

Statement by Vice Chairman Travis Hill on the Creation of the Office of Professional Conduct

June 21, 2024

The Cleary Gottlieb report released in April paints a grim picture of the working conditions at the FDIC.¹ As the report notes at the outset, “for far too many employees and for far too long, the FDIC has failed to provide a workplace safe from sexual harassment, discrimination, and other interpersonal misconduct.”² The report details deep-seated problems around a lack of accountability, fear of retaliation, and inadequate reporting of misconduct.

The failure to hold people accountable is one of the fundamental root causes of the problems identified in the Cleary report,³ and holding those who commit misconduct accountable is perhaps the most important part of transforming the culture at the FDIC. We need to establish a process that is fair, honest, transparent, and, most importantly, trusted by employees.

Today, the FDIC Board voted to create an Office of Professional Conduct (“OPC”) and an Office of Equal Employment Opportunity (“OEEO,” and, collectively, “Offices”). The Offices would be responsible for receiving and investigating complaints and taking disciplinary action for, in the case of OPC, harassment and other interpersonal misconduct and for, in the case of OEEO, discrimination.

Moving the functions responsible for investigating complaints and taking disciplinary action outside of the existing divisions and offices is a positive step that is generally consistent with the recommendations in the Cleary report. As a result, I voted to support creating the Offices, but many unanswered questions remain that will influence the ability of the Offices to ultimately achieve the objective of a fair, honest, transparent, and trusted process.

For example, to what extent will the investigative process be different from the current process? To what extent will the Offices address the fundamental obstacles that have limited us from holding people accountable in the past? To what extent will emphasis around investigations shift away from fear of litigation and other risks to the FDIC, and toward accountability and protecting employees? What type of transparency will there be around the results? What type of due process will there be for those accused? Who will staff the Offices?

¹ See [Report for the Special Committee of the Board of Directors of the Federal Deposit Insurance Corporation](#) (Apr. 2024).

² *Id.* at 1.

³ See, e.g., *id.* at 145 (“The FDIC suffers from a failure to hold employees accountable for misconduct, including for conduct relating to various forms of harassment, as well as a widespread perception within the agency that wrongdoers are not held to account. This actual and perceived failure to hold individuals accountable has had a number of negative consequences, including a view among employees that certain types of misconduct is condoned and that there is no point (especially when weighed against the risks) in reporting bad behavior.”).

What is the plan for staff whose existing functions are being moved to the Offices? More broadly, to what extent is this a completely new way of doing things, and to what extent is it a repackaging of the existing process in a new, central location?

In addition, what will the Board's role be in overseeing the Offices? The Board Resolution states that the Offices, and Office Directors, will "report to the Board," but I am not sure how meaningful that is. The amendments to the bylaws treat the Offices identically to all other FDIC divisions and offices included in the bylaws, which in theory report to the Board, but in practice, and under Section 4(a) of the bylaws, report to and are managed by the Chairman. I think the language added to the Board resolution providing that individual Board members can influence the performance reviews of the Directors of, and employees who work for, the Offices will be a useful tool to help ensure the Board can provide meaningful oversight.

Finally, while corrective action is urgently needed and must be prioritized, I question whether it is appropriate for a Chairman who has announced that he plans to resign, for reasons directly related to the FDIC's culture problems, to be establishing, designing, and staffing entire new offices to revamp the FDIC's approach to these issues during his final days in office.