

**DEPARTMENT OF TRANSPORTATION****Bureau of Transportation Statistics****[Docket ID Number DOT–OST–2014–0031]****Confidential Business Information Reporting Requirements—BTS' Response to Public Comments**

**AGENCY:** Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Response to Public Comments.

**SUMMARY:** Pursuant to the Department's regulations, certain air carriers are required to file BTS Schedule B–7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Schedule B–43 (Inventory of Airframes and Aircraft Engines). Under the Department's regulations, the Department can withhold confidential business information if release of the confidential information is likely to cause substantial competitive harm to the entity that submitted the information to the Department. The BTS routinely grants, based on the sensitive nature of this cost data, a ten-year confidentiality period. After receiving notification that, upon the expiration of the ten-year confidentiality period, the BTS intended to release the cost data, Airlines for America (A4A), an industry association representing several air carriers, filed an objection to the pending release. A4A claimed that the cost data, although twenty years old, remained sensitive and its release would result in competitive harm. Bloomberg News requested that the Department release the cost data.

**FOR FURTHER INFORMATION CONTACT:** Jeff Gorham, Office of Airline Information, RTS–42, Room E34, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or EMAIL [jeff.gorham@dot.gov](mailto:jeff.gorham@dot.gov).

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Mail:* Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

*Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

*Fax:* 202–366–3383.

*Instructions:* Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at <http://www.regulations.gov>. All comments are posted electronically without charge or edits, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, or the street address listed above. Follow the online instructions for accessing the dockets.

*Electronic Access:* You may access comments received for this notice at <http://www.regulations.gov>, by searching docket DOT–OST–2014–0031.

**SUPPLEMENTARY INFORMATION:** Pursuant to 14 CFR part 241, certain air carriers are required to file BTS Schedule B–7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Schedule B–43 (Inventory of Airframes and Aircraft Engines). These schedules contain cost data concerning airframes and aircraft engines. In previous confidentiality requests, UPS and United requested and the Department granted a ten-year period of confidentiality for the cost data reported on the Form 41, Schedules B–7 and B–43.

Prior to the expiration of the twenty-year period, BTS informed twelve air carriers that, at the close of the twenty-year period (October 1, 2014), the agency intended to release the information. Airline for America (A4A) on behalf of its members, filed objections to the release (see OST Docket No. 2014–0031). A4A claims that the information, although twenty years old, is so sensitive that each company would suffer “competitive harm” if the BTS releases the information.

In its objection, A4A maintains that the information is still “commercially sensitive” based on three main points: (1) Disclosure of the data diminishes competition among the major aircraft manufacturers; engine manufacturers,

and new and used aircraft owners and lessors who can use the commercially sensitive data to closely track each other's acquisition and retirement costs; (2) disclosure of the data impairs competition among competing domestic and foreign airlines in the international arena, because United States airlines are required to reveal major elements of their cost structures when their foreign competitors are not; and (3) the Department does not use this data to support any policy initiatives.

In addition, the Department determined that withholding the information under Exemptions 3 and 4 of the Freedom of Information Act (FOIA) (See 5 U.S.C. 552(b)(3) and 4)). Exemption 3 allows the withholding of information if the disclosure is prohibited by another statute and the statute either: “(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;” (see 5 U.S.C. 552(b)(3)). The Department determined that a provision in the United States Code (see 49 U.S.C. 40115) qualifies as an Exemption 3 statute in that the statute allows the Department to order certain information withheld from public disclosure if the disclosure would “have an adverse effect on the competitive position of an air carrier in foreign air transportation.” (See 49 U.S.C. 40115(a)(2)(B)).

In light of its objections, A4A requested that “the Department cease collecting the information because it serves no useful purpose, is burdensome to report and competitively sensitive or at the very least continue to afford confidential treatment to Form 41, Schedules B–7 and B–43 and that such confidential treatment be continued indefinitely or, at a minimum, for an additional ten year period.

Bloomberg News, in a letter dated April 13, 2015 stated the information at issue is now 20 years old. Given the passage of time, any interest in keeping the data confidential has presumably lessened. Disclosure of cost data after 20 years would seem to achieve a reasonable balance between transparency and maintaining the confidentiality of potentially sensitive commercial information.

Based on the comments received, the BTS will grant an additional 10 year confidentiality period while seeking regulatory language to delete the requirement for collecting airframe and engine cost data.

Issued in Washington, DC on June 3, 2015.

**William Chadwick, Jr.,**

*Director, Office of Airline Information,  
Bureau of Transportation Statistics.*

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

[Docket ID OCC-2013-0014]

### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. OP-1465]

### FEDERAL DEPOSIT INSURANCE CORPORATION

### NATIONAL CREDIT UNION ADMINISTRATION

### BUREAU OF CONSUMER FINANCIAL PROTECTION

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75050; File No. S7-10-15]

### Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies

**AGENCIES:** Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (CFPB); and Securities and Exchange Commission (SEC).

**ACTION:** Notice of final interagency policy statement; request for comments on proposed collection of information.

**SUMMARY:** The OCC, Board, FDIC, NCUA, CFPB, and SEC are issuing a final interagency policy statement establishing joint standards for assessing the diversity policies and practices of the entities they regulate, as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

**DATES:** The final interagency policy statement is effective on June 10, 2015. The agencies are soliciting comments only on the collection of information. Comments must be submitted on or before August 10, 2015. The effective date of the collection of information will be announced in the **Federal Register** following Office of Management and Budget (OMB) approval.

#### FOR FURTHER INFORMATION CONTACT:

**OCC:** Joyce Cofield, Executive Director, Office of Minority and Women Inclusion, at (202) 649-6460 or Karen McSweeney, Counsel, Law Department, at (202) 649-6295, TDD/TTY (202) 649-5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

**BOARD:** Sheila Clark, Director, Office of Diversity and Inclusion, at (202) 452-2883, Katherine Wheatley, Associate General Counsel, Legal Division, at (202) 452-3779, or Alys Foster, Senior Special Counsel, Legal Division, at (202) 452-5289.

**FDIC:** Segundo Pereira, Director, Office of Minority and Women Inclusion, (703) 562-6090; Melodee Brooks, Senior Deputy Director, Office of Minority and Women Inclusion, (703) 562-6090; or Robert Lee, Counsel, Legal Division, (703) 562-2020, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429-0002.

**NCUA:** Wendy A. Angus, Acting Director, Office of Minority and Women Inclusion at (703) 518-1650, Cynthia Vaughn, Diversity Outreach Program Analyst, Office of Minority and Women Inclusion, at (703) 518-1650, or Regina Metz, Staff Attorney, Office of General Counsel, at (703) 518-6540, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

**CFPB:** Stuart Ishimaru, Director, Office of Minority and Women Inclusion, at (202) 435-9012, or Stephen VanMeter, Deputy General Counsel, Legal Division at (202) 435-7319, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

**SEC:** Pamela A. Gibbs, Director, Office of Minority and Women Inclusion, (202) 551-6046, or Audrey B. Little, Senior Counsel, Office of Minority and Women Inclusion, (202) 551-6086, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act or Act) required the OCC, Board, FDIC, NCUA, CFPB, and SEC (each, an Agency and collectively, the Agencies) to each establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the Agency relating to diversity in management, employment, and business activities.<sup>1</sup>

<sup>1</sup> Section 342 of the Act is codified at 12 U.S.C. 5452. The Department of Treasury, the Federal Housing Finance Agency, and the Federal Reserve

The Act also instructed each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the Agency. To facilitate the use of these standards by regulated entities that are subject to the regulations of more than one Agency, the Agencies worked together to develop joint standards and issue this Final Interagency Policy Statement (Policy Statement).

Prior to drafting these standards, the OMWI Directors held a series of roundtable discussions and teleconferences with representatives of a variety of regulated entities, including depository institutions, holding companies, and industry trade groups, to solicit their views on appropriate standards and to learn about the successes and challenges of existing diversity policies and programs. In addition, the OMWI Directors met with financial professionals, consumer advocates, and community representatives to gain a greater understanding of the issues confronting minorities and women in obtaining employment and business opportunities within the financial services industry. The information and feedback provided during these outreach sessions guided the development of these standards.

##### II. Proposed Policy Statement

On October 25, 2013, the Agencies published a Notice in the **Federal Register** requesting comment on a “Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies” (Proposal).<sup>2</sup> The comment period on the Proposal was scheduled to close on December 24, 2013, but in response to requests from members of the public, the Agencies extended it to February 7, 2014.<sup>3</sup>

The Proposal set out standards for assessing an entity’s diversity policies and practices in the following areas: Organizational Commitment to Diversity and Inclusion; Workforce Profile and Employment Practices; Procurement and Business Practices—Supplier Diversity; and Practices to Promote Transparency of Organizational Diversity and Inclusion. These proposed standards reflected the leading policies and practices for advancing workforce and supplier diversity.

The Proposal also explained the Agencies’ approach to assessments,

Banks also have established an OMWI, but only the federal financial agencies with regulated entities have joined in issuing this Policy Statement.

<sup>2</sup> 78 FR 64052.

<sup>3</sup> 78 FR 77792.