



Driving Diversity and Inclusion from the Inside Out

By [Malvina Longoria](#) and [Vanessa Watson](#) | 2017-Mar-17



Even after years of continued efforts from the best and brightest to drive diversity and inclusion in the legal profession, [The Washington Post](#) and [other media outlets](#) have given law the dubious distinction of being the “least diverse profession.” While this certainly is disappointing, some organizations, including Mastercard, are taking it as a call to action.

The American Lawyer 2015 Diversity Scorecard reported that “minorities gained little ground” from the prior year. Similarly, [Law360](#) wrote in May 2016 that US law firms have failed to move the needle on racial diversity. Chicago-based lawyer and freelance journalist Liane Jackson noted in the [ABA Journal](#) that more than 40 percent of law school graduates are women, but they represent only 18 percent of equity partners, and earn 80 percent of what their male counterparts earn in Big Law. Advancing diversity in the legal profession in the United States continues to be a challenge to say the least.

Recognizing the gravity of the situation, in late summer 2016, the House of Delegates of the American Bar Association adopted Resolution 113, urging all providers of legal services, including law firms and corporations, to expand and create opportunities at all levels of responsibility for diverse attorneys. It also urges law firm clients to

assist in the facilitation of opportunities and to direct a greater percentage of the legal services they purchase, both currently and in the future, to diverse attorneys.

This past September, the ABA Diversity & Inclusion 360 Commission wrote to the chief legal officers of the Fortune 1000 companies, including Mastercard, asking them to join a group of other general counsels who had signed on to support Resolution 113. The ABA resolution also included a diversity model survey for law firms that requested companies adopting the resolution to implement with their legal services providers.

Mastercard's commitment to diversity and inclusion is well documented. In 2016, the company ranked seventh on *DiversityInc's* Top 50 Companies for Diversity, the fourth consecutive year among the top 10. That commitment to diversity extends to engagement with suppliers. In particular, Mastercard's Law and Franchise Integrity (LFI) group is leading the way within the company to promote diversity among its legal services suppliers.

Early in his tenure, Mastercard General Counsel Tim Murphy recognized the imperative to transform the LFI group to keep pace with the rapidly changing technology, regulations, and competitive landscape facing the payments industry.

As part of the LFI transformation — and approximately two years before Resolution 113 — Murphy and his management team had already taken an intentional approach toward ensuring that the LFI group reflected the diversity of its customers, cardholders, and the communities where Mastercard operates. The team identified opportunities for improvement across supplier diversity, recruitment, and training, delivering a requirement that a diverse slate of talent be considered for each open position, and that a certain percentage of legal spend be with diverse suppliers.

In 2016, Mastercard established a panel of preferred legal services providers for its North American operations. The Law and Franchise Integrity group saw this North America Panel (NAM Panel) as an important milestone in its internal transformation journey. The panel is important because it changes the way Mastercard engages with law firms, bringing discipline and rigor, and also reinforcing the commitment to diversity.

In order to ensure a diverse representation, Mastercard engaged the [National Association of Minority and Women Owned Law Firms \(NAMWOLF\)](#), an organization dedicated to promoting diversity in the legal profession by “fostering successful relationships among preeminent minority- and women-owned law firms and private/public entities.”

NAMWOLF is a nonprofit trade association founded in 2001 based on a view that the most effective way to increase diversity in the legal profession is for corporations to increase retention and use of minority and women-owned law firms. According to NAMWOLF, data shows that the traditional way of engaging minority and female attorneys in majority owned firms has not been very successful. NAMWOLF is comprised of over 155 AV-rated law firms across the nation, which represent [major corporate clients](#). “Minority and women owned law firms provide a more welcoming environment for ex BigLaw attorneys unhappy with the lack of diversity at large law firms,” and “give their attorneys opportunities to attract clients frustrated with the legal industry’s race and gender problem,” says [NAMWOLF CEO Joel Stern](#).

[NAMWOLF and Mastercard](#)

NAMWOLF had already done some of the legwork needed to help Mastercard diversify its NAM Panel, thus beginning a new partnership. Through this relationship with NAMWOLF, Mastercard sought out certified diverse firms to apply to be on its NAM Panel. In the end, six NAMWOLF firms were selected for the NAM Panel, which represents 20 percent of the law firms on the panel. All six were firms that Mastercard had not worked with in the past; therefore there was more work to do in order to ensure that the in-house legal team got acquainted with the

firms and their capabilities.

In addition to adding the firms to the NAM Panel, Mastercard hosted two onboarding sessions for the law firms. The first one-day session introduced all the NAM Panel firms to Mastercard. The second session was for the firms that were new to Mastercard (six NAMWOLF firms) and gave these firms an opportunity to introduce themselves to the company. Through two CLE sessions and speed networking sessions, the Mastercard in-house legal team was able to get to know the NAMWOLF firms better. The NAM Panel was launched in October 2016, and it has been providing legal services to the company since that time.

Diversity beyond Mastercard

Mastercard is not alone in their efforts to address this challenge. In preparing this article, we contacted corporate law departments that have taken steps to drive diversity among their law firm suppliers. [Walmart Stores Inc.](#) General Counsel Karen Roberts is one of the original signatories of ABA Resolution 113. Walmart's Alan Bryan, senior associate general counsel, legal operations – outside counsel management, indicated the Walmart legal department's program seeking and measuring diversity and inclusion among its law firms has been in place for over 11 years. Last year, Walmart announced that it spent approximately US\$189 million with diverse attorneys at majority and minority law firms between fiscal years 2012 through 2016.

[Accenture](#) committed to direct 5 percent of its US legal spend to minority- and women-owned law firms, and also reviews its outside counsel composition as to minority and women and as to the lawyers they put to work on Accenture matters. Prudential has been working with NAMWOLF for over 10 years and values the NAMWOLF firm solicitation process, which involves NAMWOLF staff conducting preliminary due diligence to help select firms that can do what in-house counsel wants. [Prudential](#) hired three NAMWOLF firms in 2016, using this NAMWOLF solicitation process. Under the leadership of [Bank of America's](#) general counsel, the legal department instituted an annual award to recognize firms that partner with the bank on diversity and inclusion related issues, provide the bank with diverse legal support, and promote diversity initiatives within their own communities.

Firms that demonstrate the deepest commitment to diversity are selected as finalists for the award. All finalists are interviewed and subsequently recognized for their achievement at a celebration event where the general counsel presents the award to the winning firm. The winner is selected based upon specific criteria including: statistics on how the firm staffs bank matters with diverse attorneys, a law firm self-evaluation about their commitment to diversity and inclusion, and an interview with the finalists about their commitment to diversity both within their firms and within their communities. Law firms are competitive by nature and this award, coupled with the bank's annual performance review which addresses progress on diversity, has significantly contributed to positive change within Bank of America's outside counsel firms.

Continuing the commitment

By the time Mastercard received the letter regarding ABA Resolution 113, the LFI team was poised and ready for the commitment to support the ABA initiative by affirmatively signing on. Starting in 2017 and moving forward, Mastercard will use the ABA Model Survey to properly and objectively evaluate its NAM Panel firms along diversity and inclusion measures, and as a basis to recognize those firms that are committed to diversity and inclusion.

The company will continue to transform the way it procures legal services from suppliers, including continuing to drive diversity and inclusion in the legal profession.

The ABA Resolution 113 which now has over 65 signatories is looking to start a movement among corporate clients to call law firms to task on their commitment to diversity and inclusion.

10 things corporate law departments can do to promote diversity among their outside counsel: