

Office of the Comptroller of the Currency  
Minutes of the Meeting of the  
Minority Depository Institutions Advisory Committee  
October 7, 2014

The Minority Depository Institutions Advisory Committee (MDIAC) convened for a meeting at 8:00 a.m. on October 7, 2014, at the Office of the Comptroller of the Currency (OCC) headquarters located at 400 7<sup>th</sup> Street, SW, Washington, DC.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public from 8:00a.m. to 2:00 p.m.

**Advisory Committee Members Present**

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

**OCC Staff Attending**

Comptroller of the Currency Thomas J. Curry; Senior Deputy Comptroller (SDC) for Midsize and Community Bank Supervision Toney M. Bland; Analyst to the Deputy Comptroller for Thrift Supervision Charlotte Bahin; Community Development Expert David Black; Senior Advisor to the SDC for Midsize and Community Bank Supervision (MCBS) and Designated Federal Officer Beverly F. Cole; Senior Advisor for Outreach and Minority Affairs Glenda Cross; Deputy Comptroller for Thrift Supervision Donna Deale; Assistant Deputy Comptroller (ADC) Elizabeth Ferradas; Deputy Comptroller (DC) for Compliance Policy Grovetta Gardineer, Director for Congressional Liaison Carrie Moore; Community Relations and Minority Affairs Specialist Andrew Moss; Director for Community and Consumer Law Donna Murphy; Bank Examiner (Senior Risk Expert) Capital Policy Margot Schwadron; and DC for Community Affairs Barry Wides

**Public Attendees**

Warren Hochbaum, Chief Bank Examiner, Banking Bureau, Government of the District of Columbia, Department of Insurance, Securities & Banking

**8:15 a.m. – Public Meeting**

**Opening Remarks**

Beverly Cole, the OCC's Senior Advisor to the Senior Deputy Comptroller for MCBS and the MDIAC's Designated Federal Officer called the meeting to order at 8:15 a.m. and welcomed attendees. Ms. Cole turned the meeting over to Comptroller Curry. He provided brief comments including his acknowledgement that minority depository institutions are special community

banks with a special mission, he indicated their value is noted in OCC's annual report – and emphasized the critical importance for strategic planning, and the need to focus on solutions even though we might encounter dead ends along the way. His comments also emphasized the value in having a collaborative approach (including those outlined in a white paper the OCC is developing) and the importance of managing cybersecurity with the right resources, and understanding of regulatory expectations.

### **Meet and Greet Senior Deputy Comptroller for Midsize and Community Bank Supervision**

Comptroller Curry then introduced Toney Bland and noted this was SDC Bland's first meeting with the MDIAC in his new role as the SDC for MCBS. SDC Bland also stated that he is a National Bank Examiner and has worked 33 years for the OCC. He shared that he started his career in Milwaukee, WI (7 years) working with banks of all sizes in both urban and rural communities. He then spent another 15 years in a variety of roles including: Field Office Analyst, ADC for Midsize Bank Supervision, and Senior Advisor for MCBS. Most recently he spent 9 and ½ years as the District Deputy Comptroller for the Northeastern District (covering 14 states). SDC Bland indicated that these roles provided him the opportunity to be attuned to community bank challenges and success factors. And, he hopes we can quickly get to solutions. He further indicated that what he says to minority bankers he would say to community bankers and vice versa, and that he is looking forward to working with the group. There was further discussion among the group that a strength of the OCC is its attention to leadership and that leadership's commitment to the agency. OCC discussions (external and internal) are helped by the recent hands on experience of its leadership.

### **Review of MDIAC Milestones 2012 - 2014**

Ms. Cole reported on the MDIAC's Summary of Accomplishments and provided the members a copy of the OCC's Annual Report to Congress regarding the Preservation of Minority National Banks and Federal Savings Associations. Some of the items noted included:

- Two Successful meetings held in fiscal year 2013 and 2014
- Discussions on a variety of topics held with Comptroller Curry and other members of OCC senior management
  - Challenges faced by MDIs
  - Clarification of OCC's policy definition of MDIs
  - Discussion of the overall condition of MDIs supervised by OCC
  - Development of technical assistance in two critical areas – Strategic Planning and Cybersecurity
  - Delivery of technical assistance on Strategic Planning
  - OCC's interface with CFPB (including a discussion on QM and QRM)
  - Reliance on third-party vendors
  - Ways to encourage new MDI charters
  - Treasury deposit programs - including a presentation by Donna Gambrell, Director of Community Development Financial Institutions (CDFI) Fund at the Department of the United States Treasury on the CDFI Program
  - Representative Maxine Waters addressed the group and reconfirmed her continued support for the role minority institutions play in their communities
  - Demonstration of OCC's BankNet

## **Roundtable Discussion with Members**

### **Cybersecurity**

Following introductions of the committee members and individuals in attendance for the OCC, Comptroller Curry shared with the group that he had the honor of speaking at the National Bankers Association meeting last week. Much of his comments centered on cybersecurity challenges – the cost and burden of meeting the challenges that pose a major threat to the system.

A MDIAC committee member reported that the average customer's age is 50 – but to be competitive in his market he must have updated cyber products. Some of the banks have been “hit” on their website, applications, and are weary.

OCC representatives asked whether we give enough guidance? Yes, regarding third party service providers (TSPs). However, some felt there was a gap within their organizations from the Chief Information Officer (CIO) to management.

Other members stated anyone with access to the Federal Reserve System should be required to have as much defense as anyone else. It should not be up to individuals to determine what is needed – especially if they cannot protect the information. Another member indicated that bankers can allow people to read their emails on their phones but it is expensive to do so. He advocated that if the service cannot be offered properly then regulators should remove their license.

Another member indicated that the internal discipline demonstrated by the banker does not translate into how bank customers will handle themselves. The cost is extraordinary. In prior years, smaller banks enjoyed correspondent bank business but many have gotten out of that business even though the demographic has not changed. Some offer customers ways to protect themselves such as: shredfest and identify theft classes. Public education is as important as all the internal protections.

It was noted that there is an ongoing concern regarding continued access to the payment system. What is the level of risk in your institution? What if you have second tier access – access through a correspondent bank. The MDIAC member responded that it costs about \$200,000 per year to process independently.

OCC asked the bankers if they were the source of weakness and not allowed to process what would they do? A MDIAC member responded that many of the newer cybersecurity issues happened outside the banking system. And, that there is a need to make those companies accountable. There is concern that the banking institutions are accountable for making the customer whole – even when it is unclear where it started. There needs to be discussion and action that if the fraud is on the retail side (retail industry) then the retail industry and not the banking industry needs to be accountable to make the bank customer whole.

Another MDIAC member shared an incident where despite firewalls, and other precautions, an institution was attacked. The attack was caught within 30 minutes. However, a concern is that industry consultants report that only about 40% of attacks are caught that early if at all. The MDIAC membership indicated they want a diverse industry (products and services) but cyber threats could influence the makeup of those products and services.

Another MDIAC member stated that institutions need to separate out customer interface from the back-end processes. If the minority piece is the face on card, i.e. relationship with the customer, then perhaps bankers can join together on the back-end piece – what banking used to be is not what it is going to be. The smaller the bank, the harder it will be to manage. It was suggested that solutions for various clusters of institutions would need to be developed. This MDIAC member stated that currently regulators are providing advice but we now must require actions. He shared entry of an attack from his office. And, questioned how do you close the gap between the Chief Executive Officer/Chief Information Officer (CEO/CIO) other than relying on audit, a strong CIO and a strong Information Technology Department? This member stated he would welcome examples of what happens in the industry. MDIAC members indicated examples included incidents of phishing off an Automated Teller Machine (ATM) network between 12/24 to 1/2 of each year – the bank then has the cost of replacing ATM cards and Personal Identification Numbers (PINs). In another instance the bank started getting PIN based international transactions; and yet another example was access was gained through the bank's copiers.

The committee members discussed the situation where as the community becomes aware of services (including those susceptible to cyber threats) that the cost for services increases – supply and demand theory. They also stated that they needed to better understand which services to purchase to assist them in protecting the bank and its customers from cyber threats. And, they indicated a desire to create an exchange to institutionalize the exchange of information. All agreed it was critical to get executive management and the Board of Directors (BODs) focused on this risk before they were dealing with a problem or crisis. One person asked if OCC could provide a sample program, policy, and procedures so small banks could modify them instead of developing their own. OCC representatives indicated that the examination handbooks and examination procedures cover what we would look for in a program, policy and process. It would be difficult to write a generic program, policy or process as each bank has a unique operating environment - people, products, services, controls, etc. And, therefore each bank's program, policy and procedures should be tailored to the uniqueness of the institution. OCC representatives also stated it is important for bank executive management teams and their BODs to be (1) aware of potential threats, (2) establish best defenses for critical areas, and (3) have a plan of how to respond to financial and reputation risks when it happens.

The bankers were asked whether cyber security is viewed as an IT issue or a bank issue and where does it fall within their risk perspective? A MDIAC member stated it is a bank-wide issue as well as an industry issue. Some banker discussion points included:

- If cybersecurity will always be a threat then they need to spend as much time on the barriers – development of guidance, education/training, and recovery as they do on other aspects of banking.
- Credit losses are not the biggest risk anymore. It is a different business model.

- Some are pushing services to third party service providers (TSPs), who can hold the TSPs such as Fiserv accountable? OCC representatives indicated OCC does look at Fiserv in our regulatory role under the Bank Service Corporation Act. But, bankers cannot rely on OCC as a sole source. OCC will use enforcement action, if appropriate, with a TSP as well as a requirement that the TSP communicate with their customers. There was discussion that bankers collectively have more clout in negotiating with TSPs. As a result, some banking organizations are planning to renegotiate with TSPs. In addition, others have formed groups to determine how best to plug into TSPs. It is noted that historically many of these groups have been CIO focused rather than CEO focused and it may be useful to have a mix.
- One institution reported it created its first ever Vice President of Digital Information.
- There was a discussion around how bankers determine which products and services may not be worth the risk. Remote deposit capture was a service that many thought would become a standard service within one year just for bankers to remain competitive with counterparts. One member indicated that E-banking has not decreased lobby traffic. However, that was not the experience of most – examples included with Apple Pay and ATMs accepting cash, a branch was closed as analysis revealed the customer base was moving toward more technology and less face-to-face interaction. Others indicated that technology has required the banker become more educated as today's customer base is more technology savvy.

### **Capital Planning and Basel III**

Ms. Cole introduced Margot Schwadron, Senior Risk Expert in the Capital Policy Unit. Ms. Schwadron provided clarity on issues related to Basel III Capital requirements. Ms. Schwadron indicated that there were not many changes for the denominator of the risk-based capital ratios. The big area where changes are apparent would be securitization as the Dodd Frank Act required the agencies to eliminate the use of credit ratings and the new, higher risk weight for certain risky commercial real estate loans, referred to as high volatility commercial real estate (HVCRE). We did not apply all of Basel III to community banks; community banks may make a one-time election to opt out of including in regulatory capital of unrealized gains and losses on available-for-sale debt securities and are not subject to the credit valuation adjustment capital charge for derivatives or the Basel III leverage ratio . When developing the final capital rule, the agencies started with Basel III then eliminated aspects that did not make sense for community banks. Some elements of the definition of capital, particularly determining the amount of certain assets subject to deduction, can be difficult to understand from the rule text. For that reason, more detail, including examples, was included in the Call Report instructions. It was also stated that the policy decisions that all banks should be subject to certain aspects of Basel III, e.g. the common equity tier 1 capital requirement and the capital conservation buffer, were made at the highest level of the agencies. Economic analyses conducted by the agencies when finalizing the rule found that most community banks that met the existing capital requirements would meet the new minimum capital requirements of the revised rule.

The concept of quality capital is also important in capital planning. Bankers are encouraged to think about what the bank can do in relation to its capital base and its steady earnings. It is possible a well performing bank will not look like it did in the past. Discussions that OCC moved away from the old benchmark of 1% Return on Average Assets (ROA). Our focus today is more on the quality and management of a bank's earnings rather than the number. As many banks' ROAs exceed 2% it is difficult to be 1 rated south of 1%. It is important to have realistic forecast and meet them. When considering dividends, it is also important to recognize that stronger capital requirements decrease the need for a risk premium.

One MDIAC member recognized the importance of capital preservation but stated things are out of bankers' control when you think about capital and business continuity in context to issues like cybersecurity. He further stated that there are many mechanisms to deal with challenges – but bankers need to be nimble enough to deal with the new risks. Historically, protocols have been geared more to address natural disasters. But cybersecurity transactions do not wait.

One MDIAC member suggested OCC spend time with CDFI banks on the amount of monies allocated to CDFI banks. DC Barry Wides indicated he believed at the staff level CDFI banks will need a statutory remedy to do a set aside if they would like to have a non-profit go through a safety and soundness examination. Reportedly non-profits are not as risky as minority depository institutions. Community Relations and Minority Affairs Specialist Andrew Moss, indicated there are changes to how U.S. Treasury looks at risk for these institutions.

Comptroller Curry shared that the OCC has embarked on several strategic initiatives, and our adopted strategic plan is on our website. We think we are a top preeminent regulator and we can be more efficient and that our Enterprise Risk Management area and others are assessing our processes and allocation of resources. The Comptroller does not want to be in a position of do as we say – not as we do. We are also looking at how we conduct examinations. Here also we want to be more efficient and less burdensome. We are looking at how we do more work offsite with the use of technology. While also recognizing the importance of being onsite and therefore want to strike the correct balance. So, we are considering where we do our work and what work do we do. We recognize we have lots of flexibility in what we focus on – with the exception of the statutory mandates. Another aspect is that supervision is not a three or four week examination. We use the quarterly offsite process to have dialogue regarding products and services and other matters. Bank supervision occurs when we have that dialogue. Also, we want to stress the expertise we have that is available to community bankers supervised by the OCC – lawyers, accountants, subject matter experts, etc. Effective and meaningful supervision is OCC's focal point. It is important that we do it well on the ground.

There was also mention of the EGRPRA process which occurs every ten years. OCC is taking a hard look at making changes that we can control. Our plan is to be more open when we can control the changes, examples include: Volker Rule and expansion of the examination cycle for 1 and 2 rated institutions.

A MDIAC member reported that as a banker – a lot of gray haired bankers are getting ready to retire. He has noticed the OCC has a lot of newer employees. OCC representatives explained that we also recognized we like many other agencies and companies would have a retirement bubble. As a result, for the past ten years we have focused on hiring new examiners, including industry hires. We have a number of initiatives underway to provide leadership, career development, training and employee retention. Also, succession planning is an overlap with our training and hiring efforts. OCC also appreciates bankers where we have run training teams during the examination. We recognize that going forward all examiners will have information technology expertise and also know credit, capital markets, etc. As discussed earlier, we anticipate less time onsite during examinations and less frequency of examinations. However, we also recognize that as we evolve to be an examiner one must examine; just as surgeons must perform surgery.

In one instance, a training team member sent the banker and email even though the banker was just next door. SDC Bland communicated that there is also more opportunity for bankers at the CEO and CIO levels to communicate with the ADCs regarding a variety of topics – strategic planning, cybersecurity, Allowance for Loan and Lease Losses, etc...

Another MDIAC member indicated that when they took their job at their bank – they would not have been successful without the examination reports. He believes that regulators have a role to play in the success of the institution and sometimes that is understated, but the value of having a third party looking over your shoulder should not be discounted.

One MDIAC member asked if the OCC had thought about offering training to the bankers – allowing the bankers to attend training with OCC examiners. OCC representatives indicated it was not likely that we would train the bankers and the examiners together. Also, OCC conducts a variety to subject matter workshops annually on topics such as compliance risk, credit risk, risk governance and one targeted specifically for outside directors – Mastering the Basics. The banker asked that OCC consider a pilot focused on MDIs – teach the teacher. Per the bankers, the biggest challenge is lenders and incorporating millennials into their organization. Another member stated it is difficult to attract people into banking. Yet another member indicated that MDIs for many years have been the training ground for people to advance to larger banks that can afford to buy trained diverse talent. OCC representatives indicated that a possible strategy could be to recruit from technical schools, starting with people that are from the bank's local area that may want to stay in the area long-term.

### **BSA/AML Requirements**

MDIAC members asked that OCC address its appetite for streamlining BSA/AML requirements. As a result, Deputy Comptroller Grovetta Gardineer spoke to the group. She highlighted information in the OCC's Semiannual Risk Perspective which indicates key risks include: strategic, compliance –with BSA/AML at the top since it continues to be heightened and

increasing with an instantaneous reach as technology and cybersecurity also heighten the risk in this area. Also operational risk is present with BSA/AML concerns. These reasons for concern, as well as the reputation risk associated with BSA/AML risks, makes it difficult to say OCC has an appetite to support streamlined BSA/AML requirements.

One member stated that the fear in the community bank world with international business is fear of doing everything right and not identifying everything. This results in more risk from the regulator. DC Gardineer stated that zero tolerance is not what OCC is looking for. Our longstanding approach is the bank must have a reasonable program. If bankers are hearing differently or seeing differently let SDC Bland know. A MDIAC member indicated institutions may be leaving some business on the table because of their risk appetite. In some cases, the banker opened accounts that they subsequently closed. They want to conduct business in a prudent manner – not running away. And, in some instances bankers are getting calls from Homeland Security asking them to keep accounts open – but the bank gets nothing out of this. The members expressed concern about the Arab Bank ruling. The court said to jurors that the bank facilitated terrorism because the bank facilitated the flow of money. This is counter to OCC's platform that bankers do not need to know your customer's customer. However, Department of Justice (DOJ) follows the people which leads them to the transactions in the banks. Bankers need to know what constitutes normal transaction activity for a particular business – example if \$30,000 per month is normal expected transaction activity and the business generates \$130,000 in a month what do you do? Only national security standard – now police, district attorney, detectives, bankers find the smoke – FINCEN and regulators determine if a fire is there. Bankers must be diligent about filing SARs. OCC lets DOJ know that we as the prudential regulator are not detectives.

A MDIAC member asked who supervised Wal-Mart? Reportedly opening an account is a bad experience for customers – so people are driven to other options (check cashers, Wal-Marts, etc.). OCC representatives indicated the Money Service Business regulator is the Internal Revenue Service (IRS).

DC Gardineer reported OCC determined that there are some deficiencies and a need for enhanced regulation.

### **Consumer and Fair Lending Issues**

A MDIAC member stated he wanted to complement the OCC for not following CFPB on its proposal to post customer complaints on its website. OCC representatives indicated we plan to continue our model of reviewing these complaints and that CFPB only has responsibility for the larger banks. OCC's approach is to first ensure there is not a misunderstanding. In response to a question regarding how the OCC addresses fair lending and disparate treatment issues Director for Community and Consumer Law Donna Murphy said that bankers should treat similarly situated customers in the same manner. That does not mean that all customers will be treated the



same. Bankers can best demonstrate appropriate treatment with documentation of procedures, underwriting standards, pricing criteria, etc. The bankers discussed the fact that customers tend to come to MDIs after they have been denied service by others. Reportedly, that can skew the HMDA data as MDIs may have heightened denials. Also HMDA data does not contain all the relevant data elements for analyzing possible discrimination. If HMDA contained information on creditworthiness, regulators would be able to do more analysis. DC Gardineer reported OCC is looking at ways to take these anomalies into account in scoping fair lending examinations, thereby identifying risk but eliminating the need to return to the same banks over and over because the HMDA data generates false positives.

A MDIAC member reported that, as a community banker, if OCC conducts a CRA examination and looks at small business lending it seems it is done in two silos, since a bank can comply with CRA but still have a fair lending issue. It was reported that in this area as well some data is invalid or skewed as there may be a limited number of applications with decision points i.e. three of five credits denied. It seems to be a waste of resources that this type situation is not taken into account. DC Gardineer reported OCC rolled out a fair lending risk assessment on a pilot basis. It should be a useful and helpful tool to the examination process. She also emphasized the risk assessment is not a checklist in the fair lending space – and emphasized the importance of ensuring that decisions be documented properly.

Next the members engaged in a general discussion about staffing and the cost of staffing highly trained staff in certain areas. Some of those areas include: IT staff, compliance staff, BSA/AML and Know Your Customer (KYC) staff.

### **Certificates of Appreciation**

The OCC presented the MDIAC members with Certificates of Appreciation for their service from 2012 – 2014.

### **Future Meetings and New Member Selection Process**

Ms. Cole reminded members that nominations for 2015 members were selected subject to successful completion of background and IRS tax checks. In addition, the 2015 slate must be approved by the Department of Treasury.

Ms. Cole told the Committee that the 2015 meeting dates have been tentatively scheduled for Tuesday, February 7, 2015 and Tuesday, September 15, 2015 in Washington, D.C.

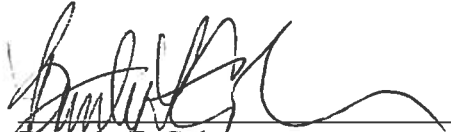
### **Public Statements, Wrap up and Adjourn**

Written public statements were not submitted in advance of this meeting. Warren Hochbaum, a state regulator, offered an oral statement that generally summarized the meeting content as reported in the meeting minutes above.

Comptroller Curry and SDC thanked the members of the committee for their participation and involvement with the committee and reiterated the value to the OCC of the members' participation in the committee. The members complemented Ms. Cole for her work on committee.

Ms. Cole adjourned the meeting at 2:30 p.m.

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



Beverly F. Cole  
Designated Federal Officer