

**Memorandum to:** The Board of Directors

**From:** Doreen R. Eberley  
Director  
Division of Risk Management Supervision

Mark Pearce  
Director  
Division of Depositor and Consumer Protection

**Subject:** Proposed Revisions to Statement of Policy Regarding Minority Depository Institutions

### **Recommendation**

Staff recommends that the FDIC Board (Board) approve the publication of the attached Statement of Policy Regarding Minority Depository Institutions for public comment. The proposed Statement of Policy would enhance the FDIC's efforts to encourage and preserve minority-owned and minority-led financial institutions. The proposed revisions would update, strengthen, and clarify the FDIC's policies and procedures related to the existing framework for preservation and promotion of minority depository institutions (MDIs). The proposed revisions also: describe for the public the initiatives the FDIC has taken and will take to promote the preservation of MDIs and enhance communication between the FDIC and MDIs; define the program terms technical assistance, training, education, and outreach; and explain how the FDIC applies examination standards in assessing the performance of MDIs.

### **Background**

Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)<sup>1</sup> established several goals related to MDIs: (1) preserving the number of minority depository institutions; (2) preserving the minority character in cases of merger or acquisition; (3) providing technical assistance to prevent insolvency of institutions not now insolvent; (4) promoting and encouraging creation of new minority depository institutions; and (5) providing for training, technical assistance, and education programs.

Concur:

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<sup>1</sup> Pub. L. 101-73, title III, § 308, Aug. 9, 1989, 103 Stat. 353, as amended by Pub. L. 111-203, title III, § 367(4), July 21, 2010, 124 Stat. 1556, *codified at* 12 U.S.C. 1463 note.

On April 3, 1990, the Board adopted the Policy Statement on Encouragement and Preservation of Minority Ownership of Financial Institutions (1990 Policy Statement), which provided information to the industry regarding the FDIC's efforts in achieving the goals of Section 308.

During the 1990s, many MDIs continued to underperform industry averages for profitability and experience failure rates that were significantly higher than those of the industry overall. In order to discuss the challenges that MDIs faced, and identify best practices and possible ways the regulatory agencies could promote and preserve MDIs, the FDIC and other banking regulatory agencies -with assistance from several minority bank trade associations - invited officers from 156 MDIs to participate in a “Bankers and Supervisors Regulatory Forum” held in March of 2001. Approximately 70 bankers attended.

The FDIC also formed an Interdivisional Working Group to consider measures to modernize the policies and procedures related to MDIs. The working group incorporated many suggestions from the March 2001 forum into the revised Statement of Policy Regarding Minority Depository Institutions, adopted by the Board on April 2, 2002 (2002 Policy Statement), which detailed the framework by which the FDIC implements the goals set forth in FIRREA and administers its MDI Program to meet those goals.

Over the years, the FDIC has continued to modify and enhance its MDI Program to better carry out the FDIC’s efforts to meet the goals in section 308 of FIRREA. The revisions in the proposed Statement of Policy are intended, in part, to strengthen and improve the various aspects of the MDI Program and how each component of the MDI Program is carried out. The proposed revisions to the 2002 Policy Statement reflected in the proposal emphasize the FDIC’s enduring and strengthened commitment to, and engagement with, MDIs in furtherance of its goal of preserving and promoting MDIs.

In 2019, the FDIC established a new MDI Subcommittee of the Advisory Committee on Community Banking (CBAC), which held its inaugural meeting in December 2019. There are nine executives serving as members of the MDI Subcommittee, representing African American, Native American, Hispanic American, and Asian American MDIs across the country. The MDI Subcommittee provides advice and recommendations regarding the FDIC’s MDI Program to the CBAC for consideration. The MDI Subcommittee serves as a source of feedback with regard to the FDIC’s efforts to fulfill its statutory goals to preserve and promote MDIs; provides a platform for MDIs to promote collaboration, partnerships, and best practices; and identifies ways to highlight the work of MDIs in their communities.

In 2019, the FDIC also published an MDI research study, which explores changes in MDIs, their role in the financial services industry, and their impact on the communities they serve.<sup>2</sup> The study period covered 2001 to 2018 and looked at the demographics, structural change, geography, financial performance, and social impact of MDIs.

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<sup>2</sup> See FDIC MDI research study, published June 2019, *Minority Depository Institutions: Structure, Performance, and Social Impact* available at <https://www.fdic.gov/regulations/resources/minority/2019-mdi-study/full.pdf>

Additionally, in June of 2019, in order to discuss the challenges that MDIs face, provide information on best practices, and collaborate on possible ways the regulatory agencies can promote and preserve MDIs, the FDIC hosted the Interagency MDI and Community Development Financial Institution (CDFI) Bank Conference, *Focus on the Future: Prospering in a Changing Industry*, in collaboration with the Office of the Comptroller of Currency and the Board of Governors of the Federal Reserve System. More than 80 MDI and CDFI bankers, representing 61 banks, attended the two-day conference.<sup>3</sup>

All of these various efforts by the FDIC to enhance its MDI Program have informed the proposed revisions to the Statement of Policy. The FDIC has received suggestions from bankers at outreach and trade association meetings as well as feedback from the June 2019 conference. The MDI Subcommittee has also provided feedback to the CBAC for consideration and recommendation to the FDIC. Many of these suggestions and feedback have been incorporated into the revised Statement of Policy. The following section summarizes the significant changes from the 2002 Policy Statement.

## **Revisions to the Statement of Policy**

Under the proposal, the Statement of Policy would be revised in the following areas:

*Technical assistance and other engagement.* The proposed Statement of Policy clarifies that technical assistance is not a supervisory activity and is not intended to present additional regulatory burden. Further, the proposed Statement of Policy adds assurances that examination teams will not view requests for, or acceptance of, technical assistance negatively when evaluating institution performance or assigning ratings.

*FDIC outreach.* The proposed Statement of Policy was updated to provide additional outreach opportunities, including with the Chairman's office and the National Director for Minority and Community Development Banking.

*MDI Subcommittee.* The proposed Statement of Policy describes the newly established FDIC MDI Subcommittee, which serves as source of feedback on FDIC strategies to fulfill statutory goals to preserve and promote MDIs. The MDI Subcommittee may also make recommendations or offer ideas to the CBAC for consideration and presentation to the FDIC. The MDI Subcommittee provides a platform for MDIs to promote collaboration, partnerships, and best practices. The MDI Subcommittee also identifies ways to highlight the work of MDIs in their communities.

*Definitions.* The proposed Statement of Policy adds definitions for terms used in the MDI Program: technical assistance, training and education, and outreach. Technical assistance is defined as individual assistance that a regulator will provide to a MDI in response to an institution's request for assistance in addressing specific areas of concern. The proposed

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<sup>3</sup> See Chairman Jelena McWilliams Keynote Remarks, MDI and Community Development Financial Institution bank conference, *Focus on the Future: Prospering in a Changing Industry*, available at <https://www.youtube.com/watch?v=o0H6Ko00qTk&feature=youtu.be>.

Statement of Policy also notes that technical assistance is a tool to provide on-going support to institutions in an effort to facilitate timely implementation of recommendations, full understanding of regulatory requirements, and in some instances, the viability of the institution. Training and education programs consist of instruction designed to impart proficiency or skills related to a particular job, process, or regulatory policy. This training and education can be provided in person, through webinars or conference calls, or in a conference setting. Outreach consists of FDIC representatives meeting with financial institutions with a primary focus of building relationships and open communication and providing information and resources. Outreach is generally offered by the FDIC and can include meetings between financial institution management and senior FDIC management.

*Reporting.* The proposed Statement of Policy updates the reporting requirements of the FDIC under the FDIC's MDI Program, including the Annual Report to Congress on the Preservation and Promotion of Minority Depository Institutions pursuant to Section 367 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and Section 308 of FIRREA. The Section 367 requirements were enacted since the Statement of Policy was last updated in 2002.

*Measurement of effectiveness.* The proposed Statement of Policy establishes new requirements to measure the effectiveness of the MDI Program. The national director and the regional office staff will routinely solicit feedback from MDIs to assess the effectiveness of the FDIC's technical assistance, training and education, and outreach efforts and the MDI Program in general. The FDIC will track instances of technical assistance, training and education, and outreach and solicit feedback on the effectiveness of these activities by administering periodic surveys and holding discussions with bank management.

*Examinations.* The proposed Statement of Policy adds a description about how the FDIC applies rating systems at examinations of MDIs. Specifically, the proposed Statement of Policy describes how the Uniform Financial Institutions Rating System (UFIRS) and the Uniform Interagency Consumer Compliance Rating System (UICCR) are designed to reflect an assessment of the individual institution, including its size and sophistication, the nature and complexity of its business activities, and its risk profile rather than a comparison to peer institutions.

## **Conclusion:**

Staff recommends the Board approve the publication of the attached Statement of Policy titled "Statement of Policy Regarding Minority Depository Institutions" in the *Federal Register*.

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