

WILLIAMS & JENSEN, PLLC

**CONGRESSIONAL HEARING REPORT**

**DATE OF HEARING:** October 17, 2019

**SUBJECT:** “Examining the Need for Diversity Practices for America’s Changing Workforce”

**COMMITTEE:** House Financial Services

**SUBCOMMITTEE:** Diversity and Inclusion

**STAFF MEMBER COVERING HEARING:** Tony Lodge

**Members Present**

**Democrats:** Chairwoman Joyce Beatty (OH), Representative Alma Adams (NC), Representative Sylvia Garcia (TX), Representative Josh Gottheimer (NJ), Representative Al Green (TX), Representative Madeleine Dean (PA), Representative Ayanna Pressley (MA)

**Republicans:** Ranking Member Ann Wagner (MO), Representative David Kustoff (TN), Representative Anthony Gonzalez (OH)

**Witnesses**

[Bernard Guinyard](#), Director of Diversity and Inclusion, Goodwin

[Ruchika Tulshyan](#), Diversity and Inclusion Strategist and Author

[Patricia Mota](#), President and CEO, Hispanic Alliance for Career Advancement

[Mr. Rod Graves](#), Executive Director, Fritz Pollard Alliance Foundation

[Dr. Laura Sherbin](#), Managing Director of Culture@Work

**Overview**

On October 17, 2019 the House Financial Services Committee’s Subcommittee on Diversity and Inclusion held a [hearing](#) entitled “Examining the Need for Diversity Practices for America’s Changing Workforce”

Topics discussed in the hearing included: (1) Implementation; (2) Mansfield Rule; (3) Rooney Rule; (4) Incentives; (5) Best Practices; (6) Workforce Development; (7) Flexible Workforce Arrangements; (8) Unconscious Biases; (9) Age Discrimination.

**Member Statements**

**Chairwoman Joyce Beatty (D-OH)** said this hearing seeks to focus solely on retention and promotion of diverse talent. She stated that the U.S. cannot just focus on recruitment and must expand it through other areas. She said organizations within the U.S. place such a heavy emphasis on pipeline development and as a result recruitment and retention aspects are neglected. She noted that

research shows that many business leaders are primarily white heterosexual males and underestimate the challenges diverse employees face in moving up the ladder in the workforce. She noted that the ongoing data diversity request that the subcommittee made to the top “mega banks” in the U.S. demonstrated that women and people of color are woefully underrepresented in leadership positions. She said in 2018 a women in the workplace survey conducted by the McKinsey & Company showed that for every 100 men promoted to managers only 60 black women are promoted. She emphasized the results of the lack of woman and people of color in leadership positions reduces a company’s ability to provide depth of consumer insight, capture new markets, and yield greater financial returns. She pointed out that strategies to combat these issues are fair pathways to promotion, unconscious bias training, and sponsorship programs. She noted that a 2019 Boston Consulting Group report stated that most companies lacked the appropriate mechanisms to attract promotions and ensure major project assignments are free of bias. She stated that through the collection of data from the hearings the U.S. can do better. She said it is crucial for this committee to identify, discuss, and implement accountability metrics and strategic interventions to create real results. She noted that the U.S. Census Bureau states that the population of the U.S. will be majority of the minority. She said women and minorities will comprise 47 percent of the U.S., and 27 percent of the workforce respectively within the U.S. She expressed concern for the importance for all leaders to embrace the changes in demographics to produce the best economic outcome and most competitive advantage.

**Ranking Member Ann Wagner (R-MO)** said over the past nine months this subcommittee has been trying to ensure the U.S. is reaping benefits of diversity. She noted that research shows that companies with more diverse workforces outperform their less diverse competitors. She stated that diversity builds collective intelligence by helping teams remain more objective, information processed more carefully, and price stocks more accurately. She noted that in August 2019, Morgan Stanley issued a report demonstrating that gender diverse firms tend to outperform their less diverse competitors globally. She pointed out that Morgan Stanley’s new studies have shown a prioritization in equal representation, and that has boosted average annual returns 2.8 percent. She said that diversity and inclusion are separate issues that must be addressed. She pointed out the Harvard Business School article titled, “Diversity Doesn’t Stick Without Inclusion”, states that diversity and inclusion are often lumped together and are assumed to be the same thing and that is just not the case. She said to reap the benefits of a diverse workforce, inclusion must also exist. She noted the best practices already taken through sponsorships, mentorship, employee’s resource group, and diversity councils. She stated that more can be done in this area, but it is encouraging to see the mission of increasing diversity and inclusion within the workforce.

### **Witnesses**

**Bernard Guinyard, Director of Diversity and Inclusion, Goodwin**, said that Goodwin is promoting diversity within the firm and in the legal profession, and also fostering an inclusive environment in which each attorney and professional can excel and thrive. He said diversity and inclusion are core values at Goodwin, which makes the firm stronger as provider of legal services and as an employer. He stated that equity demands a diverse workforce and a legal profession. He noted that in 2014, inclusion helped drive the firm’s diversity and inclusion strategic initiative. He stated that the core firm strategies include a bias disruption campaign, inclusive leadership training and upward feedback for leaders, sponsorship initiatives, and practice group action plans. He noted that these strategies are complemented by the robust Committee on Racial and Ethnic Diversity

(CRED), and Pride and Women Initiatives, which promote connectivity and networking and advancement opportunities. He said despite the significant breakthroughs the firm still must continue to work through goals around development, retention, advancement and leadership. He noted that through the firm's commitment it has signed onto two bold initiatives led by Diversity Lab: the Mansfield Rule, a law firm slate diversity initiative launched in 2017; and the Move the Needle Fund, a collaborative effort designed and funded with \$5 million to test innovative initiatives to create more diversity and inclusion in the legal profession. He noted that under the Mansfield Rule, law firms participating are expected to consider diverse slates of candidates in influential and leadership roles within the organization, and also create and post descriptions of these leadership roles to ensure that the processes and elections, or appointments to these roles, are transparent and accessible to all lawyers. He emphasized the Mansfield Rule in action, where a firm management committee identifies a short list of five candidates for an opening on its executive committee, there must be two candidates that are a woman, attorney of color, or LGBTQ. He noted that Goodwin achieved Mansfield Rule for the second time for 30 percent diversity in leadership ranks. He noted that Goodwin's most senior level leadership positions are 35 percent diverse, which are a significant achievement and the progress made by implementing the rule. He stated the second initiative has been implemented by bringing five law firms together in partnership with diversity labs in a joint venture to partner with each other. He said the joint partnerships assist with pursuing goals to be achieved in 5 years. He stated that by 2025, Goodwin is trying to address the issues to get all law firms at 40 percent diverse. He noted that investments and initiatives will be tested to meet the goals besides a \$2.1 million already invested. He noted that benefits for signing up will allow Goodwin to set bold goals, create transparency and accountability, garner significant investments, fuel innovation, and enable opportunities for collaboration.

*Ruchika Tulshyan, Diversity and Inclusion Strategist and Author*, said multiple studies have shown that women are graduating college at higher rates than men, but remain severely underrepresented in leadership roles in the U.S. She said women are forced to navigate workplaces without their representation in mind despite evidence highlighting why harnessing diversity and inclusion in the workplace is key to U.S. competitiveness, prosperity, and innovation. She noted that for women of color the situation is dire. She noted that white women hold 19 percent C-Suite positions but women of color only hold 4 percent. She noted that researchers find women of color face harmful stereotypes about professional competence, leadership ability, and behavior. She stated that by 2060 the majority of all women in the U.S. will be women of color. She noted that a *Washington Post* article last month stated that for the first time, most new working-age hires in the U.S. are people of color. She said the demographics are changing. She said the first barrier to this situation is addressing the challenge of working motherhood. She said it is a travesty that 1 in 4 American women go back to work within 10 days of giving birth. She noted that the U.S. is the only developed world that does not guarantee paid maternity leave, which leaves many women making very difficult choices. She emphasized that women at work face the "motherhood penalty," by lower pay opportunities and perceived competence for having children. She said men receive a fatherhood bonus for having children, so no wonder women leave corporate America. She said that one solution is to mandate paid family leave, not only for work but when a family member is sick. She noted that a study found businesses save \$19 billion annually by retaining female employees when they offer fully-paid 16-weeks maternity leave. She emphasized that women need sponsors which leaders are personally invested in women's success—early pilots of sponsorship programs in some innovative companies have yielded positive results in the advancement of high-potential women. She said women need office housework to be distributed equitably. She noted office housework is

disproportionately assigned to women and people of color, and one study found women do 30 percent more of it than white men. She stated that leaders must address their own personal biases and actively champion equity. She said women and people of color need advocacy efforts backed by well-resourced chief diversity offices, so women can safely report harassment or bias without retaliation. She said it is absolutely crucial for the future of American democracy to prioritize the championing of women, especially of color, in the workplace.

**Patricia Mota, President and CEO, Hispanic Alliance for Career Advancement**, said the Hispanic Alliance for Career Advancement (HACE) is a non-profit dedicated to the employment, development, and advancement of current aspiring Latino professionals. She said the mission is to positively impact the American workplace by cultivating the pipeline of Latino talent and providing professionals the insight, access, and support for careers. She noted that since 1982, HACE, with a network of over 64,000 members across the country, works to ensure employers remain competitive in an increasingly dynamic economy by helping attract, develop, and retain Latino professionals. She said HACE carries out the mission with three core areas: (1) talent acquisition program services, opportunities where HACE actively connects talent with employers; (2) pipeline and leadership development, programs that cultivate and build the pipeline of Latino talent through K-12 and the C-suite; (3) thought leadership and branding events that incorporate roundtable discussions on diversity and inclusion through best practices. She stated that HACE's vision is to see a world where Latino's reach their full potential for themselves and their communities. She noted that Latino's are disproportionately underrepresented in highly compensated professional and leadership roles in America and other sectors. She noted that Latinos are part of the youngest and the fastest growing population group in the U.S. She noted that U.S. Latinos are the current and future workforce. She stated that in 2018 Latinos made up 29 million workers in the U.S, and by 2020, U.S. Latinos will make up 74 percent of the growth in new workers. She said 86 percent of all new businesses in the U.S. have been launched by Latinos, with Latina women creating businesses six times faster than any other group. She noted that U.S. Latino high school dropouts decreased from 34 percent in 1996 to 10 percent in 2016, and college enrollment increased from 35 percent to 47 percent in this same timeframe. She recommended that employers focus on the promotion and retention of diverse talent through bias and diversity training, require a diverse slate of candidates for top level positions, and support employee participation in affinity groups and leadership programming. She said in order to build a more inclusive and diverse workforce, today's employers must fully support and invest in these key practices over the long-term.

**Mr. Rod Graves, Executive Director, Fritz Pollard Alliance Foundation**, said the Fritz Pollard Alliance (FPA) is an advocacy group cofounded in 2003, with a primary focus on men and women of color within the National Football League (NFL). He said the FPA is most notable for its support of diverse candidates at the Head Coach and General Manager positions, but the work goes well beyond these positions. He stated that the FPA's mission is to champion diversity in the NFL through education and to provide members with resources that will help them succeed at every game. He said the vision is to see diversity of leadership in the business plan of every sports team. He noted that the FPA developed the Rooney Rule, which states employers must interview diverse candidates while also requiring that the final decision-maker be involved throughout the entire hiring process. He said in the 15 years prior to the adoption of the Rooney Rule only four minorities were selected as head coach of an NFL club. He said in contrast, approximately 20 minorities have been selected as head coaches in the 15 years following the rule's adoption. He noted only one minority served as General Manager or in a General Manager equivalent position prior to the adoption of the

Rooney Rule compared with least eight since the rule's adoption. He said many companies, such as Xerox, Intel, Microsoft, Facebook, Pinterest, and Goldman Sachs have followed the FPA's lead and implemented a version of the Rooney Rule. He said before the Rooney Rule was enacted, minorities in the NFL relied almost exclusively on mentors and networking opportunities for a chance to develop skills and to further their careers. He said as an executive and General Manager, he participated in the hiring of several head coaches, coordinators, and other football executives. He noted the exposure that FPA gained as a result of the Rooney Rule was invaluable. He said the FPA not only learned about the individuals and their skill sets, but learned a great deal about the teams that they came from. He said the Rooney Rule benefits organizations and diverse candidates. He said the exposure gained by diverse candidates during an interview process helps them to be better prepared and to become more informed about the organizations they are seeking to join. He expressed concern that the Rooney Rule and the other equal opportunity initiatives taken by teams and the NFL is that these measures do not ensure positive outcomes for diversity. He said there cannot be sustained success in the area of diversity and inclusion without a commitment by those making the decisions. He said by creating a diversity and inclusion strategy the FPA can ensure that more teams can follow suit.

***Dr. Laura Sherbin, Managing Director of Culture@Work***, said it is a core responsibility to leading companies in the world's greatest nation to focus on the talent pool and make sure it is fully engaged to its greatest potential. She noted that women are achieving degrees in record numbers but there are still no women running major financial service companies. She noted that less than one in five have C-suite roles, according to a McKinsey & Company report. She said financial services companies were among the first to embrace the cultivation of greater gender diversity, but despite decades of effort, the financial services sector's gender equality movement has not made necessary gains. She said diversity-focused tactics don't work without an effort to create an inclusive culture that not only attracts women but makes them feel welcome and valued. She emphasized financial services careers are known for offering lucrative salaries and benefit packages in exchange for high demand careers. She stated that long hours, extensive travel, and personal sacrifices make senior roles unsustainable for and unappealing to many women, who still take on the majority of home responsibilities and the mental load of household management. She said relationship capital makes or breaks a career, and research shows men are more likely than women to receive advice on how to advance (54 percent vs. 31 percent) or to be invited to a roundtable with senior executives (63 percent vs. 39 percent). She said the efforts to make sure the field is equal will take a commitment from leaders to form a model. She said leaders need to be visible in their participation in making sure it happens and are held accountable. She noted that diversity is a business problem and needs to be treated as such. She said it is important to measure what matters, including conducting regular pay equity audits and ensuring employees are being paid fairly for equal work. She said it is important to track not just the lagging indicators of diversity but also the leading indicators of inclusion, and the perception of bias within the system. She stated by treating diversity and inclusion like the business problem it is, companies in the financial services industry can make impressive strides to ensure their competitiveness for the future of work.

## **Question and Answers**

### ***Implementation***

**Chairwoman Joyce Beatty (D-OH)** asked what this committee can do to get more minorities, women, and people of all backgrounds in positions of leadership. **Graves** said diversity has to be intentional and has to be an effort and commitment from the very top to make it happen. **Beatty** asked what advice can be given while this committee is on the topic of diversity and inclusion journey. **Sherbin** said it is important to measure the leading indicators of inclusion and diversity through transparency and hold each other accountable. **Mota** responded that it is important to be aware of individual biases and capabilities which can translate to other sectors besides the workplace. **Tulshyan** noted the need to go to the most underrepresented voice and find out what barriers are holding back that group or community. **Guinyard** said enforcing communication about the goals and destinations so that everyone can participate in the initiative. **Graves** noted the need to focus on a grassroots program that grows diversity from the very bottom upward through organizations.

**Ranking Member Ann Wagner (R-MO)** asked about the gains of women of color in the financial services industry. **Sherbin** said the industry has done a lot of initiatives and programming on this front, but have not changed the core principle to the access of power. She noted that the accesses to power in terms of relationships are critical to how the individual can advance in their career. **Wagner** asked how to mandate that companies consistently continue to grow diversity in the workplace. **Sherbin** noted that the gains from diversity also stem from the gains from inclusion to make sure everyone is contributing to their full potential, but also ensures that they will stay and invest. She stated without inclusion, diversity becomes a revolving door. **Wagner** asked **Tulshyan** about the topic of diversity and inclusion implementation. **Tulshyan** said equity is very essential to diversity and inclusion. She said it is important to understand some of the institutional barriers that have kept so many out of the many highly coveted roles, and organizations should seek to eliminate those barriers.

### ***Mansfield Rule***

**Representative Alma Adams (D-NC)** asked if the Mansfield Rule is working through the legal profession by increasing diversity and inclusion. **Guinyard** pointed out that Goodwin has increased diversity representation within senior leadership positions. He said it has elevated the visibility of ensuring that there are diverse slates which increases the likelihood of promoting or elevating someone with a diverse background. He noted that Goodwin has introduced a new strategy for law schools to find that top talent that may get overlooked. **Adams** asked how public disclosure helps law firms and other organizations maintain accountability for improving diversity and inclusion. **Guinyard** said the Mansfield Rule helped initiate a partnership among 40 firms and has increased to roughly 60 or 70 firms as recognition of being certified. He noted that law firms despise putting numbers out due to the target it creates. **Adams** asked what this committee can do to address the biases initiated in the workplace. **Tulshyan** said it has to come from education and the personal awareness building of biases. She said most leaders try to go about it with good intentions, but do not sit down to think about how their actions are affecting the situation towards systemic biases.

### ***Rooney Rule***

**Representative David Kustoff (R-TN)** asked if the NFL has a Rooney Rule as it relates to ownership of the teams. **Graves** said that he is not aware of the Rooney Rule being applied to owners, but can check into it. **Kustoff** asked about the importance of networking and mentoring as it relates to diversity and inclusion. **Sherbin** said mentoring and networking extends far beyond the

financial services industry; it is the very way power is transferred in society. She said it is about investing in someone who may be on a lower hierarchy within a workplace. She said teaching them about various ways to maximize their talent, and putting them up for promotion is essential for development. **Kustoff** asked if there is way to increase the mentoring and networking. **Sherbin** said exposure and opportunity and training through proactive education. She pointed out that the U.S. is a very highly segregated country, and asking people to embrace differences when they have failed to do it in their own personal lives can be a difficult task. She stated that it is essential to provide education so they are successful. **Kustoff** asked if Sherbin could address the culture changes of inclusion for both women and minorities. **Sherbin** said that to address inclusion for women and minorities it is important to teach individuals to work across their differences and hold individuals accountable for not just diversity but inclusion as well. **Kustoff** asked if Sherbin could compare how financial services firms are doing compared to other industries. **Sherbin** said the financial service industry is ahead in terms of representation through many data sources.

### *Incentives*

**Representative Sylvia Garcia (D-TX)** asked what incentives can be given to increase the demand for diversity and inclusion in the workplace. **Graves** said having people at the table for decision-making is good for the workplace. **Sherbin** said individuals who are not able to rise up in organizations believe that they are not achieving their full potential. She pointed out that asking the majority of individuals what is not working for them can bring new light on the matter. She noted that middle managements are the hardest organizations to budge, and are usually the sector that has serious day-to-day pressures and do not always have the time to do something different. She said that understanding this can be a huge powerful step in changing the culture in the workplace. **Garcia** asked is there any way organizations can see the value of inclusion and diversity that can change the behavior. **Mota** pointed out that Talent and Innovation studies show that 70 percent of Latinos in corporate America repress some portion of their identity, and those that do repress are the ones that are being promoted. She said the reflection is misperceived, so to get to the higher ranks a minority will repress what they tend to represent for the sake of career advancement. She said minorities need someone to aspire in leadership roles that work best for them. **Garcia** asked if the Mansfield Rule applies to making partner within a law firm. **Guinyard** said it does.

### *Best Practices*

**Representative Anthony Gonzalez (R-OH)** commended the work of the Subcommittee, pointing to their work on discovering best practices. He pointed to Graves' testimony on the impact of the NFL's Rooney Rule, noting that he played in the NFL under African-American coaches Tony Dungy and Jim Caldwell. He said Chairwoman Beatty has introduced H.R. 281, which would require Federal Reserve Banks to consider at least one diverse candidate for bank president openings. He expressed support for this bill. He asked how the NFL is looking to make the Rooney Rule better. **Graves** said their work is evolutionary and not stagnant. He stated that they have taken steps to enhance the rule, noting that they now require teams to interview multiple diverse candidates. He stated that they have also enhanced their documentation requirements. He said the final decision maker must now be involved throughout the entire process and not just at the end.

**Representative Josh Gottheimer (D-NJ)** asked how to create a larger slate of diverse candidates for top positions. He pointed to the NFL's Rooney Rule, which is intended to increase the diversity

of NFL coaches and executives. He said the New York Giants utilized the Rooney Rule when they brought in General Manager Jerry Reese, who led the team to two championships. He asked if there is data on the impact of the Rooney Rule on the hiring of diverse candidates in the NFL. He asked if the rule has been effective, to which **Graves** responded in the affirmative. **Graves** stated that there has been an increase in the number of ethnically diverse coaches in the NFL since the rule's passage, pointing to the success of Tony Dungy and Jerry Reese. He said the rule has had positive effects, but more work is needed. **Gottheimer** asked if other industries could learn from the NFL's experience. **Graves** said other industries could learn from the benefits of the rule.

### ***Workforce Development***

**Representative Anthony Gonzalez (R-OH)** said Mota has worked on programs to help diverse individuals access to programs to develop leadership skills. He asked how these programs help young professionals and the companies they go on to work for. **Mota** said the programs the Hispanic Alliance for Career Advancement offers help to create a multigenerational support network, where people further along in their careers are able to help younger workers. She stated that their programs have helped to advance people's careers.

### ***Flexible Work Arrangements***

**Representative Josh Gottheimer (D-NJ)** said a study by the Institute for Women's Policy Research found that mothers are being left behind in the labor force. He noted that he has cosponsored several bills to support affordable childcare and drive up the inclusion of all parents in the workforce. He asked for examples of flexible work arrangements which could increase the retention of working parents. **Sherbin** said arrangements should not be one size fits all, as working parents have diverse circumstances. She stated that a critical success factor is that flexible work arrangements should not be treated as special accommodations for working mothers, as this reinforces the stereotype that mothers cannot work as hard as their counterparts. She said flexible work arrangements should be positioned as ways to allow everyone to work most efficiently.

### ***Unconscious Bias***

**Representative Al Green (D-TX)** asked how much of the lack of inclusivity in the workforce is due to unconscious bias compared to conscious bias. **Tulshyan** said it is very hard to measure that. She stated that she has examined academic research around affinity bias and how it affects hiring. She suggested that much of the bias is unconscious. **Green** said he appreciates the Rooney Rule. He suggested that there could be a "Money Rule," which ties executive compensation to the hiring of a diverse workforce. He stated that improving diversity requires will at the top levels, asserting that there is no shortage of capable female, minority, or LGBT+ workers.

**Representative Madeleine Dean (D-PA)** noted that during recess periods the subcommittee held multiple roundtables on industry diversity. She said one school superintendent who participated in a roundtable said they often started with a diverse pool of candidates, but the selection committee tended to choose people who looked like them. She suggested that this was likely unintentional bias. She asked what management practices can help to address unintentional bias. **Mota** said there should be diverse representation on hiring committees, including on race, country of origin, gender, and career background. She stated that there are free implicit bias training tools available online.

**Dean** said there is also bias related to disability. She asked what can be done to address this bias. **Sherbin** said she has done research in this area. She stated that there is underemployment amongst disabled workers. She stated that many workers who have a disability do not disclose it and thus do not receive the accommodation they need to be successful. She suggested that companies should proactively solicit this information and offer accommodations.

### *Age Discrimination*

**Representative Ayanna Pressley (D-MA)** noted that she is the Vice Chair of the newly relaunched Task Force on Aging and Families. She said there is a growing trend of ageism against older workers. She asked what can be done to ensure seniors are not left out of the workforce. She noted that some companies offer competitive packages to recruit and retain younger employees. She asked what can be done to retain older workers. **Sherwin** said companies can benefit from the wisdom and skill of older workers. She stated that many seniors believe they cannot rise any further in their careers because of their age. She stressed the need to find the right accommodations for seniors who are working with a disability. **Tulshyan** said seniors would benefit from being able to utilize paid family leave and flexible work arrangements. **Pressley** agreed that flexible work arrangements could benefit seniors. She said the Age Discrimination in Employment Act protects applicants 40 years old and older from discrimination based on age. She asked what additional provisions could be implemented to protect seniors. **Sherbin** said there should be additional avenues for reporting all forms of discrimination.