Minority Depository Institution Program at the FDIC

September 2019 EVAL-19-002

Evaluation Report

Program Audits and Evaluations

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Executive Summary

Minority Depository Institution Program at the FDIC

Minority Depository Institutions (MDI) play a vital role in assisting minority and under-served communities and are resources to foster the economic viability of these communities. Section 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) states that:

> The Secretary of the Treasury shall consult with . . . the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:
>
> (1) Preserving the present number of minority depository institutions.
> (2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution . . .
> (3) Providing technical assistance to prevent insolvency of institutions not now insolvent.
> (4) Promoting and encouraging creation of new minority depository institutions.
> (5) Providing for training, technical assistance, and educational programs.

In keeping with the requirements of FIRREA, the FDIC adopted an MDI Policy Statement in 2002, which describes its interpretation of ways to preserve and promote MDIs and implement the statutory goals.

The FDIC's Divisions of Risk Management Supervision (RMS) and Depositor and Consumer Protection (DCP) are responsible for carrying out the goals of the FIRREA statute. The MDI Program is comprised of a National Director in the FDIC's Headquarters Office and a Regional Coordinator in each of the FDIC's six Regional Offices. As of December 31, 2017, the Federal Deposit Insurance Corporation (FDIC) was the primary Federal regulator for 103 MDIs.

According to a study by the Federal Reserve Bank of Chicago, MDIs are confronted with some unique challenges that are not necessarily common to all small (community) banks. They generally underperformed financially in comparison to other community banks, from 2011 to 2017, after the recent financial crisis. Furthermore, African American MDIs have been less profitable, decreased at a higher rate, and face more challenges than other MDI types.

The objective of our evaluation was to examine the FDIC's actions to preserve and promote MDIs and assess whether the MDI Program is achieving its goals.

Results

During the 2015 to 2017 period we reviewed, the FDIC achieved its program goals as outlined in the FDIC's MDI Policy Statement. Specifically, the FDIC took actions to preserve and promote MDIs, and preserve the minority character of MDIs; provided technical assistance to MDIs; encouraged the creation of new MDIs; and provided MDI training sessions, education, and outreach efforts.

Notwithstanding these efforts, we found that the FDIC did not evaluate the effectiveness of some key MDI Program activities. Specifically, the FDIC did not assess the effectiveness of its supervisory strategies and MDI technical assistance. We also determined that the FDIC should further assess the effectiveness of its MDI training sessions, education, and outreach, including the benefit and value they provide.

We also found that FDIC Headquarters did not define the types of activities that it considered to be technical assistance, as distinct from training, education, and outreach events. Additionally, while the FDIC provided training, education, and outreach events, the MDI banks, FDIC Regional Coordinators for MDIs, and representatives from MDI trade associations requested that the FDIC provide more such events.

Recommendations

Our report contains five recommendations to the Directors of RMS and DCP, as follows: (1) establish, implement, and document a process to assess the effectiveness of MDI Program supervisory strategies; (2) establish and implement a process to assess the effectiveness of the FDIC's MDI Program technical assistance efforts; (3) establish and implement a process to assess the effectiveness of the FDIC's MDI Program training, education, and outreach efforts; (4) issue guidance to the Regional Offices defining the types of activities that comprise technical assistance, as distinct from training, education, and outreach; and (5) assess the benefit and feasibility of increasing MDI Program training, education, and outreach for MDIs, and, if deemed beneficial and feasible, do so.

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September 24, 2019

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Minority Depository Institutions (MDI) play a vital role in assisting minority and under-served communities and are resources to foster the economic viability of these communities. Section 308(a) of the *Financial Institutions Reform, Recovery, and Enforcement Act of 1989* (FIRREA) states that:

> The Secretary of the Treasury shall consult[1] with . . . the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:
>
> (1) Preserving the present number of minority depository institutions.[2]
> (2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:
> (A) Same type of minority depository institution in the same city.
> (B) Same type of minority depository institution in the same State.
> (C) Same type of minority depository institution nationwide.
> (D) Any type of minority depository institution in the same city.
> (E) Any type of minority depository institution in the same State.
> (F) Any type of minority depository institution nationwide.
> (G) Any other bidders.
> (3) Providing technical assistance to prevent insolvency of institutions not now insolvent.
> (4) Promoting and encouraging creation of new minority depository institutions.
> (5) Providing for training, technical assistance, and educational programs.

In November 1993, the General Accounting Office (now the Government Accountability Office) confirmed that the Secretary of the Treasury had, in fact, consulted with the Federal regulatory agencies as required by Section 308 of FIRREA. In keeping with the requirements of FIRREA, in 2002, the FDIC adopted an MDI Policy Statement, which describes its interpretation of ways to preserve and promote MDIs and implement the goals.

The objective of our evaluation was to examine the FDIC's actions to preserve and promote MDIs and assess whether the MDI Program is achieving its goals. We

[1] Congress did not include language requiring the parties to "consult" on a recurring basis or at regular intervals. Therefore, we do not read such a requirement into the statute.
[2] We understand the phrase, "[p]reserving the present number of minority depository institutions," to mean the number of MDIs at the time of FIRREA's enactment in 1989.

considered the MDI Program's goals as the agency's efforts to meet the five goals of the FIRREA statute.

Our evaluation focused on FDIC-supervised MDIs. As of December 31, 2017, there were 103 FDIC-supervised MDIs. We assessed MDI statistics, trends, and financial data from 2001 through 2017, and for shorter periods of time depending on the availability of data.[3]

We conducted this evaluation in accordance with the *Council of the Inspectors General on Integrity and Efficiency Quality Standards for Inspection and Evaluation*. Appendix 1 of this report includes additional details on our objective, scope, and methodology. Appendix 2 shows the results of a survey we sent to 103 FDIC-supervised MDIs. Additional appendices are listed in the Table of Contents.

BACKGROUND

MDIs assist minority and under-served communities and are resources to foster the economic viability of these communities. According to an FDIC Memorandum to Regional Directors dated November 2007, many MDIs were established to serve an otherwise under-served market. Therefore, promoting community development, consumer services, and banking services to the unbanked or under-banked segment of its community may drive many decisions of an MDI.

In August 1989, Congress enacted FIRREA. Section 308 of FIRREA required the Secretary of the Treasury to consult with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) on methods for best achieving the FIRREA goals.

[3] Some analyses compare data from 2001 through 2008, and/or 2008 through 2017. We made this distinction to identify challenges MDIs faced prior to, and after, the financial crisis of 2008-2011. We also assessed specific FDIC efforts related to the MDI Program over the 3-year period from 2015 through 2017.

> **What is an MDI?**
>
> The FDIC considers an institution to be an MDI if it is a Federally-insured depository institution (IDI) where:
>
> - 51 percent or more of the bank's voting stock is owned by minority individuals who are citizens or permanent legal residents of the United States; and/or
> - A majority of the institution's Board of Directors is minority and the community that the institution serves is predominantly minority.

The FDIC adopted an MDI Policy Statement in 2002, which describes its interpretation of ways to preserve and promote MDIs and implement the goals of the FIRREA statute. Specifically, the FDIC has interpreted its responsibilities to achieve the FIRREA goals through: (1) Identifying and maintaining a list of Federally insured MDIs; (2) Creating an organizational structure responsible for organizing and implementing the FDIC's MDI activities, including regularly coordinating with MDIs and consulting with MDI stakeholders; (3) Providing technical assistance[4] to MDIs; (4) Providing training and educational programs to MDIs; (5) Attempting to preserve the minority character of failing institutions during the resolution process by contacting all MDIs that qualify to bid on failing institutions; (6) Reporting the FDIC's MDI activities to the Chairman quarterly and highlighting FDIC efforts to preserve and promote MDIs in the FDIC's Annual Report; and (7) Creating a public webpage to promote the MDI Program.

In addition, Section 367 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* requires Federal banking agencies to submit an annual report to Congress containing a description of actions taken to carry out their responsibilities. The FDIC's annual report describes its efforts to preserve and promote MDIs in connection with the goals of the FIRREA statute.

Structure of the FDIC's MDI Program

The FDIC's MDI Program includes a National Director in the FDIC's Washington Office and a Regional Coordinator in each of the FDIC's six Regional Offices. The National Director is responsible for overseeing the Program, coordinating national outreach initiatives, interacting with other Divisions and Offices at Headquarters, maintaining relationships with trade associations and other organizations that represent MDI interests,[5] coordinating with other banking agencies, updating the FDIC's MDI Program website, and compiling regional information into quarterly reports for the Chairman's Office that summarize MDI outreach activities conducted during the quarter as well as significant events planned in the future.

[4] The FDIC considers technical assistance to be one-on-one assistance that the FDIC may provide to an MDI.
[5] Trade associations and non-profit organizations that represent MDI interests include the National Bankers Association, Community Development Bankers Association, National Association of Chinese American Bankers, and the National Community Investment Fund.

Each FDIC Regional Office has a Regional Coordinator for the MDI Program. The Regional Coordinators organize outreach efforts, serve as the contact person for MDI matters, coordinate technical assistance requests, prepare quarterly reports, and ensure that the FDIC reflects changes to the number of MDIs on its website.

During the 2015 to 2017 period we reviewed, the FDIC's Division of Risk Management Supervision (RMS) was responsible for managing and overseeing the FDIC's MDI Program. [6] Institutions voluntarily participate in the MDI Program and, as such, may request to be designated as an MDI.

Trends of the MDI Program

The FDIC, Office of the Comptroller of the Currency (OCC), and Board of Governors of the Federal Reserve System (FRB) have supervisory authority over MDIs. As of December 31, 2017, these three regulators supervised 155 MDIs. The FDIC was the primary Federal regulator for 103 MDIs,[7] the OCC was the primary regulator for 36 MDIs, and the FRB was the primary regulator for 16 MDIs. By comparison, as of December 2017, there were a total of 5,227 community banks[8]—thus MDIs comprised approximately 3 percent of all community banks (155 of 5,227). Table 1 shows the breakout by minority type of the 103 FDIC-supervised MDIs.

Table 1: FDIC-Supervised MDIs as of December 31, 2017

	Asian	African American	Hispanic	Native American	Multiracial	Total
Number	**50**	**15**	**27**	**10**	**1**	**103**

Source: Compiled by the Office of Inspector General (OIG) based on data from the FDIC's MDI website.

The number of FDIC-supervised MDIs has fluctuated over time. In 2001, the FDIC supervised 85 MDIs. The number of FDIC-supervised MDIs peaked at 143 institutions in 2008, prior to the financial crisis, and then declined to 103 institutions as of December 2017. Similarly, the total number of MDIs fluctuated from 164 institutions (2001), to 215 (2008), to 155 as of December 2017.

[6] RMS has primary responsibility for examining and supervising FDIC-insured institutions for safety and soundness and monitoring and mitigating systemic risks. The FDIC's Division of Depositor and Consumer Protection (DCP) has primary responsibility for examining and supervising FDIC-insured institutions for consumer protection. Effective January 2018, both RMS and DCP have dual responsibility for managing and administering the FDIC's MDI Program.
[7] The primary Federal regulator is the Federal regulatory agency that is the primary supervising entity of a financial institution.
[8] A community bank includes institutions with assets of less than $1.474 billion as of year-end 2017 (the FDIC updates this threshold on a quarterly basis) that are not specialty banks (for example, which are not bankers' banks, credit card banks, or industrial loan companies). Large institutions that are considered community banks must rely primarily on core deposits to fund local lending, operate within a limited geographic area, and are not specialty banks. (Source: *Minority Depository Institutions: Structure, Performance, and Social Impact*, FDIC, June 2019 and the FDIC's Division of Insurance and Research)

From 2008 to 2017, MDIs and community banks experienced similar trends in regard to the total number of institutions and total asset size. Specifically, from 2008 through 2017, as the total number of MDIs declined by approximately 28 percent (from 215 to 155), the total number of community banks declined by approximately 30 percent (from 7,442 to 5,227). During this same time period, the total assets of all MDIs increased by approximately 14 percent (from $196.2 billion to $223.1 billion), while the total assets of all community banks increased by approximately 15 percent (from $1.91 trillion to $2.20 trillion).

Challenges Facing MDIs, Particularly African American MDIs

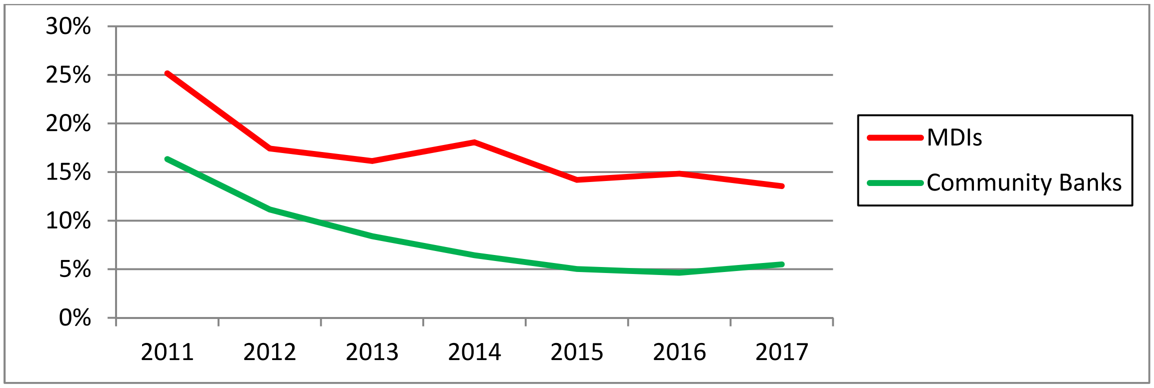
According to a study by the Federal Reserve Bank of Chicago, MDIs "are confronted with some unique challenges, not necessarily common to all small (community) banks, which might create greater constraints on their efficiency."[9] This study noted that MDI customers generally had lower incomes and less stable sources of income than customers of other community banks. Additionally, the study noted that the clientele MDIs serve have liquidity constraints. As a result, MDIs generally had lower lending rates, less capital, and were less profitable than other community banks. African American MDIs faced even more challenges than other types of MDIs, as described below.

Financial Performance

The FDIC tracks the financial performance of MDIs on a quarterly basis in an effort to understand areas of financial strength and weakness by MDI type. As shown in the Figure below, from December 2011 through 2017, after the financial crisis, a higher percentage of MDIs were unprofitable, based on net income,[10] compared to community banks. Specifically, in 2011, approximately 25 percent of all MDIs were unprofitable, as compared to approximately 16 percent of all community banks. In 2017, approximately 14 percent of all MDIs were unprofitable, as compared to approximately 5 percent of all community banks.[11]

[9] *Minority-owned banks and their primary local market areas,* Economic Perspectives, Federal Reserve Bank of Chicago, April 2017. This study cites 12 other studies supporting the noted challenges.
[10] Net income (loss) represents a bank's total earnings or profit. Net income is technically defined as net interest income plus total noninterest income, plus realized gains (losses) on securities and extraordinary items, less total noninterest expense, loan loss provisions, and income taxes.
[11] Unprofitable institutions comprised those that reported negative net income or a loss for the year.

Figure: Percentage of Unprofitable MDIs Compared to Unprofitable Community Banks: 2011 – 2017



Source: FDIC Quarterly Profile reports and information on the FDIC website.

MDIs were also hit harder by the financial crisis compared to their community bank peers, with a higher percentage of MDIs failing as a result of the crisis compared to non-MDIs. While MDIs consistently represented approximately 3 percent of all insured depository institutions (IDIs)[12] from 2008 through 2017, MDIs represented:

- 7.55 percent of all IDI failures (40 of 530); and
- 8.43 percent of the losses to the FDIC's Deposit Insurance Fund (DIF)[13] resulting from failures ($7.45 billion of $88.35 billion).[14]

As shown in Tables 2 and 3, below, African American MDIs were consistently less profitable based on net income and return on assets (ROA),[15] respectively, compared to other MDI types, from 2011 through 2017. Specifically, from 2011 through 2017, African American MDIs had a total net loss of $56 million while other MDI types ranged from a total net loss of $1 million to a total net income of $1.649 billion. Additionally, for 6 of the 7 years between 2011 and 2017, African American MDIs experienced a negative ROA ranging from (0.15) to (0.70), while all MDIs collectively had a positive ROA for all 7 years ranging from 0.50 to 1.22.[16]

[12] An IDI is a depository institution that receives deposits, other than trust funds, and is approved by the FDIC Board of Directors.
[13] The DIF is administered by the FDIC, whose primary purposes are to (1) insure deposits and protect depositors of FDIC-insured institutions, and (2) resolve failed FDIC-insured institutions. The DIF is funded mainly from quarterly assessments from FDIC-insured institutions.
[14] The majority of the DIF loss from MDIs during this time period —$4.5 billion—resulted from the failure of two large MDIs in Puerto Rico.
[15] ROA is a common measure of financial performance that shows how management uses its assets or resources to generate income.
[16] A bank's ROA level should generally be close to 1 percent so a bank can cover its cost of capital. (Source: *Economic Perspectives*, Federal Reserve Bank of Chicago, April 2017)

Table 2: Net Income or (Loss) by MDI Type (in millions) as of the Fourth Quarter of Each Year

4th qtr.	Asian	African American	Hispanic	Native American	Multiracial
2011	$116	($16)	$73	$3	($1)
2012	$144	($4)	$308	$4	($1)
2013	$248	($6)	$229	$3	$0
2014	$271	($8)	$494	$7	$0
2015	$287	($6)	$204	$6	$1
2016	$319	($14)	$32	$7	$0
2017	$264	($2)	($59)*	$6	$0
Total	$1,649	($56)	$1,281	$36	($1)

Source: FDIC MDI Quarterly Profile Reports.
*Note: Hispanic MDIs, as a whole, were unprofitable in the fourth quarter of 2017, due to a loss of $167.9 million during that quarter, attributable to one Hispanic MDI in Puerto Rico.

Table 3: Return on Assets by MDI Type

Year	Asian	African American	Hispanic	Native American	Multiracial	All MDIs
2011	0.75	(0.60)	0.40	0.83	(1.59)	**0.50**
2012	1.16	(0.15)	0.85	0.82	(1.40)	**0.94**
2013	1.19	(0.36)	0.49	0.76	0.61	**0.75**
2014	1.16	(0.70)	1.00	1.02	0.79	**1.01**
2015	1.25	(0.41)	1.32	0.97	2.56	**1.22**
2016	1.25	(0.70)	0.61	1.10	0.86	**0.88**
2017	1.31	0.05	0.48	1.01	1.19	**0.89**

Source: FDIC MDI Quarterly Profile Reports.

Declining Number of MDIs

According to an FDIC report issued in 2014, MDIs were about three times as likely to fail compared to non-MDIs.[17] In addition to failure, the number of MDIs may decline for other reasons, including mergers, change in status to a non-MDI, or voluntary closure. From 2001 through 2017, a total of 16 FDIC-supervised African American MDIs were eliminated due to failure (6), merger (7), or change in status to a non-MDI (3). During the same time period, a total of 76 other MDI types supervised

[17] *Minority Depository Institutions: Structure, Performance, and Social Impact*, FDIC Quarterly, 2014, Volume 8, No. 3.

by the FDIC were eliminated due to failure (21), merger (43), status change to a non-MDI (11), or voluntary closure (1).

Table 4 shows that the total number of FDIC-supervised MDIs increased from 2001 through 2008, prior to the financial crisis—and then decreased from 2008 through 2017, after the financial crisis. From 2001 through 2008, FDIC-supervised African American MDIs increased in number at a slower rate in comparison to other MDI types. From 2008 through 2017, FDIC-supervised African American MDIs decreased at a higher rate in comparison to other MDI types.[18] Table 4 also shows a pronounced decrease in FDIC-supervised African American MDIs from 2001 through 2017, when compared to other MDI types.

Table 4: Fluctuations in the Number of FDIC-Supervised MDIs: 2001 – 2017

	Asian	African American	Hispanic	Native American	Multiracial	Total
2001	42	20	18	4	1	**85**
2008	69	24	38	11	1	**143**
% Change	64%	20%	111%	175%	0%	**68%**
2008	69	24	38	11	1	**143**
2017	50	15	27	10	1	**103**
% Change	-28%	-38%	-29%	-9%	0%	**-28%**
2001	42	20	18	4	1	**85**
2017	50	15	27	10	1	**103**
% Change	19%	-25%	50%	150%	0%	**21%**

Source: Compiled by the OIG based on historical data on the FDIC's website.

EVALUATION RESULTS

The FDIC took several steps to preserve and promote MDIs and achieve the FIRREA goals from 2015 through 2017. However, the FDIC should evaluate the effectiveness of its MDI Program activities; define activities considered to be technical assistance; and assess the benefit and feasibility of increasing MDI training sessions, education, and outreach efforts.

[18] The trends in this paragraph do not apply to multiracial MDIs, which did not fluctuate in number during the time periods presented in Table 4.

The FDIC Took Steps to Achieve Its MDI Goals

We found that from 2015 to 2017, the FDIC took steps to achieve its MDI Program goals as outlined in the FDIC's MDI Policy Statement. The FDIC made efforts to preserve and promote MDIs and preserve the minority character of MDIs; provided technical assistance to MDIs; encouraged the creation of new MDIs; conducted MDI outreach with bankers and trade groups; and provided training sessions and education.

The FDIC Made Efforts to Preserve and Promote MDIs

The FDIC outlined activities in its MDI Policy Statement to perform outreach and provide support and assistance to MDIs to collectively promote this goal. The number of FDIC-supervised MDIs increased from 42 in 1989 when FIRREA was established to 103 FDIC-supervised MDIs as of December 31, 2017.

We found that from 2015 to 2017, the FDIC established and took steps to implement its performance goal to "[p]reserve and strengthen MDIs by providing technical assistance to help build partnerships and raise capital and other funding,"[19] including the following:

<u>FDIC MDI Community Outreach</u>

From 2015 to 2017, the FDIC conducted several meetings and outreach activities with MDI stakeholders in an effort to meet its performance goal. For example, each year, the FDIC held between two and five regional technical assistance outreach conferences with MDIs to discuss relevant, topical regulatory subjects and possible new business partners and opportunities. The FDIC took other steps from 2015 to 2017 to meet its MDI performance goal, including:

- In 2015 and 2017, the FDIC co-sponsored two interagency conferences with the OCC and FRB to discuss capitalization strategies, building capacity, and other topics of interest to MDIs;
- In 2015, the FDIC held two roundtable events to facilitate matchmaking between potential MDI and non-MDI partners;
- In 2016, the FDIC met with a Community Bank Advisory Committee member to discuss minority banker concerns about African American MDIs and a variety of possible technical assistance opportunities to address non-earning assets and improve profitability; and

[19] RMS Performance Goal I. 3.07. in the FDIC's Annual Performance Plans for 2015, 2016, and 2017. For each of these years, the FDIC developed specific indicators/targets to implement, measure, and track its progress in achieving RMS Performance Goal I. 3.07.

- In 2015, 2016 and 2017, the FDIC updated its external MDI website to communicate new information and program changes.

FDIC Engagement with the National Bankers Association

The FDIC also engaged the National Bankers Association (NBA),[20] and African American bankers in discussions about potential tools and resources that could help address challenges faced by African American MDIs. In 2016, the then-FDIC Chairman and the Director of RMS met with NBA representatives on two occasions. The Director of RMS and Acting MDI National Director also met with the NBA and held a conference call with NBA representatives. The MDI National Director informed us that FDIC leadership, including the Chairman and MDI National Director, also actively engaged with NBA bankers at meetings in 2015, 2016, and 2017.

As a result of this outreach with the NBA, which represents a large number of African American MDIs, in 2015, 2016 and 2017, the FDIC, the NBA, and African American bankers identified several initiatives which could benefit MDIs. Table 5 presents some of these initiatives, along with the FDIC's response and date of completion, if applicable.

[20] The NBA's mission is to create an inclusive financial services industry and a vibrant business environment for minority financial institutions, their customers, and the communities they serve.

Table 5: Examples of FDIC Initiatives Implemented at the Request of the NBA or NBA Members

Initiative	Response	Date Completed
NBA sponsored "MDI Keepers Fund" to support capital investment in MDIs.	Provided technical assistance regarding Community Reinvestment Act (CRA)[21] aspects and capital treatment.	2015-2016
Provide technical assistance on how MDIs can prepare an effective alliance bid for a failing MDI.	FDIC provided a comprehensive and detailed technical assistance session for three MDI banks.	November 2016
Minimize the burden of compliance by reviewing and consolidating enforcement actions.	Regional Directors reviewed enforcement actions; some were consolidated.	2016-2017
Provide management assistance when MDIs experience gaps with executives.	FDIC is willing to provide technical assistance, but has no legal authority to provide funds or managerial direction to MDIs.	N/A

Source: Compiled by the OIG based on information provided by the MDI National Director in January and July 2019.

<u>Studies on MDI Expenses and Profitability</u>

As a result of RMS's consultation with the NBA, in 2017, the FDIC's Division of Insurance and Research (DIR) examined why African American MDIs experienced higher costs and lower profitability, as compared to other MDI types.[22] According to this research, African American MDIs generally had higher salary expenses due to a greater number of employees per branch, higher premise expenses based on a concentration of bank branches located in downtown areas, and higher "other noninterest expenses," compared to their MDI peers.[23] In addition, the Federal Reserve Bank of Chicago study dated April 2017 noted that MDIs as a whole often serve customers who prefer to do business in person at bank branch locations rather than through lower-cost alternatives, thus requiring more time and resources per transaction.

[21] The CRA was enacted by Congress in 1977 (12 U.S.C.A. § Ch. 30) and intended to encourage IDIs to help meet the credit needs of communities in which the IDIs operate, including low- and moderate-income communities. The primary purpose of the CRA is to demonstrate that a bank is working effectively to meet the credit needs of its entire community, including low- and moderate-income communities. The CRA requires Federal agencies, including the FDIC, to periodically assess an institution's record of helping to meet the credit needs of the local communities in which the institution operates.
[22] RMS requested that DIR conduct this research based upon discussions with the NBA, to understand the cost structure and expense components of MDIs.
[23] According to the FDIC's research, "other noninterest expenses" typically included data processing, advertising, telecommunications, insurance, printing, and postage expenses as well as directors' fees, legal fees, and other real-estate owned expenses.

FDIC Resource Guide – Collaborative Relationships with MDIs

In December 2017, in response to an NBA request, the FDIC issued a Financial Institution Letter (FIL) entitled *Collaborative Relationships with Minority Depository Institutions* (FIL-64-2017), which is a resource guide for MDIs. The resource guide encouraged collaboration between MDIs and other institutions and described ways that financial institutions, including community banks, could partner with MDIs.

The resource guide noted that financial institutions may receive consideration pursuant to the CRA for collaborating with MDIs. The resource guide provided examples of activities that financial institutions could perform in order to receive CRA consideration.[24] Examples included placing deposits in MDIs; direct investments to help MDIs increase their capital levels; partnering with MDIs in making loans, which could allow MDIs to make larger loans and/or more loans; and providing specialty expertise and resources on banking issues.

The FDIC Complied With Its Policy Statement to Preserve the Minority Character of MDIs

The FDIC's MDI Policy Statement notes that (1) the FDIC will attempt to preserve the minority character of failing institutions during the resolution process; (2) the FDIC's Division of Resolutions and Receiverships (DRR)[25] will contact all MDIs nationwide that qualify to bid on failing institutions;[26] and (3) DRR will discuss the bidding process with interested MDIs and, upon request, offer technical assistance on completing the bid forms. By statute, however, the FDIC is required to accept the least costly bid from a bidder regardless of MDI status.

Despite the MDI provisions of FIRREA and statutory provisions added to the Federal Deposit Insurance Act, in 2001, the FDIC's then-General Counsel issued an opinion that the FDIC must follow the "least cost" provisions of Section 13(c)(4) of the Federal Deposit Insurance Act – that is, the FDIC must sell a failed bank to the bidder that presents a proposal with the "least possible cost to the Deposit Insurance Fund." See 12 U.S.C. 1823(c)(4). This "least cost" requirement effectively overrides the priorities for minority-owned institutions, because all bids are required to be evaluated strictly on the basis of least possible cost of resolution.[27]

[24] The FDIC examines banks for compliance with CRA requirements and assigns a CRA compliance rating of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance." The FDIC's consideration of an institution's collaboration with an MDI could result in a higher CRA examination rating for that institution.
[25] DRR has primary responsibility for resolving failing financial institutions and managing the resulting receiverships.
[26] To qualify as a bidder, financial institutions (including MDIs) must meet several eligibility criteria to demonstrate they have the financial strength to purchase a failing institution. Eligible institutions must also have adequate management and a satisfactory or better record related to their *Community Reinvestment Act* performance.
[27] The FIRREA statute, as noted above, articulated the objectives for preserving the minority character of MDIs as: (A) Same type of minority depository institution in the same city; (B) Same type of minority depository institution in the same State; (C) Same type of minority depository institution nationwide; (D) Any type of minority depository institution in the same city; (E) Any type of minority depository institution in the same State; (F) Any type of minority depository institution nationwide; and (G) Any other bidders.

Based on our review, of the five MDIs that failed from 2015 through 2017, DRR complied with its own policy regarding purchasers of the failed institutions. We found that DRR identified and solicited qualified MDIs to bid on the failed MDIs, and the qualified bidder that submitted the least costly bid for the failed MDI purchased the financial institution, as required by statute.

MDI Survey Results: Preservation Efforts

MDIs rated the FDIC's efforts to preserve the minority character of MDIs that experience financial or other challenges as:

- Very Good or Good: 67 percent (36 of 54).
- Fair: 22 percent (12 of 54).
- Poor: 4 percent (2 of 54).
- Don't Know: 7 percent (4 of 54).

FDIC officials stated that they assist interested MDIs on how the bidding process works and how to complete the bid forms. Specifically, FDIC officials stated that in 2017, the FDIC worked with three African American MDIs that were interested in submitting a joint bid to purchase a failed MDI by helping to ensure they understood the bidding process and how to structure and submit their bids. Two of the three African American MDIs submitted a joint bid, but their bid was not the least costly bid. Nevertheless, the least costly bid was from another MDI, and this MDI purchased the failed MDI.

Trade association and MDI representatives stated that the statutory requirement to offer a failed bank to the least costly bidder can preclude smaller MDIs from bidding, because they cannot typically compete against larger banks that have more resources and can offer higher bids. These representatives stated that the FDIC should seek Congressional action to change the statutory requirement by allowing additional consideration to MDIs to purchase failed banks, even when an MDI's bid is not the least costly bid.

According to the FDIC's 2017 Annual Report to Congress for the period 2002 through 2016:

- Among 72 MDIs that voluntarily merged or consolidated, 54 percent of the institutions and 76 percent of total assets were acquired by another MDI; and

- Among the 39 MDIs that failed, 38 percent of the institutions and 86 percent of total assets were acquired by another MDI.

Conversely, 46 percent of the institutions and 24 percent of total assets were acquired by non-MDIs since the MDIs chose to voluntarily merge or consolidate with non-MDIs. Additionally, 62 percent of the institutions and 14 percent of total assets were acquired by non-MDIs since they were the least costly bidders.

The FDIC Complied With Its Policy Statement and Provided Technical Assistance to MDIs

Two of the FIRREA goals provide for FDIC technical assistance—one goal is specifically geared toward providing technical assistance to prevent insolvency of MDIs, while the other goal provides for the general provision of technical assistance. The FDIC views all technical assistance as strategies that ultimately help prevent insolvency, and therefore does not separate technical assistance efforts by FIRREA goals.

The FDIC's MDI Policy Statement states that the FDIC can provide technical assistance in several ways on a variety of issues. The FDIC considers technical assistance to be one-on-one assistance that the FDIC may provide to an MDI. Examples include (1) assisting management to implement examination recommendations; (2) helping management to understand bank regulations, FDIC policies, and examination procedures; and (3) reviewing a bank's draft policies and procedures, strategic plans, budgets, or applications for new branches.

MDI Survey Results: Technical Assistance

Our OIG survey found that from 2015 through 2017:

- 72 percent of respondents (39 of 54) received FDIC technical assistance.
- 37 respondents rated the FDIC's technical assistance, and 84 percent rated the assistance as "extremely useful" or "very useful."

We found that the FDIC offered technical assistance to MDIs in compliance with its policies and procedures. According to the annual FDIC Preservation and Promotion of MDIs Reports to Congress and other FDIC data, the FDIC provided 385 technical assistance sessions to MDIs from 2015 through 2017. The number of technical assistance sessions increased each year from 101 sessions in 2015 to 149 sessions in 2017.[28]

In 2017, FDIC-supervised African American MDIs comprised 15 percent of all FDIC-supervised MDIs (15 of 103), but received a proportionately higher amount of FDIC technical assistance—25 percent in 2017 -- as compared to technical assistance the FDIC provided to other MDI types. In fact, African American MDIs received a

[28] The FDIC changed its methodology for capturing technical assistance in 2017. Specifically, the FDIC's 2017 Annual Report to Congress reported that it had provided 211 MDI technical assistance sessions in 2017, which actually represented the number of topics covered. The FDIC's 2015 and 2016 Annual Reports to Congress reported on the number of MDI technical assistance sessions it provided each respective year, some of which covered multiple topics. To be consistent with its 2015 and 2016 methodology, the FDIC informed us that the equivalent number of MDI technical assistance sessions in 2017 would be 149.

proportionately higher amount of technical assistance every year going back to 2012, when the FDIC began compiling the data.

Our survey found that MDIs were generally pleased with the FDIC's technical assistance and respondents commented that FDIC personnel who provided the assistance were responsive, helpful, and knowledgeable.

The FDIC Complied with Its Policy Statement to Encourage the Creation of New MDIs

MDIs are created in two ways: (1) de novo[29] MDIs that are designated upon initial IDI approval; or (2) existing IDIs that apply and become designated as an MDI.

According to the FDIC data, 34 de novo MDIs were created from 2001 through 2008, and no de novo MDIs were created from 2009 through 2017.[30] IDIs followed a similar trend with 1,134 newly-created IDIs (including MDIs) from 2001 through 2008, and 54 newly-created IDIs from 2009 through 2017. Additionally, there were 94 existing IDIs that applied and received the MDI designation from 2001 to 2017.

De Novo MDIs Created: 2001 – 2017

- 2001: 2 MDIs
- 2003: 1 MDI
- 2005: 7 MDIs
- 2006: 12 MDIs
- 2007: 10 MDIs
- 2008: 2 MDIs
- 2009 – 2017: 0 MDIs

Total: 34 de novo MDIs

Consistent with the FIRREA goal to promote and encourage the creation of new MDIs, the legislative history to FIRREA states that MDI Programs and policies should "promote the development of new minority financial institutions."[31]

The FDIC's MDI Policy Statement, issued in 2002, requires the MDI Regional Coordinators to contact all new minority State nonmember banks[32] identified through insurance applications, merger applications, or change in control notices to familiarize those minority institutions with the FDIC's MDI Program. RMS's Case Manager Procedures Manual states that Case Managers should contact applicants attempting to establish a new MDI to discuss the FDIC's MDI Program and offer technical assistance during the application process. Regarding existing banks, if it is

[29] A "de novo" institution is a newly organized insured depository institution. The institution remains a de novo for 3 years while complying with certain standard conditions, including requirements for minimum initial capital and minimum ongoing capital maintenance.
[30] At the time we issued this report, historical data showing the number of MDIs was found at: https://www.fdic.gov/regulations/resources/minority/mdi.html.
[31] H.R. REP. 101-54, 438-39, 1989 U.S.C.C.A.N. 86, 235.
[32] Section 3 of the Federal Deposit Insurance Act defines a State nonmember bank as any State bank that is not a member of the Federal Reserve System.

unclear whether these banks meet the definition of an MDI, FDIC officials stated that examiners will inquire with the bank officials.

Based upon our interviews with FDIC officials, correspondence between the FDIC and MDI applicants, application information, and technical assistance provided to MDIs, we determined that the FDIC took steps and complied with its policies and procedures to encourage eligible new (de novo) and existing IDIs obtain MDI status.

The FDIC Provided Training, Education, and Outreach to MDIs in Accordance with Its Policy Statement

The FDIC's MDI Policy Statement states that the FDIC will work with trade associations that represent MDIs and other Federal regulators to periodically assess the needs of MDIs, provide training and education events, and discuss outreach efforts.

In the context of the MDI Program, the FDIC defines training and education programs as those that are typically open to all banks supervised by the FDIC or to all banks located within a particular Regional Office. These programs may comprise regional roundtables, interagency conferences, classroom training, technical assistance video programs, teleconferences describing ways to comply with new laws or regulations, or topics of general interest.

The FDIC considers MDI outreach activities to comprise initiatives that are focused on relationship building with MDIs. Outreach activities typically comprise a discussion of broad topic areas or sessions where FDIC personnel seek to understand an MDI's perspective on a particular matter. Outreach activities may lead to future requests for technical assistance, training, or education.

<u>FDIC Training, Education, and Outreach Events</u>

The FDIC provided training, education, and outreach events in accordance with its policies and procedures. Specifically, the FDIC's six Regional Offices reported that they held 120 education, training, and outreach events from 2015 to 2017.[33] The MDI National Director and Regional MDI Coordinators organized and participated in MDI training, education, and outreach events and coordinated with trade associations and other organizations to understand the needs and matters of importance to MDIs. Our MDI survey found that these events were generally well-received by MDIs.

[33] We calculated the total number of MDI education, training, and outreach events in the respective quarterly MDI reports that the six FDIC Regional Offices sent to Headquarters. We excluded one-on-one technical assistance, as it is discussed separately in our report.

The FDIC held events for MDIs through individual meetings, conference calls, webinars, and banker roundtables from 2015 through 2017. Key events included two conferences hosted annually by the NBA in 2015, 2016, and 2017 (six in total); interagency conferences in 2015 and 2017 that the FDIC, OCC, and FRB jointly hosted; and a Community Banking conference hosted by the FDIC in 2016. In addition, the FDIC met numerous times with the NBA to discuss program initiatives aimed at African American MDIs.

Additionally, we found that executives from two MDIs served on the FDIC's Advisory Committee on Community Banking as of January 2019. The FDIC established this Advisory Committee in 2009 to provide the FDIC with advice and guidance on a range of policy issues impacting small community banks and the local communities they serve. The MDI National Director informed us that multiple MDI executives were Advisory Committee on Community Banking members since its founding.

We also found that one MDI executive served on the FDIC's Advisory Committee on Economic Inclusion as of January 2019. The FDIC established this Advisory Committee in 2006 to provide the FDIC with advice and recommendations on initiatives to expand access to banking services to underserved populations.

MDI Survey Results: Training, Education, and Outreach

Our OIG survey found that from 2015 through 2017:

- 80 percent of respondents (43 of 54) attended an MDI roundtable, conference, or call-in. Forty-four respondents rated these events, and 77 percent rated these events as "extremely useful" or "very useful."
- 63 percent of respondents (34 of 54) participated in a training or education program offered by the FDIC. Thirty-four respondents rated these programs, and 88 percent rated these programs as "extremely useful" or "very useful."

Our survey found that MDIs were pleased with the FDIC's training, education and outreach. Respondents commented that the events were "very useful" or "extremely useful."

The FDIC Should Evaluate the Effectiveness of Its MDI Program Activities

The FDIC should assess the effectiveness of its MDI Program activities, including its supervisory strategies and MDI technical assistance, and further assess the effectiveness of its MDI training sessions, education, and outreach efforts.

The FDIC Should Assess the Effectiveness of Its Supervisory Strategies

According to the Government Accountability Office (GAO),[34] monitoring performance is one of the five components of internal control. Monitoring performance helps ensure that an organization achieves its objectives, including those that relate to program operations, and addresses related risks. The GAO also states that management should use ongoing monitoring, separate evaluations, or a combination of the two to obtain reasonable assurance of the operating effectiveness of the organization's internal controls over the assigned process. Evaluating the effectiveness of agency program operations can improve organizational efficiency through streamlining program operations and reducing costs and redundancies.

In 2016, the Acting MDI National Director required the FDIC's six Regional Offices to develop supervisory strategies for MDIs with composite CAMELS ratings[35] of "3," "4," or "5" and all African American MDIs. The Acting MDI National Director required that the strategies contain background information about each MDI, a description of recent examination activity, FDIC technical assistance previously offered or provided, and a strategy to employ for the future to assist each MDI. According to the Director of RMS, the goal was to focus the MDI's executive management on the most important things they needed to do to prevent their failure.

The current MDI National Director stated that the purpose in developing these supervisory strategies was to develop a plan to prevent MDI failure, and plan and document the FDIC's efforts to work with and provide ongoing technical assistance to MDIs. According to the current MDI National Director, the supervisory strategies identify challenges and concerns, including provisions of enforcement actions where applicable; describe technical assistance that the FDIC previously provided or offered; and outline a plan for the FDIC to work with each institution in the future. The supervisory strategies contain specific goals such as assisting an MDI on how to retain qualified management, improve its asset quality, or adopt a capital plan. According to RMS, however, the institutions' Directors and Management are ultimately responsible for the operations, profitability, and viability of the institution.

In November 2017, the Acting MDI National Director asked the Deputy Regional Directors to update or prepare new supervisory strategies for MDIs with composite ratings of "3," "4," or "5" and all African American MDIs. According to the current MDI National Director, the requested strategies were prepared. RMS required the Assistant Regional Directors to approve the supervisory strategies.

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[34] GAO *Standards for Internal Control in the Federal Government* (GAO 14-704G, September 2014).
[35] RMS examiners evaluate a bank's performance in six areas represented by the CAMELS acronym: **C**apital adequacy, **A**sset quality, **M**anagement capabilities, **E**arnings sufficiency, **L**iquidity position, and **S**ensitivity to market risk. Examiners assign each CAMELS component with a rating of 1 through 5, and an overall composite rating of 1 through 5. A rating of "1" (strong) reflects the least regulatory concern and a rating of "5" (critically deficient), reflects the greatest concern.

Although RMS issued guidance to its staff in preparing supervisory strategies for these MDIs, the guidance did not address how RMS would assess the effectiveness of its supervisory strategies and there was no evidence it did so. While RMS officials explained that the strategies were reviewed at Headquarters for consistency and effectiveness, they did not document this process or the results of their reviews.

While the MDI National Director noted that FDIC personnel regularly review supervisory strategies as a part of offsite monitoring activities, progress reports, interim visits, and at subsequent examinations,[36] the purpose of these reviews is to determine whether the supervisory strategy for a particular institution should be adjusted. RMS, however, should assess the effectiveness of its overall, nation-wide supervisory strategies for MDI program operations as suggested by the GAO guidance for monitoring performance. Specifically, RMS could assess the extent to which the MDIs implemented or attempted to implement RMS's supervisory recommendations. If the MDIs did not implement the supervisory recommendations, RMS could determine why and explore whether it could have made other supervisory recommendations or used enforcement actions to effect change. Assessing the effectiveness of supervisory strategies and recommendations on a national programmatic level would allow the FDIC to determine what strategies worked or did not work and apply this learning to future potential MDI failures. Further, by documenting its MDI supervision assessment process and results, the FDIC would clarify expectations, promote consistency in the options considered when supervising struggling MDIs, and improve its organizational efficiency.

The FDIC Should Assess the Effectiveness of MDI Technical Assistance

FDIC officials advised that they obtain feedback on MDI technical assistance in a number of ways, including during the annual examination process, at annual roundtables with MDIs, and at biennial interagency conferences. However, we found that the FDIC did not have a formal mechanism to assess the effectiveness of its technical assistance. Specifically, the FDIC did not determine whether the technical assistance provided to MDIs was useful or helped to solve a problem. The FDIC could assess the effectiveness of its technical assistance by periodically conducting surveys to solicit input from the MDIs and determine what actions the MDIs took in response to the FDIC's technical assistance.

In 2006, the GAO issued a report recommending that the FDIC implement procedures to assess the effectiveness of its minority bank support efforts, including its technical assistance, by periodically surveying MDIs and/or developing outcome-oriented performance measures to assess the progress of their efforts in

[36] Section 10(d) of the Federal Deposit Insurance Act requires onsite examinations of every insured financial institution at least once during each 12-month period. Examination intervals may be extended to 18 months if the institution has assets totaling less than $3 billion and is well managed and well-capitalized.

relation to MDI Program goals.[37] In response to the recommendation, in December 2007, the FDIC surveyed all MDIs to assess the effectiveness of its technical assistance and other events, and identify areas for improvement. However, the FDIC did not continue to conduct periodic surveys of MDIs as recommended.

Further, although the FDIC established a performance goal to "preserve and strengthen MDIs by providing technical assistance to help build partnerships and raise capital and other funding", the FDIC did not develop outcome-oriented performance measures for this goal, as recommended by the GAO. For example, the FDIC did not establish an outcome-oriented goal to determine if the technical assistance actually resulted in MDIs building partnerships and raising capital or other funding.

Instead, the FDIC established process- and output–oriented performance measures such as:

- Hosting technical assistance, outreach, and interagency conferences;
- Implementing a plan in collaboration with the NBA to help preserve African American MDIs; and
- Hosting collaboration meetings between community banks and MDIs, and conducting roundtables.

According to the Government Performance and Results Act Modernization Act of 2010 (GPRAMA),[38] Performance Measurement is the ongoing monitoring and reporting of program accomplishments, particularly progress toward pre-established goals. It is typically conducted by program or agency management. GPRAMA requires agencies to develop a strategic plan including outcome-oriented goals for the major functions and operations of the agency. GPRAMA also requires agencies to prepare a performance plan including a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators. Performance measures may address the type or level of program activities conducted (process), the direct products and services delivered by a program (outputs), or the results of those products and services (outcomes).

The MDI National Director stated that the FDIC did not formally assess the effectiveness of its technical assistance sessions. The MDI National Director asserted that there were many variables that can contribute to a bank's performance and, therefore, it was difficult to identify the extent to which technical assistance would impact a bank's performance.

[37] GAO Report: *Regulators Need to Better Assess Effectiveness of Support Efforts*, GAO-07-6, October 2006.
[38] Pub. L. No. 111-352, 124 Stat. 3866 (Jan. 4, 2011).

Regularly surveying MDIs could provide the FDIC with valuable information about the effectiveness of its technical assistance efforts. Obtaining information on its technical assistance efforts could also help identify the most useful technical assistance that could be provided to other MDIs. Further, measuring the effectiveness of technical assistance is critical to determine if adjustments should be made.

The FDIC Should Further Assess the Effectiveness of MDI Training Sessions, Education, and Outreach Efforts

We found that the FDIC conducted surveys to evaluate the effectiveness of 6 of its 120 MDI education, training sessions, and outreach events held from 2015 to 2017 (5 percent). These 6 surveyed events were major conferences attended by MDI executives. Specifically, the FDIC obtained survey feedback from approximately 110 MDI bankers who attended two biennial FDIC interagency conferences in 2015 and 2017 to determine whether the topics covered were relevant, needed, and useful, and the content of the session information was well presented. Attendees rated the conferences very favorably. Additionally, the FDIC surveyed attendees of four total regional MDI roundtables in 2016 and 2017, the results of which indicated they were also generally well-received. The other 114 MDI education, training sessions, and outreach events that were not surveyed were of a smaller scale and consisted of workshops, calls, general discussions, and other trainings.

FDIC officials advised that they did not believe it was necessary to conduct surveys at all events because they obtain feedback at annual MDI roundtables, outreach meetings, and during the annual examination process. However, if the FDIC is not obtaining timely participant feedback for the majority (95 percent) of its training, education, and outreach events it is not able to validate that these events cover the appropriate topics at the right frequency. Further, it is not able to make adjustments or enhancements to its MDI training sessions, education, and outreach offerings.

As previously noted, the GAO has identified leading practices that call for agencies to regularly monitor and assess the effectiveness of their programs and operations. Soliciting feedback and assessing the effectiveness of more MDI trainings, education, and outreach events would give RMS additional information to support its MDI Program activities and decisions.

Recommendations

We recommend that the Directors of RMS and DCP:

1. Establish, implement, and document a process to assess the effectiveness of MDI Program supervisory strategies.

2. Establish and implement a process to assess the effectiveness of the FDIC's MDI Program technical assistance efforts, including using outcome-oriented goals and related performance measures.

3. Establish and implement a process to further assess the effectiveness of the FDIC's MDI Program training sessions, education, and outreach efforts.

The FDIC Should Define Activities Considered To Be Technical Assistance

Annually, the FDIC reports to Congress the number of individual technical assistance sessions in addition to qualitative information about training sessions, education, and outreach activities it provided to MDIs. To compile this annual report, each quarter, the FDIC's six Regional Offices provide Headquarters with a summary of their (1) technical assistance sessions and (2) training, education, and outreach activities in connection with the MDIs in their Regions. Headquarters personnel review and aggregate the data and include related information in the FDIC's annual reports to Congress.

However, FDIC Headquarters has not provided definitions of the types of activities that should be categorized as technical assistance, as distinct from training, education, and outreach events. Therefore, each Regional Office used its judgment to categorize the FDIC's activities, and there were inconsistencies among the categorizations used by the Regional Offices. For example, sometimes a technical assistance session was incorrectly categorized as an outreach session.

Because RMS did not provide guidance to the Regional Offices to clarify the types of efforts that comprise technical assistance and other assistance, RMS had to review the Regional Office submissions and re-characterize certain activities to ensure consistency in the classifications, before including the information in the FDIC's annual reports to Congress. As a result, the FDIC's process to report to Congress the number of technical assistance sessions it provided to MDIs was not efficient.

Recommendation

We recommend that the Directors of RMS and DCP:

4. Issue guidance to the Regional Offices defining the types of activities that comprise technical assistance, as distinct from training, education, and outreach.

The FDIC Should Assess the Benefit and Feasibility of Increased MDI Training Sessions, Education, and Outreach Efforts

During our evaluation, representatives from MDIs (banks), MDI trade associations, and FDIC Regional Coordinators for the MDI program all requested that the FDIC provide more training sessions, education, and outreach events for MDIs. Eleven MDIs stated that the FDIC should increase events with MDIs by offering more training, meetings, forums, and roundtables; interfacing with MDIs on an ongoing basis; and sharing information with MDIs about what worked well at other institutions. A non-profit organization representative stated that the FDIC should provide MDIs with targeted training based on their size or minority type.

In addition, the FDIC could increase awareness of its MDI website. The FDIC website provides a current list of all MDIs; historical MDI data; MDI resource materials such as MDI studies, policies, and procedures; MDI annual reports to Congress; outreach events; and program personnel contact information. The website also contains information about new MDIs, and a link to guidance and resources for creating a de novo institution.[39]

According to our OIG survey:

- 59 percent of respondents (32) had visited the FDIC's MDI website. MDIs suggested that the FDIC notify MDIs when it updates its MDI website and include the benefits of being an MDI on the website;

- 97 percent of respondents who visited the FDIC's website (32 of 33) found the FDIC's MDI website to generally be useful; and

- 19 percent of respondents (10 of 54) were not aware the FDIC had an MDI website.

Recommendation

We recommend that the Directors of RMS and DCP:

5. Assess the benefit and feasibility of increasing MDI Program training, education, and outreach for MDIs, and if deemed beneficial and feasible, do so.

[39] At the time we issued this report, the FDIC's MDI website was found at: https://www.fdic.gov/regulations/resources/minority/.

CONCLUSION

MDIs play a vital role in serving minority communities, including Asian, African American, Hispanic, Multiracial, and Native American communities. MDIs are confronted with unique challenges that are not necessarily common to small community banks.

While the FDIC took steps to preserve and promote MDIs and achieve the five FIRREA goals from 2015 through 2017, it should do more to assess the effectiveness of its MDI Program activities; define activities considered to be technical assistance; and assess the benefit and feasibility of increasing MDI training sessions, education, and outreach efforts.

FDIC COMMENTS AND OIG EVALUATION

The Directors of RMS and DCP provided a written response, dated September 10, 2019 (FDIC Response), to a draft of this report. The FDIC Response is presented in its entirety in Appendix 4. The FDIC concurred with all five of the report's recommendations. The Directors of RMS and DCP stated that the FDIC plans to complete actions to address the recommendations by March 31, 2020.

All five recommendations will remain open until we confirm that corrective actions have been completed and are responsive. Appendix 5 contains a summary of the FDIC's corrective actions.

Objective

The objective of our evaluation was to examine the FDIC's actions to preserve and promote MDIs and assess whether the MDI Program is achieving its goals. We considered the MDI Program's goals to comprise the FDIC's efforts to meet the five goals of the FIRREA statute discussed in this report.

Scope

The scope of our evaluation included all 103 FDIC-supervised MDIs as of December 31, 2017. We assessed MDI statistics, trends, and financial data from 2001 through 2017, or for shorter periods of time depending on the availability of data. Some analyses compare data from 2001 through 2008, and/or 2008 through 2017. We made this distinction to identify challenges MDIs faced prior to, and after the 2008-2011 financial crisis (financial crisis). We also assessed specific FDIC efforts related to the MDI Program over the 3-year period from 2015 through 2017.

Methodology

To accomplish our objective, we:

- Assessed the FDIC's efforts to meet the five goals of the FIRREA statute;
- Assessed MDI trend data such as fluctuations in the number and type of MDIs and MDI financial performance data over time;
- Assessed challenges facing MDIs and the FDIC's efforts to address these challenges;
- Sent a written survey to all 103 FDIC-supervised MDIs as of December 8, 2017, to solicit their opinions on the FDIC's MDI Program;
- Reviewed the following statutes, regulations, and FDIC guidance and assessed the FDIC's compliance with relevant requirements:
    - Section 308 of FIRREA: *Preserving Minority Ownership of Minority Financial Institutions* and the related legislative history;
    - Section 367 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, which requires the FDIC and other bank regulatory agencies to provide an annual report to Congress describing their activities to carry out Section 308 of FIRREA;
    - The FDIC's MDI Policy Statement dated April 2002;

   - FIL-66-2008: *Minority Depository Institutions Expanded Guidelines for Providing Technical Assistance to Minority Depository Institutions*, July 17, 2008;
   - FIL-64-2017: *Collaborative Relationships with Minority Depository Institutions*, December 22, 2017;
   - RD Memo: *Minority Depository Institutions Program*, November 21, 2007; and
   - FDIC internal guidance related to the MDI Program, including relevant portions of RMS's *Case Manager Procedures* Manual.

- Reviewed the following background documents:

   - FDIC annual reports to Congress on the FDIC's MDI Program for the years 2015, 2016, and 2017;
   - FDIC report titled: *Minority Depository Institutions: Structure, Performance, and Social Impact*, FDIC Quarterly, 2014, Volume 8, No. 3;
   - FDIC MDI Quarterly Profile reports for the period 2010 – 2017;
   - Evaluation results from MDI interagency conferences and roundtables for the period 2015 through 2017;
   - GAO report: *Minority Banks: Regulators Need to Better Assess Effectiveness of Support Efforts,* GAO-07-6, October 2006; and
   - GAO report: *Minority-Owned Financial Institutions: Status of Federal Efforts to Preserve Minority Ownership*, GAO/GGD-94-1, November 1993.

- Interviewed the following officials and organizations:

   - RMS MDI Program personnel in FDIC Headquarters and the FDIC's six Regional Offices;
   - DRR personnel responsible for identifying and contacting MDIs that meet eligibility criteria to purchase failed MDIs;
   - DIR personnel who examined why African American MDIs faced more challenges, as compared to other MDI types;
   - MDI trade association representatives and a professor from academia; and
   - OCC personnel responsible for the OCC's MDI Program.

- Assessed the FDIC's efforts to meet its internal performance goals related to the MDI Program over the 3-year period 2015 through 2017. The FDIC's efforts are noted in the report and included actions such as hosting technical assistance and outreach events and conferences, issuing a FIL in December 2017, and maintaining the FDIC's public MDI website.

We conducted our fieldwork from October 2017 through November 2018 in accordance with the *Council of the Inspectors General on Integrity and Efficiency Quality Standards for Inspection and Evaluation*.

This appendix provides MDI responses to each multiple choice survey question followed by a summary of MDI responses to the survey questions that solicited written input.[40] We sent the survey to the 103 FDIC-supervised MDIs as of December 2017 and received responses from 54 MDIs (52-percent response rate).

MDI Responses to Multiple Choice Questions

1. What is the current minority ownership status or minority classification of your financial institution? (*Select the one that best describes your institution.*)	
African American	8 (15%)
Asian	24 (44%)
Hispanic	9 (17%)
Native American	6 (11%)
Multiracial	0 (0%)
Other	7 (13%)
Total	**54 (100%)**

2. Are you aware that the FDIC has a website dedicated to MDIs, and if so, have you visited it?	
Yes, aware and have visited	32 (59%)
Yes, aware but have NOT visited	11 (20%)
No, unaware	10 (19%)
No response	1 (2%)
Total	**54 (100%)**

[40] Question numbering is not sequential because the questions that solicited written input are not listed. A summary of the MDI responses to those questions is included at the end of this Appendix.

3. If visited: How useful was the FDIC's website?	
Extremely useful	4 (12%)
Very useful	16 (48%)
Moderately useful	10 (30%)
Slightly useful	2 (6%)
Not at all useful	1 (3%)
Total	**33 (100%)***

* Note: 17 MDIs selected the response "Not applicable" and 4 MDIs did not respond. Percentages do not add up to 100% due to rounding.

5. Are you aware of whether the FDIC has held or organized roundtables, conferences, or call-ins specifically for MDIs in the past three (3) years, and if so, have you participated in any?	
Yes, aware and attended	43 (80%)
Yes, aware but NOT attended	9 (17%)
No, unaware	2 (4%)
Total	**54 (100%)**

* Percentages do not add up to 100% due to rounding.

6. If you participated in at least one roundtable, conference, or call-in specifically for MDIs in the past three (3) years: How useful was this event(s)?	
Extremely useful	12 (27%)
Very useful	22 (50%)
Moderately useful	5 (11%)
Slightly useful	3 (7%)
Not at all useful	2 (5%)
Total	**44 (100%)***

* Note: 9 MDIs selected the response "Not applicable" and 1 MDI did not respond.

8. Has the FDIC made your institution aware of the types of technical assistance it offers in the past three (3) years? *(Technical assistance comprises one-on-one assistance that the FDIC provides to a bank. For example, the FDIC may advise a bank on compliance with a particular statute or regulation. The FDIC may also provide technical assistance to a bank that is related to deficiencies identified in safety and soundness or compliance examinations.)*	
Yes	52 (96%)
No	2 (4%)
Don't know	0 (0%)
Total	**54 (100%)**

9. Has the FDIC provided any technical assistance to your institution in the past three (3) years?	
Yes	39 (72%)
No	14 (26%)
Don't know	1 (2%)
Total	**54 (100%)**

11. If YES, THE FDIC PROVIDED TECHNICAL ASSISTANCE: How useful was this assistance?	
Extremely useful	17 (46%)
Very useful	14 (38%)
Moderately useful	4 (11%)
Slightly useful	2 (5%)
Not at all useful	0 (0%)
Total	**37 (100%)***

* Note: 12 MDIs selected the response “Not applicable” and 5 MDIs did not respond.

13. Has the FDIC made your institution aware of any of its training and education programs in the past three (3) years? *(Training and education programs are typically open to all banks supervised by the FDIC or to all banks located within a particular regional office. For example, FDIC headquarters or an FDIC regional office may offer Directors' Colleges, technical assistance video programs, or teleconferences describing ways to comply with new laws or regulations, or topics of general interest. The FDIC may provide training opportunities during outreach events or with organizations such as trade associations.)*	
Yes	50 (93%)
No	1 (2%)
Don't know	3 (6%)
Total	**54 (100%)**

* Percentages do not add up to 100% due to rounding.

14. Has your institution participated in any training or education programs offered by the FDIC in the past three (3) years?	
Yes	34 (63%)
No	12 (22%)
Don't know	8 (15%)
Total	**54 (100%)**

16. If YES, PARTICIPATED IN TRAINING OR EDUCATION PROGRAMS: How useful were these programs?	
Extremely useful	15 (44%)
Very useful	15 (44%)
Moderately useful	2 (6%)
Slightly useful	2 (6%)
Not at all useful	0 (0%)
Total	**34 (100%)***

* Note: 15 MDIs selected the response "Not applicable" and 5 MDIs did not respond.

18. How do you rate the FDIC's efforts to preserve the minority character of MDIs that experience financial or other challenges? *For example, by providing technical assistance to these institutions, facilitating collaboration opportunities, or marketing failing MDIs to eligible MDI bidders?*	
Very good	24 (44%)
Good	12 (22%)
Fair	12 (22%)
Poor	2 (4%)
Very poor	0 (0%)
Don't know	4 (7%)
Total	**54 (100%)**

* Percentages do not add up to 100% due to rounding.

20. How do you rate the FDIC's efforts to promote and encourage the creation of new MDIs? *For example, by working with trade associations and other organizations to attempt to identify groups that may be interested in establishing new MDIs, and by discussing the application process, the requirements for becoming FDIC-insured, and the various programs geared toward MDIs.*	
Very good	11 (20%)
Good	6 (11%)
Fair	6 (11%)
Poor	0 (0%)
Very poor	2 (4%)
Don't know	28 (52%)
No response	1 (2%)
Total	**54 (100%)**

22. Overall, how do you rate the FDIC's efforts to preserve and promote MDIs?	
Very good	23 (43%)
Good	12 (22%)
Fair	10 (19%)
Poor	6 (11%)
Very poor	0 (0%)
Don't know	3 (6%)
Total	**54 (100%)**

* Percentages do not add up to 100% due to rounding.

25. In addition to activities and programs covered so far, are you aware of any other specific things the FDIC does to support MDIs?	
Yes	2 (4%)
No	51 (94%)
No response	1 (2%)
Total	**54 (100%)**

Summary of MDI Written Feedback

Preserving and Promoting MDIs

- Fourteen MDIs provided positive feedback about the FDIC's efforts, specifying that (1) the FDIC was doing everything it could to preserve and promote MDIs, (2) the FDIC provided effective technical assistance or training, or (3) the MDI Program was a good resource.

- Four MDIs said the FDIC should do more to help MDIs bid on failing banks.

- Five MDIs questioned the benefits of being an MDI and suggested that the FDIC demonstrate to MDIs, the benefits of being in the MDI Program.

- Two MDIs stated that the MDI program is not working well.

Technical Assistance

- Nine MDIs commented on how responsive, helpful, and knowledgeable FDIC personnel were when providing technical assistance to MDIs.

- Six MDIs said that technical assistance was useful in preparing for an FDIC examination or improving compliance.

- Three MDIs said that the FDIC's technical assistance should better reflect the MDI's profile, uniqueness, or market in which it operates.

Training, Education, and Outreach Events

- Fourteen MDIs stated that in-person MDI outreach events were beneficial for networking and sharing information with MDIs and other organizations.

- Eleven MDIs stated that the FDIC should increase training, education, and outreach events for MDIs by offering more training, meetings, forums, and roundtables; interfacing with MDIs on an ongoing basis; and sharing information with MDIs about what works well at other institutions.

- Seven MDIs stated that FDIC personnel needed to better understand the uniqueness of each MDI, the challenges they face, and the communities they serve.

- Four MDIs said that information provided at training, education, and outreach events should better reflect the size and type of MDI.

FDIC's Website

Three different MDIs provided feedback, as follows:

- One MDI suggested notifying the MDIs, via email, when the FDIC changes or updates its website.

- One MDI suggested the FDIC include the benefits of being an MDI on its website.

- One MDI said the website was too "busy."

Appendix 3 | Acronyms and Abbreviations

CAMELS	**C**apital Adequacy, **A**sset Quality, **M**anagement Practices, **E**arnings Performance, **L**iquidity Position, and **S**ensitivity to Market Risk
CRA	Community Reinvestment Act
DIF	Deposit Insurance Fund
DIR	Division of Insurance and Research
DRR	Division of Resolutions and Receiverships
FDIC	Federal Deposit Insurance Corporation
FIL	Financial Institution Letter
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
FRB	Board of Governors of the Federal Reserve System
GAO	Government Accountability Office
GPRAMA	Government Performance and Results Act Modernization Act of 2010
IDI	Insured Depository Institution
MDI	Minority Depository Institution
NBA	National Bankers Association
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General
RMS	Division of Risk Management Supervision
ROA	Return on Assets

FDIC
Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Division of Risk Management Supervision
Division of Depositor and Consumer Protection

September 10, 2019

TO: Terry L. Gibson, Assistant Inspector General
Office of Inspector General

FROM: Doreen R. Eberley, Director /**Signed**/
Division of Risk Management Supervision

Mark Pearce, Director /**Signed**/
Division of Depositor and Consumer Protection

SUBJECT: OIG Evaluation No. 2017-030 Minority Depository Institution Program at the FDIC

Thank you for providing the Federal Deposit Insurance Corporation (FDIC) the opportunity to comment on the draft evaluation report (Draft Report) for Assignment No. 2017-030, "Minority Depository Institution Program at the FDIC," which examined the FDIC's actions to preserve and promote Minority Depository Institutions (MDIs) and assess whether the MDI Program is achieving its goals.

We appreciate the overall conclusion, based on your review of program operations and a survey of FDIC-supervised MDIs, that the FDIC met the five statutory goals regarding MDIs as included in the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989.[1]

Subsequent to the OIG's evaluation period that covered 2015-2017, the FDIC has further strengthened MDI program operations and continued its efforts to meet the FIRREA goals by:

- Augmenting program staff. In 2018, FDIC appointed a new, full-time permanent executive to manage MDI programs across the FDIC (National Director), and added dedicated staff to exclusively support the MDI program. The reporting line for the National Director was expanded to the directors of both the Division of Risk Management Supervision (RMS) and the Division of Depositor and Consumer Protection (DCP), in recognition of the value of fully leveraging the resources and expertise of both Divisions in support of the MDI program.

- Completing and releasing a new research study on MDIs. This study, which was published in June 2019, explores changes in MDIs, their role in the financial services industry, and their impact on the communities they serve. The study period covers 2001 to 2018 and looks at the demographics, structural change, geography, financial

[1] The FIRREA MDI goals also apply to the Office of the Comptroller of the Currency; the Board of Governors of the Federal Reserve; and the National Credit Union Administration.

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performance, and social impact of MDIs. The study showed that MDI financial performance improved significantly over the past five years; MDIs consolidated significantly, but more gradually than community banks overall; and MDIs are important service providers to low- or moderate-income and minority communities.

- Expanding MDI representation on advisory committees. Over the past year, the FDIC added additional MDI bankers to its advisory committees and in 2019 announced the establishment of a new subcommittee exclusively devoted to MDI issues. The MDI subcommittee will hold its inaugural meeting later this year.
- Providing opportunities to develop collaborative relationships. In 2019, the FDIC also hosted the first of several roundtables between MDIs and other FDIC-supervised institutions to share expertise and to promote possible collaborative opportunities, including direct investments and deposits in MDIs.
- Preserving the minority character in failed bank acquisitions. In 2018-2019, the FDIC conducted four in-person roundtables and three webinars with MDI bankers to discuss the failed bank bidding process and special marketing procedures for MDIs. In addition, we have provided technical assistance to MDI bidders.

The FDIC remains fully committed to maintaining a strong MDI program and concurs with the recommendations made by the OIG to further strengthen the program.

RECOMMENDATIONS

(1) Establish, implement, and document a process to assess the effectiveness of MDI Program supervisory strategies.

Concur. As discussed more fully below, the FDIC already has an established process to assess the effectiveness of individual MDI supervisory strategies. The FDIC agrees to document the findings of the existing process separate from the existing documentation in reports of examination and visitation and add to this process a horizontal assessment of the strategies' effectiveness.

RMS provided written instructions to its regional offices in 2016 and 2017 requiring the development of written supervisory strategies for MDIs in troubled condition, to focus executive management of these institutions on the FDIC supervisory recommendations they most needed to implement to improve their condition and remain viable. The regional offices developed strategies that headquarters reviewed for appropriateness, clarity and consistency. Each of these supervisory strategies was evaluated for effectiveness as part of the regular supervision process. At each point in the examination cycle, including regular examinations, visitations, and offsite reviews, examiners assess what conditions have changed, how management has responded, whether new supervisory recommendations to management are needed, and whether to escalate corrective action. The updated strategy is documented in a new exam report, visitation report or other correspondence. Case managers

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also regularly review regular progress reports from banks and communicate with bankers as needed.

In response to the OIG's recommendation, FDIC will update its examiner instructions to require preparation of a separate written document, at the conclusion of each examination, which outlines the elements of the prior supervisory strategy, evaluates of the effectiveness of those elements, and recommends any changes in strategy or escalation of response. These assessments will be submitted to the MDI Program Office, which will conduct a periodic horizontal review of the individual assessments. Any key trends or findings from the horizontal reviews will be communicated back to the regional offices for use in enhancing future supervisory strategies. In developing the instructions, the FDIC will review prior supervisory strategies to incorporate best practices. The FDIC also will continue to conduct annual meetings and quarterly telephone calls with MDIs in troubled condition to review management progress in complying with enforcement actions; identify any technical assistance that could improve progress; and update supervisory strategies, as necessary, to incorporate the results of the progress review. RMS and DCP will finalize the program instructions by December 31, 2019.

(2) Establish and implement a process to assess the effectiveness of the FDIC's MDI Program technical assistance efforts.

Concur. As noted in the OIG's report, of the MDI bankers responding to the survey who used technical assistance, 84% rated the usefulness of the assistance as "extremely useful" or "very useful." To further assess the effectiveness, the FDIC will develop a survey that can be administered annually in conjunction with the annual letter the FDIC sends to MDI executive management outlining upcoming opportunities for training, education, and outreach, and offering technical assistance. The survey will request banker feedback on the effectiveness of any technical assistance provided over the prior year. RMS and DCP will finalize the survey instrument and incorporate it into the annual contact letter sent to all FDIC-supervised MDIs by March 31, 2020.

(3) Establish and implement a process to assess the effectiveness of the FDIC's MDI Program training, education, and outreach efforts.

Concur. As noted in the OIG's report, of the MDI bankers responding to the survey who participated in a training or education program offered by the FDIC, 88% rated these programs as "extremely useful" or "very useful." In addition, the FDIC's evaluations of widely attended training, education, and outreach events such as the biennial interagency conference and annual regional roundtables show very positive feedback on these events, as noted in the OIG report. To further assess the effectiveness of training, education, and outreach efforts, the FDIC will develop a survey that can be administered annually in conjunction with the annual letter the FDIC sends to MDI executive management outlining upcoming opportunities for training, education, and outreach, and offering technical assistance. The survey will request feedback on the effectiveness of any training, education, or outreach provided over the prior year. RMS and DCP will finalize the survey instrument

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and incorporate it into the annual contact letter sent to all FDIC-supervised MDIs by March 31, 2020.

(4) Issue guidance to the Regional Offices defining the types of activities that comprise technical assistance, as distinct from training, education, and outreach.

Concur. The FDIC will continue to engage in its annual quality assurance review of data on technical assistance, training, education, and outreach activities. In addition, RMS and DCP will publish definitions for technical assistance, training and education, and outreach in its tracking tool and conduct training for case managers and others that record these events. RMS and DCP will complete this action by December 31, 2019.

(5) Assess the benefit and feasibility of increasing MDI Program training, education, and outreach for MDIs, and if deemed beneficial and feasible, do so.

Concur. The FDIC engages in regular contact with each MDI regarding program benefits. The FDIC's Regional Directors send an annual letter to each FDIC-supervised MDI outlining program activities and benefits, including training and education and offering to hold an outreach meeting with each MDI's board of directors to discuss issues of interest. The FDIC also regularly engages with trade associations and bankers at roundtables, conferences, and outreach events to discuss needs. In addition, going forward, the FDIC will incorporate a feature into the annual contact letter to MDIs to seek input on specific requests for needed training and assess the appropriate delivery mechanism for needed training. The FDIC will also engage the MDI Subcommittee of the Advisory Committee on Community Banking to identify other possible training, education, and outreach needs. The FDIC will initially incorporate this feature into the 2020 annual contact letter that will be issued by March 31, 2020, and then ongoing annually.

Appendix 5 Summary of the FDIC's Corrective Actions

This table presents management's response to the recommendations in the report and the status of the recommendations as of the date of report issuance.

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
1	RMS and DCP will update examiner instructions to require preparation of a separate written document, at the conclusion of each examination, which outlines the elements of the prior supervisory strategy, evaluates the effectiveness of those elements, and recommends any changes in strategy or escalation of response. These assessments will be submitted to the MDI Program Office, which will conduct a periodic horizontal review of the individual assessments. Any key trends or findings from the horizontal reviews will be communicated back to the regional offices for use in enhancing future supervisory strategies. In developing the instructions, the FDIC will review prior supervisory strategies to incorporate best practices.	December 31, 2019	$0	Yes	Open
2	RMS and DCP will develop a survey to be administered annually in conjunction with the annual letter the FDIC sends to MDI executive management outlining upcoming opportunities for training, education, and outreach, and offering technical assistance. The survey will request banker feedback on the effectiveness of any technical assistance provided over the prior year.	March 31, 2020	$0	Yes	Open
3	RMS and DCP will develop a survey to be administered annually in conjunction with the annual letter the FDIC sends to MDI executive management outlining upcoming opportunities for training, education, and outreach, and offering technical assistance. The survey will request feedback on the effectiveness of any training, education, or outreach provided over the prior year.	March 31, 2020	$0	Yes	Open
4	RMS and DCP will publish definitions for technical assistance, training and education, and outreach in its tracking tool and conduct training for case managers and others that record these events.	December 31, 2019	$0	Yes	Open
5	The FDIC will incorporate a feature into the annual contact letter to MDIs	March 31, 2020	$0	Yes	Open

	to seek input on specific requests for needed training and assess the appropriate delivery mechanism for needed training. The FDIC will also engage the MDI Subcommittee of the Advisory Committee on Community Banking to identify other possible training, education, and outreach needs.				

[a] Recommendations are resolved when —

1. Management concurs with the recommendation, and the planned, ongoing, and completed corrective action is consistent with the recommendation.
2. Management does not concur with the recommendation, but alternative action meets the intent of the recommendation.
3. Management agrees to the OIG monetary benefits, or a different amount, or no ($0) amount. Monetary benefits are considered resolved as long as management provides an amount.

[b] Recommendations will be closed when the OIG confirms that corrective actions have been completed and are responsive.

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