Office of the Comptroller of the Currency

Minority Depository Institutions Advisory Committee

October 16, 2013 Meeting Minutes

The Minority Depository Institutions Advisory Committee (Committee) was convened for a meeting at 8:00 a.m. on October 16, 2013 at the Office of the Comptroller of the Currency (OCC), Constitution Center, Washington, D.C.

In accordance with Federal Advisory Committee Act, 5 U.S.C. App 2, and the regulations implementing the Act at 41 C.F.R. Part 102-3, the meeting was open to the public from 8:30 a.m. to 12:00 p.m., and from 1:00 p.m. to 2:45 p.m.

<u>Committee Members present:</u>

Larry Briggs, President and Chief Executive Officer, First National Bank & Trust Company, Shawnee, Oklahoma; Jeffrey Cheung, President and Chief Executive Officer, Gateway Bank Federal Savings Bank, Oakland, California; Guillermo Diaz-Rousselot, President, Continental National Bank of Miami, Miami, Florida; John Hou, Chief Executive Officer and President, Asian Pacific National Bank, San Gabriel, California; Preston Pinkett III, President and Chief Executive Officer, City National Bank of New Jersey, Newark, New Jersey; Joe Quiroga, President, Texas National Bank, Mercedes, Texas; and Norman J. Williams, Chairman and Chief Executive Officer, Illinois-Service Federal Savings and Loan Association, Chicago, Illinois.

<u>Staff from the OCC present:</u>

Comptroller of the Currency Thomas J. Curry, Assistant Deputy Comptroller Thomas Angstadt, Senior Counsel Charlotte Bahin, Assistant Director for Legislative and Regulatory Activities James Basham, Bank Examiner (Industry Analyst) Debra Burke, Congressional Affairs Specialist Arnie Cohen, Senior Advisor to the Senior Deputy Comptroller for Midsize and Community Bank Supervision and Designated Federal Official Beverly Cole, Senior Advisor for Outreach and Minority Affairs Glenda Cross, Deputy Comptroller for Thrift Supervision Donna Deale, National Bank Examiner and Industry Analyst Ralph DeLeon, Supervisory Information Analyst Timothy Forsberg, Deputy Comptroller for Compliance Operations and Policy Grovetta Gardineer, Deputy Comptroller for Public Affairs and Communication Bob Garsson, Senior Deputy Comptroller for Midsize and Community Bank Supervision Jennifer Kelly, Bank Examiner (Financial Analysis) Robert Lee, Director for Congressional Liaison Carrie Moore, Director for Community and Consumer Law Donna Murphy, Community Development Lending Manager William (Bill) Reeves, and Deputy Comptroller for Community Affairs Barry Wides.

Public Observers

Erika Jeffers, Office of Congresswoman Maxine Waters
Robert Mooney, FDIC

8 a.m. – Private Administrative Session

This portion of the meeting was used to address administrative matters.

8:30 a.m. – Public Meeting Introduction

Beverly Cole, OCC Senior Advisor to the Senior Deputy Comptroller for Midsize and Community Bank Supervision and the Committee's Designated Federal Official, declared the meeting open and introduced Thomas J. Curry, Comptroller of the Currency. Comptroller Curry welcomed the committee members and indicated his personal commitment to preserving the health and viability of minority depository institutions. He indicated that the OCC is a resource for minority banks and is committed to supporting innovation. He indicated that the meeting would be an avenue to discuss issues facing minority institutions, including: recent rules enacted by the Consumer Financial Protection Bureau (CFPB), specifically the potential impact of the Qualified Mortgage Rule; and current and future financial challenges. The Comptroller then introduced Jennifer Kelly, Senior Deputy Comptroller for Midsize and Community Bank Supervision and Beverly Cole, Senior Advisor to the Senior Deputy Comptroller for Midsize and Community Bank Supervision and the Designated Federal Official for the MDIAC.

8:45 a.m. Challenges Faced by Minority Institutions

Ms. Cole encouraged the committee members to share their views and comments on challenges faced by minority institutions. A MDIAC member expressed his concern with the impact of the 150% risk-weighting requirement for past due loans, especially in judicial foreclosure states. He indicated that some foreclosures have exceeded 1,000 days, which puts banks located in the 22 judicial foreclosures states at a disadvantage. Comptroller Curry indicted that the regulators looked at the impact of the new capital rules, including the risk associated with the state foreclosure laws, in setting the risk-weight requirements. He noted that based on the comment letters received from bankers, the regulators retained many of the former capital standards for residential loans. He went on to express his concern that the foreclosure process is broken and that the backlog in Florida, for example, may argue for minimum standards. He indicated that there needs to be a balance between banker needs and bank customers. Several of the committee members then weighed in and commented on issues they are facing in foreclosing on property.

Another MDIAC member expressed his concern with competition in the mortgage market, specifically with mortgage brokers. Given the new rules, bankers will not be able to meet the demand, so brokers who are not federally regulated will fill the void. He noted his concern with the return of predatory lenders. Comptroller Curry noted that the CFBP will need to gear up for the non-banks, and that he will follow-up on this issue with CFPB Director Richard Cordray. The MDIAC member noted that he is seeing the return of subprime lending, which is focused on the unmet market demand. He indicated that mortgage bankers are meeting the demand, and that many former mortgage brokers are getting into the mortgage banking business. Comptroller Curry indicated that we need a unified system, with appropriate regulatory oversight and that there needs to be minimum net worth requirements for mortgage bankers. Another committee member noted that the new mortgage rules are providing more opportunities to "outsiders" to provide products to the underserved, and that it is more difficult for banks to meet the needs of the community. A MDIAC member indicated that the legal risk, regulatory risk and pricing risk impact bankers willingness to lend. SDC Kelly indicated that the OCC understands the litigation risk, but that the agency will continue to look at the safety and soundness of residential lending the same way that we have done in the past. Another MDIAC member stated he is concerned that the mortgage rules have created a "new industry" for attorneys. He also noted that as a member of a CFPB committee, that there has been discussion on the litigation risk issue and that the CFPB was receptive to the concerns of the bankers. A MDIAC member noted that they would need to "re-tool" the residential lending process at the "11th hour" because the rules are being re-defined; this could affect compliance. He also expressed concern that QM loans will be looked at as less safe. SDC Kelly noted that the agency will provide guidance to the examiners to provide clarity and that we will be looking to see if "reasonable efforts are in place." Another MDIAC member wanted to know: "How do we carve out a model that allows community banks to meet the needs of the community?" Another member noted that there would be "a lot of seasonal workers that will be underserved under the new rules." In response to comments made by the MDIAC member that there needs to be a separation from subprime and predatory lending, Comptroller Curry noted that statutory language addresses the predatory issue to create a distinction between the two.

One MDIAC member expressed concern with the required monitoring of smaller dollar commercial real estate loans, and that it is very expensive. He noted that it might not be cost effective to lend small dollar loans if the cost to administer is too great and that there needs to be a differentiation for the monitoring of loans by small versus large banks. The MDIAC member asked for guidance on what would be reasonable for the ongoing credit review of these loans. ADC Angstadt indicated that the examiner expectations for ongoing credit review for well-secured smaller loans would not be as great as they would be for larger credits. He also noted that the examiners understand that it is more difficult for banks to obtain ongoing financial information on small dollar borrowers.

Another member indicated that there is a need to re-look at regulations and to reduce the burden on banks. A representative from the OCC noted that the agency would be looking at the regulations in the near future to see if any can be removed. One committee member mentioned that he likes the format and summaries of new guidance that is sent out by the OCC on a quarterly basis. While noting that the OTS previously regulated his bank prior to the transition, a MDIAC member mentioned that there was a "real change" (greater depth of understanding) post transition at the senior management, ADC and examiner levels.

Comptroller Curry briefly discussed the agency's flexibility concerning the capital structures for minority institutions as outlined in OCC's Policy Statement. A MDIAC member indicated that his bank struggles with attracting capital in his marketplace, and that they need to go "outside" for capital. The committee members agreed that the flexibility in OCC's Policy Statement of the minority status is important.

One MDIAC member wanted to know if minority banks can "get to the table" to participate in acquiring branches of failed banks. Comptroller Curry indicated that the OCC would get the word out on upcoming resolutions to encourage options for minority banks. SDC Kelly indicated that it is an FDIC process, and that the OCC would talk it through internally to see what we could do. The OCC could have a conversation with the FDIC to see if there are opportunities.

A MDIAC member mentioned the importance of sharing issues with other community bankers in their market. Comptroller Curry indicated that the members need to develop a network of fellow bankers. SDC Kelly indicated that the agency would be open to a targeted outreach, if the committee members thought it would be helpful. The OCC will distribute a list of institutions.

Beverly Cole suggested to the committee members that they could send an email if there are any topics that they think would be good to cover at an outreach. SDC Kelly mentioned that there will be three outreach sessions before the end of 2013 covering: third party servicers, the new mortgage rules and interest rate risk. A committee member mentioned that they need guidance on how to best prepare for the new loan rules; what will be the examiners' expectations? SDC Kelly indicated that expectations would be covered during an outreach call with bankers and during meetings with examiners. She also noted that the expectations would be tailored for community banks. In responding to a question on the most prevalent MRAs, the committee members were informed that credit administration MRAs were the highest, including Allowance for Loan and Lease Losses MRAs. They were also informed that as OCC regulated institutions details on the most common MRAs could be found on the agency's BankNet web page. SDC Kelly also indicated the OCC sends quarterly letters that list new guidance as well as commentary on the most relevant issues; a committee member indicated that the letters are "much appreciated."

A committee member wanted to know if bankers could be added to examiner training sessions. SDC Kelly indicated that joint training would not be possible, but the OCC could come out to a bank and conduct training that covers a particular area and that there are also director workshops. Another committee member suggested that there be a strategic risk session with bankers (how to do business planning), where the agency could discuss successful and less successful models. NBE Ralph DeLeon mentioned that there is a training session called "Mastering the Basics" that covers this area. The MDIAC member mentioned that it would be best to have the business plan guidance discussions outside of the examination process. The committee members were reminded that training fees are waived for representatives from minority institutions.11:00 a.m. Interface with CFPB [including a discussion on Qualified Mortgage (QM) and Qualified Residential Mortgage (QRM)]

Deputy Comptroller Gardineer discussed her continued interactions with the CFPB. She indicated that community banks would not have much interaction with the CFPB, except that their research arm might reach out to them. The committee was informed that there is a consumer issue steering committee, which is a centralized process to ensure issues are properly handled.   Also, the CFPB is responsible for consulting with all the prudential regulators when devising proposed rules. There is an MOU on coordinated supervision (May 2012), which formalized how the regulators meet the Dodd-Frank statutory mandates. Lastly, she noted that senior supervisors meet monthly with their counterparts at the CFPB and that there is continued contact on a weekly basis; we also provide feedback that we receive from bankers. As a member of a CFPB banker committee, Mr. Diaz-Rousselot informed committee members that they can raise issues through him, and noted that the committee meets twice a year, with additional opportunities to communicate outside the meetings.

QM/QRM Concerns

A MDIAC member wanted to know how a bank is impacted if they chose the small lender exception. Is the bank covered by the ability to repay rule? It was mentioned by a committee member that it "puts a target on the back of exempt banks." DC Gardineer mentioned that litigation risk is clearly there, whether you are exempted or not. She mentioned that a bank needs to "document the file" when a loan is outside the safe harbor space.   The MDIAC member mentioned that he is concerned his bank will no longer be able to lend to farmers given their income volatility. He indicated that he is having weekly internal meetings with staff on the QM issue and that the bank will change its products to address the added risk, if necessary. Two of the committee members were concerned with the refinance of maturing balloon loans in situations where a borrower's financial condition might not meet QM standards (do they foreclose on a performing residential loan that has matured or do they refinance the loan and risk litigation down the road). OCC representatives encouraged the committee members to reach out to other bankers, and that they could meet together; and that there would be no requirement to make their meetings pubic.

12:00 p.m. Adjournment for Lunch

1:00 pm BankNet Demonstration

Bank Examiner Debra Burke led a discussion (including a demonstration) on the types of information that could be found on the OCC's BankNet website. She noted that the site is only available to OCC regulated institutions. She noted that the site allows for information to be disseminated much more quickly. She highlighted some of the benefits, including the stress test model, web conference opportunities, and an improved help desk feature.

Discussion of the Condition of MDIs, including OCC's Analysis Reports

Bank Examiner Robert Lee and Supervisory Information Analyst Timothy Forsberg led a discussion on the financial performance of minority banks, and provided a demonstration on how the institutions can make use of the Comparative Analysis Reporting tool that is available on BankNet.

2:30 p.m. Public Comments and Wrap-up

The committee members were informed that they would be notified in the next week or so as to the meeting dates for 2014. It was recommended by committee members that there should be three meetings next year. Committee members were asked to provide Beverly Cole with proposed agenda items. It was suggested by OCC representatives that one of the meetings could be opened to all OCC regulated all minority institutions, where the committee members would meet for a half day and then have a meeting with interested minority bankers the next day.

Public Observers

Designated Federal Official Beverly Cole acknowledged the public observers in attendance: Robert Mooney from the FDIC and Erika Jeffers from the Office of Congresswoman Maxine Waters. Robert Mooney indicated he did not have any comments when he exited the meeting at . Ms. Jeffers was asked if she had any questions or comments. She indicated that she had several questions, but thought that it would be best if she sent them in an email to Congressional Affairs Specialist Arnie Cohen.

2:45 p.m. Adjourned

Designated Federal Official Cole adjourned the meeting.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

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Beverly F. Cole
Designated Federal Official