The Meeting of the Advisory Committee on Community Banking

of the

Federal Deposit Insurance Corporation

Held in the Board Room

Federal Deposit Insurance Corporation Building

Washington, D.C.

Open to Public Observation

July 23, 2014 – 9:00 A.M.

The meeting of the FDIC Advisory Committee on Community Banking ("Committee") was called to order by Martin J. Gruenberg, Chairman, Federal Deposit Insurance Corporation ("FDIC") Board of Directors.

The members of the Committee present at the meeting were: Robert F. Baronner, Jr., President and Chief Executive Officer ("CEO"), Bank of Charles Town, Charles Town, West Virginia; Cynthia L. Blankenship, Vice Chairman and Chief Operating Officer, Bank of the West, Grapevine, Texas; Pedro A. Bryant, President and CEO, Metro Bank, Louisville, Kentucky; Leonel Castillo, President and CEO, American Bank of Commerce, Provo, Utah; Carolyn "Betsy" Flynn, President and CEO, Community Financial Services Bank, Benton, Kentucky; Jane Haskin, President and CEO, First Bethany Bank & Trust, Bethany, Oklahoma; James Lundy, Chief Executive Officer, Western Alliance Bank, Phoenix, Arizona; Kim D. Saunders, President, CEO and Director, M & F Bancorp, Durham, North Carolina; Dorothy A. Savarese, President and CEO, Cape Cod Five Cents Savings Bank, Orleans, Massachusetts; David Seleski, President, CEO and Director, Stonegate Bank, Fort Lauderdale, Florida; Mark Stevenson, President and CEO, Capital Pacific Bank, Portland, Oregon; Alan Thian, President and CEO, Royal Business Bank, Los Angeles, California; and Derek Williams, President and CEO, First Peoples Bank, Pine Mountain, Georgia.

Mark Hesser, President, Pinnacle Bank, Lincoln, Nebraska and Joseph G. Pierce, President and CEO, Farmers State Bank, Lagrange, Indiana were absent from the meeting.

Members of the FDIC Board of Directors present at the meeting were: Martin J. Gruenberg, Chairman, Thomas M. Hoenig, Vice Chairman and Jeremiah O. Norton, Director (Appointive). Corporation staff who attended the meeting included: Willa M. Allen, Steven O. App, Stephen Beard, Luke H. Brown, Richard A. Brown, Patricia A. Colohan, Kymberly K. Copa, Alice Chang, Lynn B. Dallin, Christine M. Davis, Patricia B. Devoti, Doreen R. Eberley, Bret D. Edwards, Diane Ellis, George E. French, Suzy S. Gardner, Shannon N. Greco, Michele A. Heller, Chuck Hunter, Jessica A. Kaemingk, Arleas Upton Kea, Alice J. Leslie, Alan W.

Levy, Christopher Lucas, Roberta K. McInerney, Jonathan N. Miller, Rae-Ann Miller, Kathy L. Moe, Robert W. Mooney, Mark S. Moylan, Christopher J. Newbury, Thomas E. Nixon, Elizabeth Ortiz, Richard J. Osterman, Jr., Mark E. Pearce, Sylvia H. Plunkett, Claude A. Rollin, Barbara A. Ryan, Robert Storch, James C. Watkins, and Cottrell L. Webster.

William A. Rowe, III, Deputy to the Chief of Staff and Liaison to the FDIC, Office of the Comptroller of the Currency ("OCC") was also present at the meeting.

Chairman Gruenberg welcomed the Committee and provided an overview of the day's agenda. The topics that would be discussed, he said, included an update on the FDIC's community banking initiatives; a discussion of minority depository institutions and facilitating partnerships between them and community banks; a panel focused on recently issued supervisory guidance; a presentation on a review of FDIC regulations pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996; and a discussion of guidance about commercial real estate ("CRE") concentrations. Chairman Gruenberg welcomed Pedro Bryant as a new member of the Committee.

Chairman Gruenberg then introduced Chief of Staff Barbara Ryan, who moderated the day's proceedings. Ms. Ryan in turn introduced Doreen Eberley, Director, Division of Risk Management Supervision ("RMS"), Mark Pearce, Director, Division of Depositor and Consumer Protection ("DCP"), and Diane Ellis, Director, Division of Insurance and Research ("DIR") who led the panel titled, "Update on Community Bank Initiatives." Ms. Eberley highlighted four community banking actions that RMS had taken since the last meeting. First, she said that RMS had mailed the information packages that were previously discussed to all state non-member financial institutions and had received positive feedback regarding them. Second, Ms. Eberley said that RMS was considering two tracks for obtaining feedback about the technical assistance videos. In the shorter term, RMS was considering mailing a survey to each financial institution; in the longer term, RMS was considering using an instant feedback mechanism on the YouTube channel after a person had watched an FDIC technical assistance video. She said that RMS was working on a vendor management video and planned another video on any changes that may occur on the allowance for loan and lease losses ("ALLL").

The third item Ms. Eberley discussed was a "myth-busting" section to the Directors' Resource Center of the FDIC webpage. The myth-busting would respond to and clarify common concerns that bankers raise to the FDIC at outreach events concerning the FDIC's supervisory expectations. She said that, for example, there may be requirements applicable to larger institutions (such as stress testing) that consultants imply will eventually become required for smaller institutions when that is not the FDIC's expectation. Ms. Eberley said that the myth-busting section of the webpage would help clarify the FDIC's expectations; she noted that the FDIC's risk management expectations for community institutions are described in Part 364 of the FDIC's regulations and that the FDIC did not want banks to spend money to comply with nonexistent requirements. The fourth item Ms. Eberley highlighted was the *Supervisory Insights Journal* ("*SIJ*") which is intended to provide helpful explanations or interpretations of the FDIC's views. She said that a recent *SIJ* included some myth-busting concerning the need to engage consultants and how banks can use technical assistance videos to train their staffs to be able to conduct internally some of the independent reviews required by interagency guidance.

Another major article reviewed matters that require the attention of bank boards and trends that the FDIC sees in that regard.

Mr. Pearce said DCP was working on technical assistance videos concerning compliance with the new mortgage lending rules based in part on DCP's early experience examining banks under the new rules. He said that the mortgage videos would start with the subjects of ability to repay ("ATR") and qualified mortgages ("QM") and would try to ensure that community bankers were aware of the exemptions and special considerations that may apply to them. Other mortgage videos will include the mortgage servicing rules and loan originator compensation, he said.

Mr. Pearce said that DCP will also make contributions to the myth-busting section of the webpage, addressing such topics as character-based lending and fair lending enforcement. Concerning FDIC fair lending enforcement and referrals to the Department of Justice ("DOJ"), Mr. Pearce said that the FDIC had not changed its guidance recently and that most institutions were managing their compliance effectively. Contrary to what DCP representatives heard at banker outreach events concerning a rumored FDIC intent to "ramp up" enforcement and DOJ referrals, there was actually a downward trend of referrals in recent years reflecting banks' effective compliance management.

Ms. Ellis said that, while DIR continued its work on community bank research projects, (including subjects such as branching trends and de novo banks), she wanted to highlight the addition of a community bank section to the FDIC's "*Quarterly Banking Profile*" ("*QBP*") publication. She explained that in order to better understand community banks, community bank data needed to be separated from the aggregate banking data which is greatly affected by the largest banks' data. Ms. Ellis said that the *QBP* community bank section used the same definition of community banks that DIR had been using in its recent research (which is not strictly based on asset-size, but also considers if banks are relationship-based lenders, rely upon core deposits and are not geographically dispersed). Under that definition, she said that there were 6,234 community banks, which make up 93 percent of all insured institutions and hold about 14 percent of industry assets. Ms. Ellis said that community banks reported $4.4 billion in net income in the first quarter of 2014, down 1.5 percent from the previous year, but far less a decline than the 7.6 percent decline for the industry as a whole. She noted that community bank net interest income increased at a faster pace than the aggregate industry and that community bank loan growth was nearly one percent higher than the industry as a whole. Ms. Ellis said that the *QBP* made special note of community bank small business lending; community banks hold about 45 percent of small loans to business. She said that DIR intended to continue the separate community bank section in future *QBP*s and welcomed feedback about it.

In response to a question from Member Stevenson, Ms. Ellis clarified that the FDIC's data allows it to identify small loans to businesses, but not loans to small businesses. She said that the FDIC defined small loans to businesses as loans to commercial borrowers up to $1 million and farm loans up to one-half million dollars. Member Saunders indicated support for the myth-busters addition to the FDIC webpage and inquired if it would be required reading for examiners. Ms. Eberley said that RMS had its examiners view everything that was produced as technical assistance; for example, examiners watched and discussed technical assistance videos

in groups so that they would be able to answer banker questions about the contents. Similarly, she said, examiners reviewed the information packets that were sent to all banks (before they were sent) so that they would be able to discuss them with bankers.

Member Savarese observed that there continued to be divergent interpretations of issues among examiners --especially on the compliance side, and among regions. She said that inconsistent interpretations can lead to tense moments during examinations, times in which bankers try to maintain a constructive relationship with examiners and not engage in unnecessary disputes. She said that the myth-busters section of the webpage would be a useful source of information that bankers (and examiners) could point to when such interpretive issues arose during an examination. Member Savarese encouraged the FDIC to expand its myth-busting approach to topics on which there continue to be divergent interpretations of regulatory requirements. Member Williams agreed that there could be significant divergence of interpretations on key examination issues. Member Lundy provided an example in which he thought that his bank was unfairly criticized during a compliance/Community Reinvestment Act ("CRA") examination. Mr. Pearce said that examiners try to evaluate an institution within its performance context, based on the bank's strategy and what its peers are doing. He said that DCP encourages examiners to communicate to banks where they have opportunities to improve, rather than criticize them. Mr. Pearce acknowledged that how an examiner communicates to a banker can impact the banker's perception of what they hear and said that DCP uses its resources to encourage examiners to use open communications. Regarding the points raised by Members Savarese and Williams, Mr. Pearce observed that it is a challenge to achieve and maintain a common understanding of supervisory interpretations within a large examination workforce and agreed that more transparency in the FDIC's communications about its examination policies will promote examination consistency. He added that DCP continually updates the compliance examination manual and that it can be a cornerstone reference if a bank perceives it is receiving different policy interpretations. Mr. Pearce also encouraged bankers to contact FDIC regional office staff or the Ombudsman's office if they have questions or issues. Member Savarese said that she felt that community bankers and the FDIC shared the same goals. She suggested that the FDIC consider providing additional methods for bankers to communicate issues to the FDIC; methods that presented a low-hurdle to bankers, perhaps even anonymized communications.

Member Savarese observed that the FDIC's community bank initiative had made really significant achievements but expressed concern that too many community bankers were unaware of those achievements. She suggested that the FDIC be willing to communicate its goals and successes multiple times and through various channels to ensure that community bankers received the message. Member Baronner suggested that the *QBP* section on community banking report on two metrics that would help indicate the health of the community banking sector: the percentage of small business loans made by community banks and the percentage of deposits held by community banks.

Ms. Ryan introduced the speakers for the panel titled "Minority Depository Institutions and Community Development Financial Institutions" ("MDI" and "CDFI"): Richard Brown, Chief Economist, DIR; Robert Mooney, National Director for MDIs and Community Development Banking, RMS; and Elizabeth Ortiz, Deputy Director, DCP. Mr. Brown provided the Committee with an overview of a study published by the FDIC entitled, "Minority

Depository Institutions: Structure, Performance, and Social Impact." He noted that MDIs were a time-honored institutional form with the specific purpose of serving minority and under-served populations and had also been recognized by a number of legislative, executive and agency actions, including the Financial Institutions Reform Recovery and Enforcement Act of 1989 ("FIRREA"), the Riegle Community Development and Regulatory Improvement Act of 1994, and a 2002 FDIC policy statement. Mr. Brown said that the FDIC's study was a collaboration of DIR and DCP staff, which began in 2013, relied on data from as early as 2001, and sought to apply some of the same metrics and frameworks the FDIC had applied to community banks. He noted that the study placed MDIs in the context of CDFIs, most of which are not insured institutions.

Mr. Brown reviewed various characteristics of MDIs and CDFIs. He noted that there were 174 MDIs at the end of 2013 (all of them FDIC insured) and 88 percent of them met the FDIC's definition of community bank (by comparison, there were over 800 CDFIs, of which 78 are FDIC insured). Mr. Brown said that MDIs make up 2.6 percent of insured institution charters, have about 1.2 percent of total industry assets in the aggregate, and are relatively small in size, with a median asset size of $198 million. He said that the funding structure of MDIs is built around core deposits (like most community banks), MDIs have a relatively high loan-to-assets ratio, and tend to specialize in CRE lending. Mr. Brown said that most MDIs are organized to serve the needs of a specific under-served population; about half serve the Asian-American community; 22 percent serve the Hispanic community; 16 percent serve the African-American community; and 10 percent serve the Native American community. He noted that 87 percent of MDIs are headquartered in metro areas and that over half of MDIs are located in four states (California, Texas, Florida, and New York). Nationally, MDIs hold just 1.5 percent of metro area deposits, but hold much larger percentages in certain areas such as Los Angeles County, California, and Miami-Dade County, Florida.

Mr. Brown observed that MDIs experienced significant structural changes in the study period; their numbers peaked at 212 just before the financial crisis and declined to 174 at the end of 2013. He said that 32 MDIs failed in the crisis, for a failure rate that was about three times the industry average, and said this reflected the vulnerability (to unemployment, for example) of the populations that the MDIs served. Mr. Brown said that almost no new MDI chartering was occurring, but noted that there was a replenishment of MDI charters inasmuch as 81 institutions were newly designated as MDIs in the study period while only 20 were designated away from MDI status. Mr. Brown said that, when MDIs consolidated (through mergers, failures, or acquisitions), just under half of the MDI charters were acquired by other MDIs, but significantly higher percentages of MDI assets stayed with MDI acquirers. He noted that these results were consistent with the FIRREA legislative goals of maintaining the number of MDIs and preserving their minority character in mergers and acquisitions.

Mr. Brown discussed the financial performance of MDIs. He noted that MDIs tend to be less profitable than either community banks or non-community banks, in part because of their relatively small size, the fact that often they do business in high-cost metropolitan areas, and tend to be younger institutions (the median MDI age is 28 years compared to 98 years for community banks). He said that MDIs' net interest income was about the same as community banks over

time, they tended to be lenders, their loan-loss provisions exceeded other bank types, and they tended to have relatively high non-interest expenses.

Mr. Brown said that it was important to consider the social impact of MDIs since their mission is to promote the economic viability of minority and under-served populations. In this regard, he said that MDIs successfully reached low-and-moderate-income ("LMI") households; 46 percent of the service area populations served by MDIs were in LMI income census tracts compared to 17 percent for community banks and 27 percent for non-community banks. In addition, Mr. Brown said that MDIs provide mortgages in lower income neighborhoods; 25 percent of MDI's reportable mortgages (under the Home Mortgage Disclosure Act, "HMDA") were made to residents of LMI census tracts compared to 9 percent for all other types of institutions. Mr. Brown said that MDIs also successfully reached their target populations in a way that other institutions did not. For example, the median African-American MDI in 2011 made 67 percent of its mortgage loans to African-Americans. Similarly, the median Asian MDI made 57 percent of its mortgages to Asian-Americans and the median Hispanic MDI made 65 percent of its mortgages to Hispanic borrowers. In contrast, non-MDI institutions' lending percentages to those borrowers was two percent or less. In summary, Mr. Brown said that the results indicated that MDIs shared some of the economic difficulties of the populations that they served during the recent crisis, but that MDIs were successful in reaching and serving those communities.

Mr. Mooney then provided an overview of the FDIC's MDI program, discussing legislative mandates to preserve the number of MDIs, to preserve their minority character in cases involving mergers and acquisitions, to provide technical assistance to MDIs to prevent insolvency, to encourage the creation of new MDIs, and to provide ongoing training and technical assistance to them. He observed that MDIs tend to be located in communities with a higher share of minority residents and LMI areas which might be underserved absent an MDI. Mr. Mooney said that MDIs made many mortgages in LMI areas and to minority borrowers and had acted as a bulwark against predatory mortgage lenders that had targeted these communities before the financial crisis. Mr. Mooney observed that MDIs make small business loans that help create jobs in locales that often still have very high unemployment. He noted that MDIs recently had about $12 billion in small business loans, or about 2.5 percent of the industry total of small business loans, although MDIs have only about 1.2 percent of industry assets.

Mr. Mooney said that the MDI program's organizational structure included a dedicated permanent executive in Washington (himself) and regional coordinators in each of the FDIC's six regional offices. The FDIC's MDI staff work with other FDIC staff and MDI trade associations, and other Federal agencies, to coordinate training efforts and explore ways to preserve and promote MDIs. Mr. Mooney said that the FDIC and other banking agencies sponsor a biannual national conference for MDIs and CDFI banks. The 2013 conference included 120 MDI and CDFI bankers, top leaders of the agencies, he said, and provided for presentations from the agencies, MDIs, and CDFIs, as well as roundtable discussions, training sessions for MDI staff, and an early presentation of the DIR study Mr. Brown had just discussed. Mr. Mooney said that MDI/CDFI leaders viewed the study as the first of its kind and supported its continuation; in particular, they thought that the study would help interest potential investors,

attract Board Members, attract qualified management, and better inform future legislative and regulatory initiatives.

Mr. Mooney discussed routine contacts that FDIC MDI staff have with individual MDIs. As described in the FDIC MDI policy statement, after an examination, FDIC staff offer to make return visits to assist the bank in understanding and implementing exam recommendations. He noted that MDIs can also initiate requests for technical assistance on proposed bank policies on operational areas such as lending, investment or funds management. Mr. Mooney said that FDIC examiners provided 109 instances of technical assistance to MDIs in 2013. For example, he said that one bank first received assistance on information technology risk assessment and vendor management. The first technical assistance went so well that the bank then asked for assistance on ALLL methodology and policy, and subsequently, on a bank-wide audit program and Call Report accuracy. Mr. Mooney said that, in a subsequent examination, the bank received overall higher ratings, a welcomed outcome. Mr. Mooney said that he was pleased to recently receive a "thank-you" letter from Committee Member Thian for technical assistance on CRA issues. Mr. Thian complimented the FDIC staff for its helpful CRA technical assistance to his MDI bank and said that he had also requested help concerning understanding the new mortgage rules applicable to his bank's newly formed mortgage division. Mr. Mooney said that technical assistance that the FDIC was able to provide to another MDI led to the MDI inviting various FDIC staff – along with OCC and large bank representatives-- to its city for a roundtable discussion of MDI/CDFI partnership opportunities.

Mr. Mooney noted that, while MDI's performance continues to improve compared to the crisis years, many MDIs continue to face economic challenges and described ways that FDIC MDI staff advise them so that they may survive and serve their communities. He also described how the FDIC works to preserve a MDI's minority character when an MDI fails, consistent with statutory goals. Mr. Mooney said that these steps include contacting all MDIs nationwide that qualify to bid on a failing institution, providing technical assistance in completing bid forms, and providing information about the types of assets the FDIC has for sale, the methods the FDIC uses to sell them, and how to become pre-qualified as a potential asset purchaser. He said that the FDIC has been successful, noting that 87 percent of assets of failed MDI institutions were sold to MDI acquirers.

Finally, Mr. Mooney said that his view was that community banks were well-positioned to help MDI and CDFI banks because they often do not compete against one another although they operate near them. He described ways in which community banks can work with MDIs and also earn valuable CRA incentives.

Ms. Ortiz spoke about the FDIC's recently published "*Strategies for Community Banks to Develop Partnerships with Community Development Financial Institutions*" ("*CDFI Resource Guide*"). She noted that before she worked for the FDIC, she was a leader at the Nonprofit Finance Fund ("NFF"), a national CDFI that focused on providing loans and financial advisory services to small and medium-sized non-profits which could not obtain financing from mainstream financial institutions. Ms. Ortiz described how the NFF operated and observed that it was only one of among 800 certified CDFIs across the country that are organized in a variety of ways to achieve their individualized goals. She said that the distinguishing feature of CDFIs

is having the primary mission of providing capital and services to benefit LMI persons in distressed communities (she noted that CDFIs must be able to demonstrate that 60 percent of their financing and service activities are targeted to the geographies and communities that they have defined as their target markets).

Ms. Ortiz first addressed how CDFIs can be effective partners for community banks. She noted that most community banks have strong records in serving the credit needs of LMI communities in their CRA assessment areas but that, in some communities, the credit and investment needs of the LMI borrowers cannot be fully met by traditional banks. Ms. Ortiz said that CDFIs can fill such a gap because they are intentionally niche players and specialists who are familiar with local markets and skilled in using a variety of risk mitigation programs. She said that CDFIs offer products with flexible underwriting standards and take steps to ensure that borrowers are able to use capital effectively and repay their loans. Partnering with a CDFI can benefit a community bank, she said, by allowing the bank to expand into new areas and reach more clients, to leverage the CDFI's market knowledge and specialized products that help the bank meet the capital and credit needs of LMI communities within their CRA assessment areas. Ms. Ortiz noted that the Interagency Questions and Answers concerning CRA explicitly recognized that loans to and investments in CDFIs can receive CRA consideration in a bank's performance evaluation.

Ms. Ortiz said that a bank-CDFI partnership can occur in many ways, depending on the bank's business strategy and market need. A basis relationship, she said, can be a referral program in which the bank refers to the CDFI credit-worthy borrowers who do not meet the bank's underwriting requirements. Alternately, a CDFI can refer borrowers who are ready for conventional financing to the bank. Ms. Ortiz said that a bank may: make investments to support a CDFI's lending, its operations or its technical assistance programs; make equivalent investments in non-profit CDFI loan funds; or make deposits in CDFI depositories. She said that community banks and CDFIs may collaborate on loans together, including loan participations and participating with other banks in a loan pool. Community banks can also provide various forms of technical assistance to CDFIs, Ms. Ortiz said, for example, by allowing the volunteer service of a bank officer as a CDFI Board Director, a member of a CDFI Advisory Committee, or credit review committee.

Ms. Ortiz also described how the FDIC's community affairs staff help connect banks and CDFIs. The methods include organizing and participating in community development forums in various locations, and developing a webinar series to raise awareness and share successful community development strategies. Ms. Ortiz said that the FDIC developed the *CDFI Resource Guide* specifically to meet the informational needs of smaller banks and was both comprehensive and practical in focus. She said that the *Guide* discusses a variety of strategies to mitigate risks, and provides information about intermediary organizations that allow banks to invest in CDFIs indirectly. The *Guide* also describes resources that help leverage a bank's own resources, she said, including Federal funding programs and how CDFI investments and loans can meet CRA criteria. Finally, Ms. Ortiz said that the *Guide* provides several case studies that show how bank-CDFI partnerships have been created and operated, how they fit into banks' community development strategies, how risks were mitigated, and how banks and communities benefitted.

Member Bryant spoke about his MDI bank, which has 26 shareholders, seven of which are Fortune 500 companies. Although his bank is not minority-owned, it serves a minority community and has a Board majority composed of minorities. He said that the day's discussion was important because, while larger financial institutions were aware of the benefits of working with MDIs and CDFIs, fewer community banks were aware and involved. Member Bryant said that the challenges that community banks face were even greater if the bank was working in a community experiencing very high unemployment and economic distress. He said that the various partnerships and collaborations discussed earlier help strengthen both communities and financial institutions. Member Haskin said that her bank has a capital investment in a CDFI that was formed in Oklahoma by a majority of banks. She said that the CDFI was very successful and could invest in companies that the banks cannot and provided mezzanine financing that allowed member banks to make subsequent loans. Member Haskin said that several loans her bank had made qualified for New Market Tax Credits and that the tax credits' benefits flowed down to benefit the individual shareholders of her S-corporation bank. She said that the tax credits allowed her bank to make loans at a better rate and be more competitive. Member Haskin said that MDI-CDFI opportunities deserved more discussion among community banks because they are an extremely good business development vehicle and allow banks to be part of projects that they would not otherwise be able take the risk in doing. Member Blankenship said that CDFI collaboration was a great opportunity for community banks; she said that it fits complementarily with the Small Business Administration ("SBA") financing that her bank does and also provides tax credit benefits.

Member Blankenship referred to the statistic reported previously that MDIs made 25 percent of their HMDA-reportable mortgage lending in LMI census tracts compared with 9 percent of non-MDIs. For future reporting, she suggested that the FDIC distinguish between community and non-community banks regarding the non-MDI lending percentage so that trends between them could be tracked and to help ensure that the new mortgage rules do not negatively affect community banks lending in LMI areas.

In response to a question from Member Castillo, Mr. Mooney said that there had not been much new chartering activity among MDI or community banks, and that the present period was more of a consolidation and growth period within existing MDIs. He said that there had been some discussion with non-profit organizations partnering with existing community banks, and a conversation in which a current community bank owner was considering retiring and wanted to leave the bank in good hands by partnering with a good CDFI fund.

Member Castillo inquired whether the technical assistance available to MDIs was different in approach –such as being more detailed and specific-- than assistance available to all community banks. He said that, in his experience, questions to the field office requesting help with a particular area usually resulted in a direction to the applicable regulatory guidance rather than an individualized response that the bank was seeking. Mr. Mooney said that the FDIC was interested in improving a bank's performance as well as evaluating it. Ms. Eberley said that Chairman Gruenberg had raised a similar question with RMS in the past; she said that the technical assistance the FDIC provides under the MDI program was statutorily based, but that the FDIC still does not tell an MDI how to run its business. Ms. Eberley said that examiners will discuss the regulatory landscape with MDIs, but do not help them do their work or write policies.

She said that the community bank initiative represented a big change in the FDIC's approach to providing technical assistance more aggressively to all community banks on topics of interest to them. Ms. Eberley said that, although the FDIC cannot pre-approve a bank's procedures or policies, she encouraged any bank with questions about guidance or a new activity to contact their case manager and discuss whether the banker's understanding of the guidance is accurate.

Member Lundy said that the training the FDIC provided to banks about troubled debt restructuring ("TDR") was an example of high quality technical assistance that involved several related regulatory issues and how they interacted with specific factual issues that banks faced. Member Lundy said the TDR training was also an example of the FDIC embracing the fact that it needed to increase consistency among its examiners, as well as communicating about a complex issue with the banking industry. Ms. Eberley said that the TDR and ALLL technical assistance videos were both examples of the FDIC's new approach of taking a product developed in one region and making it available to all institutions, on demand, and including sufficient examples to promote a thorough understanding. Member Thian said that the Chinese MDIs have a trade association that sponsors seminars each year and that they had invited FDIC MDI coordinators to assist in presenting an educational program on the new mortgage rules and other hot topics. He said that he would appreciate more such educational opportunities. Mr. Mooney said that, in addition to technical assistance, the FDIC also held 50 roundtables and training sessions on a variety of topics primarily for MDI and CDFI banks. Ms. Eberley noted that the FDIC has a robust outreach program with all community institutions by partnering with local trade associations and state banking departments.

Member Saunders said that she thought the MDI study was essential and was very happy that the FDIC had dedicated the time and resources to produce it. She said that it would help organizations such as hers, which is both an MDI and a CDFI, to support their legislative efforts, to talk to potential investors, and raise the general understanding of the important economic role that MDIs and CDFIs play. Member Saunders noted that the study recognized that MDIs had distinct business models and financial profiles. She said that, even if MDIs did not require an examining team that specialized in MDIs, that it was important that examiners recognize that MDIs have a different risk profile (for example, with regard to CRE lending). Member Saunders suggested that the FDIC study how MDI portfolios have performed over time. She said that there is often a perception that there is undue risk in serving a particular population, but she questioned whether it actually translated into a higher risk profile. Member Saunders also complimented the FDIC technical assistance programs which helped dispel myths her bank had heard concerning fair lending, CRA and the examination process. In response to a question from Member Thian, Mr. Mooney and Ms. Eberley noted that, pursuant to statute, MDIs may request a post-examination visit intended to help the MDI understand and implement the examination's recommendations. Ms. Eberley said that, under the FDIC's "interim contact program," the FDIC also reaches out to all institutions between regularly scheduled exams.

In response to Member Stevenson's inquiry whether CDFI banks are considered differently during an examination, Ms. Eberley said that, pursuant to the Uniform Financial Institution Rating System, each institution is rated on its individual risk profile and strategic plan. Thus, if an MDI was strategically planning to serve an LMI community, and expecting to take some additional risk in its portfolio because they are serving a somewhat more vulnerable

population, the earnings component of the CAMELS rating would be given in that context, she said. This would be different from an institution that took on more risk because it was targeting high risk loans to grow more rapidly. Member Bryant said that he makes an annual visit to the FDIC's regional office to discuss and review his bank's business plan with them, and also calls his case manager two days before sending his bank's Call Report to give the case manager some insight about the facts behind the numbers about to be sent. Member Bryant said that these contacts help avoid examination surprises and supported a two-way communication about issues the bank is facing. Member Saunders said that her bank took similar steps with its regional office to inform them about the institution's individualized risk profile because newly assigned examiners may not be familiar with the institution. Member Lundy suggested that a useful research topic would be to review MDIs' experiences recovering from the financial crisis to determine if any trends became apparent that might provide useful guidance for the future. Ms. Ryan thanked the Committee and panelists for a tremendously valuable discussion.

The Committee stood in recess at 10:52 a.m. and reconvened at 11:11 a.m. that same day.

Ms. Ryan introduced the speakers for the third panel, "Recent Supervisory Guidance" Doreen Eberley; George French, Deputy Director, RMS; Robert Storch, Chief Accountant, RMS; Rae-Ann Miller, Associate Director, RMS; Luke Brown, Associate Director, DCP; and Mark Moylan, Deputy Regional Director, RMS, Kansas City.

Mr. French spoke about Financial Institution Letter ("FIL") 40-2014, which describes how the FDIC intends to consider requests from S-corporation banks to pay dividends when those dividends would otherwise not be permitted under the capital conservation buffer requirements of the Basel III capital rule. He explained that the capital conservation rule would limit certain banks in the payment of dividends if their capital ratios were less than 2.5 percentage points above their minimum. The purpose of the rule, Mr. French said, was to encourage banks to remain well capitalized. He noted, however, that concern had been raised that S-corporation banks, in which the bank's income is attributed to its shareholders, would generate income on which their shareholders would owe income taxes, but the banks would be limited in the payment of dividends to cover the shareholders' taxes. Such a situation could make it harder for those banks to attract investors. Although the limitation would not be fully effective until 2019 and the FDIC did not expect it to be applicable very often, Mr. French said that the FDIC used the FIL to explain the rule's operation and how the FDIC intended to handle the matter if and when it occurred. He said that the Basel III rule allows the primary Federal regulator to consider a request for an exception to the capital conservation limitation. The FIL explained that, absent significant safety and soundness concerns about the requesting bank, the FDIC generally would expect to approve exception requests by well-rated S-corporation banks. Mr. French added that the FIL described an expedited process for the described situations and did not limit the case-by-case consideration of other requests by banks that did not meet the FIL's criteria.

Mr. Storch discussed proposed changes to the Call Report that would conform it to changes made a year ago in the regulatory capital rules (which revised and strengthened the regulatory capital definitions and incorporated the "standardized" approach to the calculation of risk-weighted assets). In response to the regulatory capital changes, the Federal Financial

Institutions Examination Council ("FFIEC") and the banking agencies proposed in June 2014 changes to the reporting of risk-weighted assets in Schedule RC-R of the Call Report, to be effective March 31, 2015. Mr. Storch said that institutions had been notified of the proposed Call Report changes by FILs and through an interagency teleconference in which over 700 banks participated. He said that drafts of the proposed Schedule RC-R risk-weighted asset reporting form and instructions were available on the FDIC and FFIEC websites and public comments were welcome.

Ms. Miller and Mr. Luke Brown discussed interagency guidance concerning Home Equity Lines of Credit ("HELOC") nearing their "end-of-draw" period. Ms. Miller said that HELOC's commonly have a ten year draw period so that loans that were made in the run-up to the financial crisis are starting to come due. She said that some HELOC portfolios would be difficult to manage because they were made with low underwriting criteria, and some banks purchased HELOC portfolios that contained differing risk profiles, product features and standards. She indicated that there was some regulatory concern about banks and consumers being prepared for the end-of-draw period when borrowers may have difficulty meeting higher payments resulting from principal amortization or an interest rate reset, or may have difficulty refinancing due to changes in their financial circumstances, declines in property values, or lending criteria changes.

Ms. Miller said that an institution's HELOC response should be commensurate with its exposures; those with large or higher-risk HELOC portfolios would need comprehensive plans while community banks with a small or low-risk HELOC exposure may be able to rely on their existing processes. She said that the HELOC guidance does not create many new requirements and refers to existing guidance in many cases; the guidance does emphasize the need for banks to monitor and work with their borrowers early in the process, before the loans reset. Ms. Miller said that the guidance discusses prudent underwriting for renewals and extensions and what should be in HELOC policies and procedures for dealing with the end-of-draw period. She said that banks need to: have a clear picture of their end-of-draw exposures; understand their contractual provisions; and evaluate their near-term risks. The guidance discusses refinancing and modification of HELOCs and prudent workouts that may be in the best interest of both the bank and borrower. Ms. Miller said that a bank should have clear internal guidelines for the end-of-draw period and ensure that account representatives are properly trained to be able to provide that information to borrowers. Regarding reporting, she said that banks should be able to track their actions and that, when modifications are made, the bank should be able to follow up on the performance, including properly documenting the ALLL.

Mr. Brown said that, while the HELOC guidance was primarily safety and soundness driven, it also addressed important consumer protection issues. He said that the guidance encouraged banks to identify and work with end-of-draw borrowers who faced financial difficulties so that unnecessary defaults could be avoided. This would include, he said, implementing an outreach program to borrowers well before the scheduled end-of-draw period that responded effectively to issues as they arise. Mr. Brown noted that renewals, workouts and modifications should include an analysis of the borrower's ability to repay the loan and that the payment terms should be sustainable.

Mr. Moylan spoke about FIL-39-2014, "*Prudent Management of Agricultural Credits Through Economic Cycles*." He said that the FDIC recommended a prudent approach to agricultural lending that focused on cash flow, without undue reliance on collateral values, particularly land. Mr. Moylan said that it was important for banks to manage any concentration risk they have in agricultural lending. He said that commodities had long traded in a tight price channel, but have been more volatile recently. For example, he said that the price of corn traded between $1.50-2.50 per bushel between 1980 and 2006, then broke out of the channel in about 2008, peaking at $8 per bushel, and has since declined to a current $3.62 per bushel. He noted that there had been a run-up in land prices which might be subject to declines in light of the lower commodity prices. Mr. Moylan said that, with such changing price dynamics, cash flow analysis was vitally important and that banks should identify borrowers who were weak and need assistance to strengthen the credit and mitigate loss.

[Editor's note: For the reader's convenience, the Committee members' comments on the four supervisory topics just discussed are grouped by subject matter.] Member Haskin commended the recent guidance concerning the capital buffer and S-corporation banks. She said that, after consulting with FDIC staff, she recently made a presentation to the board of her S-corporation bank; she said that the guidance provided the bank's shareholders with a tremendous amount of relief and made them feel better about that aspect of the Basel III rule. In response to a question from Member Williams, Mr. French clarified that S-corporation banks that had issues that arose from matters not within the scope of the recent FIL guidance would still have their issues resolved on a case-by-case basis.

Concerning changes to the Call Report, Member Haskin suggested that agency-led training would be helpful and cost effective. She noted that the Call Report had expanded reporting requirements in various ways over recent years and that it was difficult to get trained and qualified people to prepare the Call Report so that banks had to use service providers. Member Blankenship noted that a survey about Call Report burden had identified Schedule RC-R as the most burdensome schedule and that it required a lot of manual work to classify information properly, even after relying on output from the bank's data processing system. She added that hiring outside expertise to derive the information was expensive. Member Williams suggested that it might be helpful and prudent to reduce the information required in the Call Report, or to require it less often than quarterly, especially for well-capitalized community banks with a low-risk profile. Member Blankenship agreed that such a change would help tremendously, and would make sense for banks whose balance sheets did not change much from period to period.

Mr. Storch indicated that banking agencies could consider providing Call Report training; he noted that they had done it in previous decades, but that the training had migrated to trade groups over time. He also said that the recent teleconference on the proposed Call Report changes had been intended, in part, to help bankers identify areas where banks would need to make manual adjustments when reporting risk-weighted assets. Mr. Storch said that the FFIEC was always interested in whether there were more automated, less burdensome, ways to obtain the information the banking agencies needed. Mr. Storch also said that the banking agencies could consider Member Blankenship's point about reducing the amount of detail required (or the frequency of requiring it) from banks whose balance sheets did not change significantly. He

noted that the agencies have tried for several years to gear reporting requirements to institutions of certain asset size levels, or to institutions meeting minimum activity thresholds. Mr. Storch noted that the new Call Report items on international remittances, for example, are required only semi-annually because the agencies felt that receiving information at that frequency would be sufficient.

In response to a question from Member Castillo concerning the HELOC guidance, Ms. Miller confirmed that borrowers who met the current underwriting criteria, have sufficient property values and have been good customers could have their HELOCs renewed.

Concerning agricultural lending, Member Savarese asked if the FDIC had concerns or best practices concerning fracking. Mr. Moylan said that in North Dakota, where a lot of fracking activity is occurring, land sales were currently separating the land's mineral rights from the rest of the land transaction and that buyers and lenders needed to be aware of what was (and what was not) being sold. Mr. Moylan later observed that North Dakota was experiencing a high employment period due to fracking, but there were other dynamics that regulators were monitoring such as infrastructure investment and how long-term the oil boom would be.

Mr. Moylan also discussed the assessment of agricultural land values. He noted that land is an income producing property and that its rental value will fluctuate generally with commodity prices; thus, a decrease in commodity prices will negatively affect rental values and land sale values. Mr. Moylan said that agricultural land also had an intrinsic premium value to nearby landowners because of the ease of incorporating nearby land into current operations. He noted that although land prices had risen in recent years, buyers had used a lot of cash for their purchases and there was not substantial leverage involved. Mr. Moylan said that cash-flow was very important for agricultural lending and that farmers could experience a build-up of carryover debt if they have several years of not making a profit.

Members Savarese and Flynn inquired about competition posed by the Farm Credit network of lenders and its effect of squeezing loan pricing and margins, and unrealistic terms and conditions. Member Flynn said that her bank regularly loses business to Farm Credit because of the low rates they can charge, in part because they are government subsidized. In response to a question from Mr. Moylan, Member Flynn said that Farm Credit was lending mostly on operating lines of credit and equipment as farmers expanded their operations. Mr. Moylan said that he was aware of banker complaints about Farm Credit and noted that banks also experience competition from lending done by seed companies and farm equipment manufacturers. Mr. Moylan said that bankers in the Kansas City region reported low loan demand, in part because farmers' profitability allowed them to be self-financing. He said that there may be a rebalancing of agricultural loan portfolios as farmers need more loans for their operations (as lower commodity prices lower farmer profits) and that banks should be careful not to take on excessive risk where a farmer's cash flow is tight or inadequate. Mr. Moylan noted that John Deere and some banks are requiring loan payments at an intermediate date in June whereas they had traditionally required payments the following January after the farmer's profits were in. He said that concentrations are an inherent concern in agricultural banking, and suggested that banks bifurcate their portfolio (as banks do with CRE) and understand that there are different risk profiles among an operating line, a land loan, and intermediate debt. Mr. Moylan said that it was

important to not look exclusively at current worth and current collateral values because land and equipment values can drop if farm income drops.

During this panel discussion, committee members also suggested possible future topics for discussion. Members Savarese and Baronner suggested there was a concern about whether the use of the ChexSystems database (or others) for account opening purposes would be viewed as creating a fair lending compliance issue because of the disparate impact the use of the databases may create. Member Lundy noted that many banks use such databases in complying with their Bank Secrecy Act ("BSA") -related "know your customer" obligations. Member Blankenship suggested that a discussion of digital currencies and alternative forms of payments and the extent to which they are (or are not) insured would be a good topic for discussion. Member Savarese thought that other topics could include the CRA implications of online depository account opening, online lending, and fully automated ATMs. Member Castillo also thought that it would be helpful to hear the FDIC's forward thinking about risk management of emerging technologies for delivering financial products and services. Member Lundy said that the "EB-5" immigrant investor visa category program would be a good topic for discussion because the program might offer a significant deposit opportunity for community banks as well as potential for community development, but also might raise BSA or other unidentified risks.

Member Castillo inquired about Operation Choke Point and the types of businesses that banks may serve. Ms. Eberley discussed the DOJ Choke Point operation, noting that it was focused on banks that were knowingly not complying with their BSA obligations when servicing third-party payment processors. She said that there was an increase in demand for third-party payment processors due to the increase in internet commerce and that there was evidence that some institutions were not meeting their legal obligations. In some cases, she said that some high risk third-party processors had targeted small, troubled institutions to service them. Ms. Eberley said the FDIC had amended and updated earlier guidance on servicing third-party processors. Referring to the guidance, she reviewed some of the risks that banks face (credit risk, BSA risk, reputation risk) and provided an overview of their compliance obligations.

The Committee stood in recess at 12:10 p.m. and reconvened at 2:10 p.m. that same day.

Ms. Ryan introduced the panelists for "Guidance on Commercial Real Estate Concentrations," James Watkins, Senior Deputy Director, RMS, George French, Deputy Director, RMS, Kathy Moe, Deputy Regional Director, RMS, San Francisco, and Richard Brown. Mr. Watkins said the panel would share some "lessons learned" during the recent financial crisis about CRE lending and the importance of good risk management practices and communications; he noted that the FDIC was not changing or expanding its existing guidance on CRE lending. Mr. Watkins said that there were currently good trends in banking conditions and performance, with growth in lending that was improving bank profitability. Referring to a packet of slides titled "Commercial Real Estate," he discussed a 2012 FDIC Inspector General ("IG") study that found many banks with a concentration in real estate loans had successfully managed their portfolios' risks. Mr. Watkins said that the IG found that successful risk management of such a concentration included: implementing more conservative growth strategies; relying on core deposits and limiting dependence on volatile funding sources; implementing prudent risk management practices (and limiting speculative lending, loan

participations, and out-of-area lending); maintaining stable capital levels; and being responsive to supervisory recommendations, actions and guidance.

Mr. Watkins observed that not all institutions fared well during the crisis and said that those that failed often shared certain characteristics: they experienced rapid loan growth; they did not recognize the growing risk exposure from their real estate concentration; they did not develop sufficient risk assessments that included an analysis of economic conditions and stress testing; and they did not develop sufficient contingency plans. He said that a 2013 IG study reached similar conclusions concerning failures. Mr. Watkins reviewed statistics relating to aggressive growth and failure rates. Of the institutions whose growth rate was over 20 percent in the 3 years preceding the crisis, 37 percent remained satisfactorily rated as of year-end 2011 and 16 percent failed. In contrast, he said, of the institutions whose growth rate was between zero and 10 percent in the same period, 69 percent remained satisfactorily rated and 2 percent failed.

Mr. Richard Brown said that CRE concentrations were associated with a higher failure rate during the crisis. Overall, he said, CRE specialists were more than twice as likely to fail in the 2006-2010 period, and those with construction and development loans concentrations of more than ten percent of assets were three times as likely to fail. Mr. Brown also observed that community banks that switched their lending strategies in the early 2000s fared worse than banks that did not change from their "baseline" lending strategies (such as mortgages, agriculture or diversified lending). Mr. Brown said that the FDIC also compared past due rates and charge-off rates of non-owner occupied CRE properties and owner-occupied ones. Past due and charge-off rates rose for both loan types during the crisis, he said. While owner-occupied properties more often had a higher past due rate, non-owner occupied properties had higher charge-off rates. In summary, he said that both types of loans were subject to credit risk in this business cycle. Mr. Watkins observed that the number of banks that have construction and development and CRE concentrations have declined during and after the crisis.

Ms. Moe discussed some current trends in CRE lending. She noted that national trends for CRE prices were generally upward in the retail, office, industrial and apartment categories although there were some regional differences (such as higher prices in the northeast U.S. and west coast). Ms. Moe said that it was important that bank management continue to monitor their local economic trends, respond to market condition changes, and ensure that loans are appropriately priced for risk. She said that, in the first quarter of 2014, 70 percent of all banks reported positive year-over-year loan growth, the highest since 2009. Ms. Moe said that many states with the highest number of banks with concentrations in acquisition, development, and construction loans and CRE loans are on the coasts and that those banks tended to experience problems earlier in the crisis and tend to be recovering faster. She said that, while loan growth was a healthy sign, concentrations of credit of any type required heightened risk management, monitoring and oversight. Specifically, she said that a bank's board of directors should establish an overall CRE strategy that is consistent with the bank's growth objectives and capital planning; further, banks should have strong policies and controls in place, have appropriate staff to support their strategies and conduct regular reviews of their risk limits to respond to changes in markets. Ms. Moe said that most banks are implementing sound practices for managing their CRE risks.

Mr. French discussed three sources of written guidance applicable to CRE: 2006 interagency guidance on CRE; the FDIC's Standards for Safety and Soundness (12 C.F.R. Part 364); and the FDIC's Real Estate Lending Standards (Part 365). He said that the three formed the basis for FDIC's examination programs involving CRE and that all concerned risk management but did not set lending limits. Mr. French noted that institutions that follow good risk management practices were more likely to survive periods of economic downturn.

Mr. French described the reasons the agencies issued the 2006 guidance and noted that it focused on ADC and non-owner-occupied CRE concentrations. He said that the 2006 guidance identified thresholds the agencies said they would use to identify banks that were potentially exposed to significant CRE concentration risk and thus would be examined closely to ensure that they had appropriate risk management practices in place. Mr. French observed that owner-occupied CRE was excluded from the scope of the 2006 guidance but was covered by Part 364, the safety and soundness regulation. He said that Part 364 includes operational and managerial standards for a number of key bank functions. The standards most relevant to CRE, he said, include: adequate information systems to assess risk; loan documentation to identify repayment sources; prudent underwriting; policies to take into account concentration risk and the timely identification of problem assets. Mr. French also discussed the FDIC's real estate lending standards and observed that it states that real estate lending that is conducted in a prudent manner will not be subject to examiner criticism. He said that Part 365 requires every institution to have a written real estate lending policy and describes what such a policy needs to address. Mr. French said that the FDIC believes that it had a sound body of existing regulation on CRE and ADC lending and was not looking to change it. He added that the return of bank lending previously mentioned was a good thing and that the challenge going forward was to ensure that prudent loan growth will be sustainable.

In response to a question from Member Stevenson about recent loss rates on commercial and industrial ("C&I") loans compared to CRE loans, Mr. Brown said that unsecured C&I loans would have a higher loss rate on average than secured CRE loans in periods of economic distress. Member Stevenson said that was consistent with his perception; he said that in making a C&I loan he evaluates the business' ability to generate cash flow but that his experience is that real estate as collateral is more reliable than receivables.

Member Saunders said that many MDIs, such as hers, do substantial lending to faith-based communities and were concerned whether they were limited in lending to them when they reached the 300 percent of capital threshold and inquired if the fact that those loans were owner-occupied-CRE affected the issue. She noted that her bank's risk management practices would continue to be very robust. Mr. French clarified that the FDIC does not impose lending limits of 300 percent of total capital for any type of real estate; rather, the guidance used 300 percent as a threshold for helping examiners identify situations that require heightened risk management practices. Mr. Watkins agreed and discussed risk mitigation strategies where a substantial concentration existed; he said that, as an institution builds its concentration, it needs to have control systems that adequately compensate for the added risk. Member Seleski said that he believed that many Florida banks had CRE concentrations that exceeded 300 percent of capital and complimented regulators on emphasizing the need for robust risk management rather than imposing a hard and fast rule against the concentrations. Mr. Watkins said that, nationwide,

many banks exceeded the 300 percent threshold; he added that the IG report supported the conclusion that substantial concentrations could be successfully managed during an economic downturn. Ms. Moe cautioned that it was risky for a bank to set a concentration limit and then merely raise the percentage when they reached their previous goal without sufficient consideration of the new decision; she said that a bank's CRE concentration risk appetite needed to be coordinated with their growth and capital planning. Member Williams said that he was aware of banks that raised their concentration targets without sufficient consideration; he said that he also appreciated the regulators approach of allowing concentrations to be managed.

Member Stevenson said that his bank had received an FDIC letter noting its higher growth rate and CRE concentration; he said that he was happy to understand that the letter was meant to encourage prudent risk management and communication between a bank's management, its board and its regulators. Mr. Watkins said that the FDIC tries to reach out to institutions when the FDIC's review of Call Report data identifies increases in certain lines of business. He said that the FDIC encourages banks to share their strategies and business plans concerning those areas. Member Saunders suggested that C&I lending was experiencing a growth trend that may warrant additional regulatory attention.

Ms. Ryan then introduced Deputy General Counsel Roberta McInerney who discussed the "Review of FDIC Regulations under the Economic Growth and Regulatory Paperwork Reduction Act" ("EGRPRA"). Ms. McInerney said that the FFIEC and the banking regulatory agencies (the FDIC, the OCC and the Board of Governors of the Federal Reserve Board) were conducting a review of regulations to identify those that were outdated, unnecessary or unduly burdensome, and invited bankers' participation in the important process. She provided an overview of the review process required by EGRPRA. First, the agencies must categorize their regulations by type (for example, safety and soundness regulations) and publish the categorized regulations at regular intervals requesting public comment on how their regulatory burden could be reduced. After all the categorized regulations have been published, she said, the agencies will publish a summary of the public comments and identify the significant issues raised. The agencies will also consider the regulations on their own and take administrative action to reduce burden where they can, she said. Finally, the agencies will publish a report to Congress that discusses the issues raised, their merits, and whether burden reduction can be accomplished administratively or would require legislative changes (since many regulations are required by statute).

Ms. McInerney said that the EGRPRA review must be done every ten years; and since the first review was completed in 2006, the current one would be completed by the end of 2016. She said that the agencies were cooperating closely on the review effort and recently published a *Federal Register* notice that: 1) described the process that would be followed; 2) identified the twelve categories of regulations that would be published for public comment over the next two years; and, 3) requested comment on the first three categories of regulations to be reviewed. Ms. McInerney said that the twelve categories of regulations will be: 1) applications and reporting; 2) banking operations; 3) capital; 4) CRA; 5) consumer protection; 6) directors, officers and employees; 7) international operations; 8) money laundering; 9) powers and activities; 10) rules of procedure; 11) safety and soundness; and 12) securities. Ms. McInerney noted that the first three categories open for comment were: applications and reporting; powers and activities; and

international operations, and encouraged community bankers to provide comments. She said specific comments that focused on parts of regulations that may not be working properly would be particularly helpful, as would be suggestions for any legislative changes that may be necessary. Ms. McInerney drew the members' attention to charts in the *Federal Register* notice that listed all the regulations that were currently open for comment and those that would be published later.

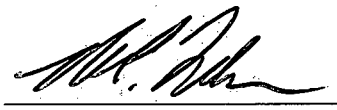
Member Castillo inquired about the impact of the previous EGRPRA review. Ms. McInerney and Claude Rollin, Counsel, Legal Division, said that the previous review led to legislation being passed that eliminated some outdated regulatory requirements. They noted, however, that many regulatory requirements are required by statute, thus limiting how much the agencies can do administratively, and that the need for legislative changes was included in the first EGRPRA report to Congress. In response to a question from Member Williams, Ms. McInerney agreed that the agencies would have to continue to implement legislative mandates for certain regulations, but said the agencies were always looking for ways that regulations could be streamlined, overlaps eliminated, or requirements clarified.

Member Savarese observed that many regulations had been passed pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act and inquired how those would be reviewed for the burden they imposed. Ms. McInerney said that the FDIC was sensitive to the burdens that it imposed on all banks, particularly smaller ones. She said that the burden of each regulation is evaluated as it is being developed under: the Regulatory Flexibility Act (which focuses on small entities); the Paperwork Reduction Act; and the FDIC's recently updated regulatory policy statement, which emphasizes the need to impose the least amount of burden possible. Regulations currently being developed are reviewed under those laws and policies, she said, while the EGRPRA review is focused on regulations already in place. Ms. McInerney noted that the Consumer Financial Protection Bureau ("CFPB"), which is responsible for many regulations applicable to banking, is not part of the EGRPRA review; however, she said that the CFPB is required to review its significant rules every five years. In response to a question from Member Baronner, Ms. McInerney provided further details about how the FDIC considers regulatory burden, including costs and benefits, when that information is available.

Member Baronner suggested that the Committee could provide helpful feedback on regulatory burden, for example, the burden and benefit of CRA reporting. Ms. McInerney said that such a comment would be helpful to the EGRPRA review. Ms. Ryan said that the FDIC would consider how it could incorporate the Committee's input into the EGRPRA review, which is in its early stages. In response to a comment by Member Lundy, Ms. McInerney described the relationship between the EGRPRA review and National Credit Union Administration. Member Savarese observed that the regulatory reviews tended to be undertaken from the perspective of the regulation, or the regulatory authority that issued it, but are not undertaken from an enterprise perspective. She indicated that a review that looked at the totality of regulatory burden on a community bank would be more useful.

Chairman Gruenberg said that the Committee members' input was remarkably valuable to the FDIC and thanked them for their participation.

There being no further business, the meeting was adjourned at 3:03 p.m.



Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
And Committee Management Officer
FDIC Advisory Committee on Community Banking

Minutes

of the

Meeting of the FDIC Advisory Committee on Community Banking

of the

Federal Deposit Insurance Corporation

Held in the Board Room

Federal Deposit Insurance Corporation Building

Washington, D. C.

Open to Public Observation

July 23, 2014 – 9:00 A.M..

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

Martin J. Gruenberg
Chairman
Board of Directors
Federal Deposit Insurance Corporation