evaluate its activities.

Management Response: OMWI concurs with this recommendation and has already begun the process of developing internal policies and procedures to guide its diversity efforts and programmatic activities. A comprehensive outline for its internal policies and procedures has been developed in collaboration with the Office of the Chief Operating Officer (OCOO). We are in the process of adding content and anticipate the completion of OMWI's Program Manual in early 2015 using the U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government" and "Performance Measurement and Evaluation" as guides.

OMWI also concurs with the recommendation that it develop workforce diversity standards as required by Section 342(b)(2)(A) of the Dodd Frank Act. OMWI is committed to ensuring that the workforce diversity standards include methods to monitor and evaluate its activities, as outlined in the recommendation.

Appendix VII: OIG Response to Management Comments

We are pleased that SEC management concurred with all five recommendations for corrective action. Management's proposed actions are responsive to the recommendations; therefore, the recommendations are resolved and will be closed upon completion and verification of appropriate corrective action. Full implementation of our recommendations should help the agency in its efforts to identify and eliminate potential barriers to equal opportunity, measure the effectiveness of its diversity efforts, and fully comply with Section 342 of the Dodd-Frank Act.

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Comments and Suggestions

If you wish to comment on the quality or usefulness of this report or suggest ideas for future audits, please contact Rebecca Sharek, Deputy Inspector General for Audits, Evaluations, and Special Projects at sharekr@sec.gov or call (202) 551-6061. Comments, suggestions, and requests can also be mailed to the attention of the Deputy Inspector General for Audits, Evaluations, and Special Projects at the address listed above.