

Capitol Hill's Diversity Efforts Are Rubbing Off On Wall Street

By **Weldon Latham and Michael Hatcher**

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Many — perhaps most — companies in the financial services industry implement some type of diversity and inclusion program for their employees, customers and communities, but that is often primarily a basic human resources or public relations effort, seeking to present a positive, inclusive image.

Companies that recognize the business imperative and true value of diversity and inclusion and are serious about improving performance are focused on business objectives, such as enhancing profitability, winning the war for talent, and avoiding unnecessary legal and regulatory problems.

Continuing demographic change among U.S. voters — who are also customers, employees and investors — will result in greater representation of currently underrepresented groups in Congress and increase the likelihood of bolder diversity and inclusion-related laws and regulations. Leaders who fail to anticipate new rules, guidelines and best practices will increasingly put their companies, executives and stockholders at competitive disadvantages and increased legal and reputational risks.

Whether a company is just beginning its diversity and inclusion journey, or has an established program, the most effective place to start is with a baseline assessment of current performance and an evaluation of whether current programs are achieving the company's long-term business objectives.

As Dorothy Savarese advised when she was chair of the American Bankers Association, "it begins with an honest assessment. Are you leaving any talent on the table by not finding new ways to nurture or tap it?"

Some financial services companies responding to the lead of the new U.S. House Committee on Financial Services have increased internal scrutiny of their diversity and inclusion performance to focus on results rather than mere efforts.

For example, PricewaterhouseCoopers International Ltd. Chairman Tim Ryan founded CEO Action for Diversity and Inclusion,^[1] a collaborative with more than 850 signatories as of Jan. 7, working together,



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Ryan said, “to advance talent strategies that not only drive business outcomes, but reinforce why inclusive workplaces are critical to achieving those goals.”

Such efforts will not forestall the increasing calls on Capitol Hill for financial institutions to step up their diversity and inclusion efforts and model fair and equitable diversity and inclusion measured performance — but they can help shape the nature of legislative efforts.

The 2018 midterm elections yielded the most diverse Congress in history in terms of gender, race and ethnicity. This 116th Congress opened with a record number of women and minorities: more than 23% of the Congress were women^[2] and more than 22% were racial or ethnic minorities,^[3] according to the Pew Research Center. For the first time, minorities and women make up more than 40% of Congress.

What’s more, minority and female representatives hold positions of unprecedented power — from House Speaker Nancy Pelosi, D-Calif., to Majority Whip James Clyburn, D-S.C., to chairs of 10 of 20 standing committees.^[4]

Minorities and women also serve as numerous subcommittee chairs. Overall, women are chairs of 30% of House committees, and minorities are chairs of 35%. These members are increasingly able to push both federal agencies and private companies to enhance diversity. Nowhere is this trend more apparent than in the House Financial Services Committee, led by Maxine Waters, D-Calif., an African American woman and longtime vocal advocate for diversity and inclusion.

In addition, of six Financial Services Committee subcommittees, five are chaired by African American representatives, one of whom is a woman. The sixth was first chaired by Carolyn Maloney, D-N.Y., but she stepped down when she became chair of the Committee on Oversight and Reform. They include by background a former big city mayor, assistant district attorney and special narcotics prosecutor, university executive, and state and local elected officials.

Waters and all the subcommittee chairs have committed to strengthening diversity and inclusion efforts by the federal agencies they oversee — and, more importantly, the private sector companies regulated by those agencies. The committee and subcommittee chairs have already held hearings, introduced legislation, and commissioned studies by the independent Government Accountability Office, to document the state of diversity and inclusion in the financial services industry, and to encourage or require more concrete and effective business-based diversity and inclusion tangible results.

Historical Context

Waters was a principal sponsor of the diversity provision of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. The provision, among other things, mandated the creation of the Offices of Minority and Women Inclusion in eight federal agencies with responsibility for financial services ranging from the U.S. Department of the Treasury to the Federal Deposit Insurance Corp., the U.S. Securities and Exchange Commission, and the Consumer Financial Protection Bureau.^[5]

Waters previously authored a similar provision in the Housing and Economic Recovery Act of 2008 that imposed similar requirements on the Federal Housing Finance Agency and the entities it regulates, including Fannie Mae, Freddie Mac and the Federal Home Loan Bank System.

Waters' Diversity and Inclusion Agenda for 116th Congress

From day one in her role as committee chair, Waters used her position to create opportunities in the private sector for minorities and woman, stating:

[We] all know that laws that promote racial, ethnic, and gender equality are only as strong as the implementation and enforcement of those laws. And Congressional oversight is essential to ensure that implementation and enforcement are strong.[6]

As described below, Waters has increased oversight and offered new legislation.

Subcommittee Dedicated to Diversity and Inclusion

One of the first actions of the new Financial Services Committee was for the first time to create a subcommittee dedicated to diversity and inclusion. As Waters noted at her historic first hearing, the role of the subcommittee is to:

examine and resolve the systemic economic exclusion of women, people of color, persons with disabilities, LGBTQ and individuals, veterans, and other members of society who have to fight for a seat at the table.[7]

The chairwoman of the new Subcommittee on Diversity and Inclusion, Joyce Beatty, D-Ohio, also pledged to carry out that mandate:

I will work with Members of Congress, government agencies, and the entire financial services industry to help create more ladders of opportunity and safeguard against artificial barriers and ceilings.[8]

Hearings

In the 12 months that followed, both the full committee and the subcommittee held hearings on diversity and inclusion, including:

- An overview of diversity trends in the financial services industry on Feb. 27, 2019;
- Good for the bottom line: a review of the business case for diversity and inclusion on May 1;
- Discrimination in the automobile loan and insurance industries on May 1;
- Diversity in the boardroom: examining proposals to increase diversity of America's board on June 20;
- Diverse asset managers: challenges, solutions and opportunities for inclusion on June 25; and
- Promoting inclusion: examining the need for diversity practices for America's changing workforce on Oct. 17.

In addition, at an April 10, hearing on broader industry issues, committee members famously grilled the CEOs of America's largest banks on their diversity and inclusion efforts and succession planning. More recently, at an Oct. 23, full committee hearing, Beatty pressed Facebook Inc. CEO Mark Zuckerberg

about the company's treatment of minority employees and customers.

Waters has indicated the committee will continue to press financial services companies to enhance diversity practices and performance. In announcing the committee's ongoing and future priorities, she included "analyzing efforts to improve diversity in workforce recruitment, hiring, retention and promotion."^[9]

New Legislation Proposed

Several diversity and inclusion-related bills have been introduced.

The Improving Corporate Governance Through Diversity Act of 2019

H.R. 1018 and H.R. 5084, were both introduced by Rep. Gregory W. Meeks, D-N.Y., chairman of the Consumer Protection and Financial Institutions Subcommittee. A companion Senate bill was introduced by Sen. Robert Menendez, D-N.J. The bills require public companies to annually disclose gender, race, ethnicity and veteran status of "board directors, nominees and senior executive officers."

H.R. 1018 was combined with H.R. 3279, below, into H.R. 5084, which was approved by the House on Nov. 19.

Diversity in Corporate Leadership Act of 2019

H.R. 3279 was introduced by Maloney, then chair of the Subcommittee on Investor Protection, Entrepreneurship and Capital Markets. It requires stock issuers to disclose the gender, racial and ethnic composition of their boards of directors and nominees for board membership. H.R. 3257 was combined with the similar H.R. 1018 and passed by the House on Nov. 19.

Ensuring Diverse Leadership of 2019

H.R. 281 was introduced by Beatty. A Senate companion bill, S. 65, was introduced by Sen. Kamala Harris, D-Calif. The bills require that at least one gender-diverse candidate and racially or ethnically diverse candidate be interviewed when there is a vacancy among the Federal Reserve Bank presidents.

H.R. 281 was passed unanimously by the House on Sept. 10.

Additional Bills Promoting Diversity and Inclusion

Additional bills in the works for 2020 would require diversity information to be included with merger and acquisition applications and mandate examination of bank diversity and inclusion practices.

Industry Perspective: Challenge, Opportunity and Culture Change

Financial services leaders have for several years recognized that changing demographics in America and in Congress present both a challenge and, in the words of former National Credit Union Administration Chairman Debbie Matz, a massive opportunity. According to Matz:

[S]hrewd business leaders will match their desire to create material wealth for more American families with the same simple math: add up all the potential new customers that will come from

helping more Americans achieve financial stability ... and you will realize that striving for diversity is an excellent example of working in one's enlightened self-interest.[10]

Financial services industry leaders have publicly embraced diversity and inclusion as critical topics. In the American Bankers Association Banking Journal in 2017, Savarese, who was the ABA's chair at the time, stated that:

The payoff for [enhanced diversity efforts] goes beyond performance. Successful, diverse companies no doubt have an easier time attracting both talent and customers.[11]

So what more can financial institutions do to be more diverse, inclusive and to be recognized for their achievements by an increasingly diverse Congress?

Financial leaders say that even after attracting highly talented minority and female employees, institutions need to create inclusive environments capable of retaining, developing and promoting members of underrepresented groups into positions of influence, where they can succeed — and contribute to the success of the organization.

Citigroup Inc. CEO Michael Corbat recently acknowledged corporate cultures need to change: “As fast as you can bring in these talented people, you’re losing them. You’ve got to admit that we probably haven’t created the right environment that they want to stay and invest their careers in.”[12]

And the CEO of JPMorgan Chase & Co.’s consumer banking division, Thasunda Duckett, stated that for diversity and companies to succeed, executives must be held accountable for hiring and promoting women and minorities to senior roles: “It has to start from the top, and then you have to make sure you hold people accountable just like you do every other business metric.”[13]

Looking forward to 2020, financial services companies can expect growing Congressional scrutiny and, as importantly, increasing competitive pressures to recognize the value of diversity and inclusion to business success.

To achieve the benefits of enhanced diversity and inclusion, and stay ahead of the competition, companies must implement or upgrade diversity and inclusion performance to ensure that they are effective at the board and senior management levels, as well as at the mid-management level, where most hiring, development and promotion decisions foster long-term change.

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[1] <https://www.ceoaction.com/>.

[2] <https://www.pewresearch.org/fact-tank/2018/12/18/record-number-women-in-congress/>.

[3] <https://www.pewresearch.org/fact-tank/2019/02/08/for-the-fifth-time-in-a-row-the-new-congress-is-the-most-racially-and-ethnically-diverse-ever/>.

[4] These include House Appropriations Committee Chair Nita Lowey, D-N.Y.; Committee on Education and Labor Chair Bobby Scott, D-Va.; Financial Services Committee Chair Maxine Waters, D-Calif.; Committee on Homeland Security Chair Bennie Thompson, D-Miss.; Committee on House Administration Chair Zoe Lofgren, D-Calif.; Committee on National Resources Chair Raul Grijalva, D-Texas; Committee on Oversight and Reform Chair Carolyn Maloney, D-N.Y., who succeeded Elijah Cummings after his death; Committee on Science, Space and Technology Chair Eddie Bernice Johnson, D-Texas; Committee on Small Business Chair Nydia Velazquez, D-N.Y.; and Committee on Veterans' Affairs Chair Mark Takano, D-Calif.

[5] The eight financial agencies covered in the Diversity Provision of the Dodd-Frank Act are the Department of the Treasury, Federal Deposit Insurance Corporation (FDIC), Federal Housing Finance Agency (FHFA), Board of Governors of the Federal Reserve and each of the Federal Reserve Banks, National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), Securities and Exchange Commission (SEC) and the Consumer Financial Protection Bureau (CFPB).

[6] <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=401718>.

[7] <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=402374>.

[8] <https://beatty.house.gov/media-center/press-releases/congresswoman-beatty-to-chair-financial-services-diversity-and-inclusion>.

[9] <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=404217>.

[10] <https://www.americanbanker.com/opinion/the-business-case-for-diversity>.

[11] <https://bankingjournal.aba.com/2017/05/diversity-as-a-differentiator/>.

[12] <https://fortune.com/2019/06/11/citigroup-ceo-we-have-to-change-our-culture-to-keep-talented-women-and-minorities/>.

[13] <https://fortune.com/2018/12/12/companies-must-mean-business-on-diversity-jpmorgan-thasunda-duckett/>.