American Bankers Association

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The Honorable Jonathan V. Gould
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th St. SW
Washington, DC 20219

Re: OCC Policy Statement on Minority Depository Institutions

Dear Comptroller Gould:

The American Bankers Association (ABA)[1] appreciates the Office of the Comptroller of the Currency's commitment to preserving and promoting Minority Depository Institutions (MDIs). We share the longstanding bipartisan goal reflected in Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to support the formation, preservation, and growth of MDIs.

ABA is concerned that the OCC's revised Policy Statement on Minority Depository Institutions raises several issues that may create uncertainty for institutions seeking to qualify for or maintain MDI designation. MDIs play an essential role in expanding access to credit, supporting small businesses, building wealth, and promoting economic opportunity in communities that have historically faced barriers to full participation in the financial system. A clear, consistent, and workable framework for MDI designation is therefore critical.

ABA respectfully believes that the standard used to evaluate "socially and economically disadvantaged" status should be transparent, consistent, and operationally practical. We are concerned that the new policy could introduce a subjective and individualized framework for evaluating qualifying ownership and control, which may create uncertainty for prospective bank organizers, investors, and existing MDIs. Without a clear and consistently applied standard, institutions will face difficulty determining whether they qualify for, or can maintain, MDI status, particularly in connection with mergers, acquisitions, ownership changes, capital raises, or other strategic transactions.

ABA also requests clarity regarding Sections 3.C and 3.D of the revised policy statement. Section 3.C appears to allow existing MDIs to maintain their designation, but then states, "A bank's OCC examiners may reassess such a designation if the facts underlying the designation the day before the issuance of this policy statement undergo a material change." We respectfully request clarification of this inconsistency and information about what might trigger an immediate reassessment. Section 3.D further provides that the OCC will conduct an annual review to determine whether an institution continues to satisfy the MDI definition or whether a maintained designation remains appropriate.

1 About the American Bankers Association the American Bankers Association is the voice of the nation's $26.1 trillion banking industry, which is composed of small, regional and large banks that together employ over 2 million people, safeguard $20.5 trillion in deposits and extend $13.7 trillion in loans.

ABA notes that the OCC's definition of an MDI for federal mutual savings associations imposes a three-part test requiring a majority of the board of directors, account holders, *and* the community served each to be predominantly minority. This standard may be difficult to achieve because banks cannot control the composition of their depositor or account holder base. ABA recommends that the OCC clarify that satisfying any one of the three elements is sufficient for a federal mutual savings association to qualify as an MDI. At a minimum, the OCC should provide examiners with flexibility to allow an existing MDI to maintain its status even if some circumstances change over time.

ABA is also concerned that Section 4 could create uncertainty for MDIs that receive capital from non-MDI entities, including mission-aligned investors, community development organizations, bank partners, foundations, or other institutional investors. By limiting attribution toward the ownership threshold to investments from socially and economically disadvantaged individuals, MDIs, or entities that are at least 51 percent owned by socially and economically disadvantaged individuals, the policy could unintentionally exclude investments that support the growth and stability of MDIs. ABA believes the OCC should ensure that examiners retain flexibility in allowing existing MDIs to maintain their designation even when certain ownership, investment, or capital circumstances change.

Given the importance of regulatory certainty to MDIs, ABA urges the OCC to clarify what constitutes a "material change" and what factors will guide the agency's annual review of existing designations. Additional guidance, including clear objective criteria or illustrative examples, would help banks understand whether routine business developments—such as changes in ownership, board composition, executive leadership, capital structure, mergers, acquisitions, or other strategic transactions could affect their MDI status.

ABA recommends that the OCC provide further clarification, either through frequently asked questions or additional written guidance, to ensure that the MDI framework remains clear, durable, and faithful to the statutory purpose of Section 308. ABA stands ready to work constructively with the OCC and other stakeholders on these issues and appreciates the OCC's continued engagement on how best to support MDIs and the communities they serve.

Sincerely,

Christopher Lewis
Vice-President, CDFI/MDI
American Bankers Association