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AN EXAMINATION OF THE DECLINE OF MINORITY DEPOSITORY INSTITUTIONS AND THE IMPACT ON UNDERSERVED COMMUNITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCIAL INSTITUTIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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AN EXAMINATION OF THE DECLINE OF MINORITY DEPOSITORY INSTITUTIONS AND THE IMPACT ON UNDERSERVED COMMUNITIES

Tuesday, October 22, 2019

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSUMER PROTECTION
AND FINANCIAL INSTITUTIONS,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 2128, Rayburn House Office Building, Hon. Gregory W. Meeks [chairman of the subcommittee] presiding.

Members present: Representatives Meeks, Scott, Clay, Foster, Lawson, Tlaib, Porter, Ocasio-Cortez; Luetkemeyer, Lucas, Barr, Tipton, Williams, Loudermilk, and Kustoff.

Ex officio present: Representatives Waters and McHenry.

Chairman MEEKS. The Subcommittee on Consumer Protection and Financial Institutions will come to order.

Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. And, without objection, members of the full Financial Services Committee who are not members of this subcommittee are authorized to participate in today's hearing.

Today's hearing is entitled, "An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities."

And I know that we are in competition this afternoon with several different hearings, so I expect Members to be running in and out.

I now recognize myself for 4 minutes to give an opening statement.

To my friend and colleague, Ranking Member Luetkemeyer, and the members of the subcommittee, welcome to this hearing on the decline of minority depository institutions (MDIs) and the impact on underserved communities.

This hearing continues our consideration of the challenges faced by disenfranchised marginalized communities, including, in particular, communities of color that face discrimination in access to financial services.

It is regrettable in many ways that, in 2019, we still need to hold hearings to draw attention to the systemic challenges and structural discrimination faced by minority communities. It is frankly regrettable that, in 2019, we must still talk about the challenges

faced by Asian banks, Hispanic banks, African-American banks, Native American banks, and the dramatic disparities in lending to minority communities and low- and moderate-income (LMI) communities. But the data and the generational impact is irrefutable.

Today, we will not only consider the problems, but we will also have a substantive conversation about actionable solutions, and a discussion of the draft of a bill I plan to introduce that was attached to this hearing. The bill seeks to tackle several key challenges faced by minority banks, including in particular those that focus primarily on serving unbanked and low-income communities.

Specifically, the bill on which I look forward to feedback from our panel of experts here today addresses the following: one, access to capital. Overall, minority banks are smaller than their peers and typically well below a billion dollars in assets. These banks pose no credible systemic risk and focus on underbanked communities investing in homeownership and small business lending in LMI communities.

Given the communities they serve, these banks often struggle to mobilize savings to redeploy in their communities. My bill tackles this by making it somewhat easier for minority banks that are also community development organizations to raise capital from private investors and from Opportunity Zone funds, and pushes the Federal Government to deposit funds that are fully insured within these institutions.

Two, regulator engagement. The bill calls on the regulators to harmonize and strengthen the minority bank advisory boards and take ownership of their failings in the area of diversity. Specifically, the bill calls for regular auditing of the diversity of the bank examiner corps, publication of the data, and consideration of how the lack of diversity in this area and lack of special training of examiners engaging with minority banks in low-income communities harm their effectiveness.

The bill also calls on the prudential regulators to consider more effective and coherent Community Reinvestment Act (CRA) examinations of minority banks that are also Community Development Financial Institutions (CDFIs).

Furthering the CDFI fund, finally, the bills calls on Congress to fully fund the CDFI fund of the Treasury Department. The CDFI fund is a unique tool which leverages limited government funding to crowd in significant private sector capital and foster innovation investments in market-oriented solutions to tackle some of our nation's most persistent challenges in poverty alleviation. This program deserves strong bipartisan support.

In closing, I wish to highlight that I am very aware that, while today's hearing is very focused on minority banks and issues of discrimination, I recognize that any discussion of banking deserts and underbanked communities must also include consideration of rural and agricultural communities. These issues cut across districts and party affiliation, and I look forward to working with my colleagues on a bipartisan basis to tackle these important challenges.

I look forward to the testimony of our witnesses here today.

And I now recognize the ranking member of the subcommittee, Mr. Luetkemeyer, for 5 minutes for an opening statement.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Minority Depository Institutions (MDIs), like all financial institutions, have struggled under the weight of the regulatory burden of the Dodd-Frank Act.

According to a Harvard University study, Dodd-Frank has created an uneven regulatory playing field. This playing field resulted in additional legal and compliance costs for small institutions, preventing them from serving their customers, particularly the businesses and consumers within their community.

MDIs play a unique role in serving their community. According to the FDIC and the Federal Reserve, MDIs serve consumers in low- to moderate-income communities at higher rates than non-MDIs.

This committee should be focused on alleviating the burden on these institutions so they can serve their communities, specifically the minority and LMI communities.

One such burden that will have a devastating effect on small depository institutions, and particularly Minority Depository Institutions, is the proposed Current Expected Credit Losses (CECL) accounting standard. Now, as many on this panel know, I could spend the length of this hearing discussing the pitfalls of this ill-conceived proposal. Instead, I will simply read an excerpt from a letter to the committee regarding CECL from the National Bankers' Association, which identifies itself as the voice of minority banking in the United States.

And I quote: "To the extent that CECL increases the cost of lending to borrowers that are perceived by regulators as being riskier or lower credit quality, such as low- and moderate-income consumers and small businesses located in low- and moderate-income communities, the economics of our lending decisions could be altered dramatically. This would further restrict access to credit for consumers and businesses that already experience limited credit options."

In addition, I would like to read a statement from the Center for Responsible Lending President Michael Calhoun on CECL, in which he said, "As proposed, CECL creates a significant disincentive for lenders to originate loans to low- and moderate-income families and communities of color."

I would like to ask unanimous consent that the full statements from both of these organizations be entered into the record.

Chairman MEEKS. Without objection, it is so ordered.

Mr. LUETKEMEYER. The statements I just read are not unique. The truth is that numerous consumer interest groups have voiced concerns over CECL. Despite the warning signs these groups have raised, this committee has not taken any formal action to better understand the effects that CECL will have an low- to moderate-income consumers and minorities. No Full Committee hearings, no subcommittee hearings, no markups, no nothing. This inaction flies in the face of LMI borrowers in minority communities across the country who will be adversely affected by this accounting standard.

For all of the rhetoric from the other side of the aisle about how consumers and minorities can struggle in the financial services industry, the Democratic leadership on this committee remains woefully silent on an issue that has direct impact on Minority Depository Institutions and the consumers they serve.

I specifically mention that the Democratic leadership of this committee has been inactive because CECL is a bipartisan issue that has support from Members on both sides of the aisle: 52 bipartisan Members have signed onto a bill to delay implementation of CECL until a study is completed that examines access to credit for consumers.

In addition, roughly 30 members of this committee just last week signed a bipartisan letter I sent to FSOC urging the Office of Financial Research to study the impacts of CECL. Despite this bipartisan support, the chairwoman of this committee has done nothing to address an issue that could devastate low- and moderate-income lending and lending to minority communities.

In front of this committee today are witnesses representing three separate organizations that have voiced concerns over the effects of CECL, effects that it could have on their member institutions as well as the consumers they serve. And yet, this committee has shown no interest in bringing this issue up and, in fact, seems completely content to let CECL go into place, despite the warning signs related to minority- and low-income borrowers.

This committee is tasked with ensuring a healthy financial services industry and promoting economic freedom for everyday Americans. That responsibility includes ensuring financial institutions are not driven out of the marketplace by onerous requirements, and protecting the ability of consumers to gain access to credit.

With that said, I urge all of my colleagues on both sides of the aisle to call for a committee hearing on CECL, or better yet, have the Financial Accounting Standards Board (FASB) come before this committee and defend this standard.

I yield back.

Chairman MEEKS. I now yield 1 minute to the gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Yes. Thank you, Mr. Chairman.

I do want to let my colleague from Missouri, Mr. Luetkemeyer, know that I agree with him, and will work with him on CECL. But I also want to clarify that Chairwoman Waters, who is the Chair of the full Financial Services Committee, is very much concerned about the status of minority-owned depository institutions, and she has asked us to look at that as well as she has an open mind to the CECL question as we get to it.

But in my last few seconds, it is very important to say that banks are the heart of our financial system. And with the growing population among minorities, there could not be a more crucial hearing than today, Mr. Chairman, and I look forward to a very excellent hearing.

Thank you.

Chairman MEEKS. Thank you. The gentleman's time has expired.

Today, we welcome the testimony of, first, Mr. Kenneth Kelly, who is the chairman and CEO of the First Independence Bank, and the Chair of the National Bankers Association.

First Independence Bank, headquartered in Detroit, Michigan, is now the seventh largest African-American-controlled commercial bank in the country. He has been appointed to the Fed's Depository Institutions Advisory Council for a 3-year term, and has been ap-

pointed nationally to the FDIC's Community Bank Advisory Committee.

Second, we will hear from Ms. Jill Sung, president and CEO of Abacus Federal Savings Bank in my home City of New York, and Chair of the Independent Community Bankers of America's (ICBA's) Minority Bank Council.

Ms. Sung joined Abacus, the bank her father started in 1984, as vice president and general counsel in 1996, later rising to executive vice president and then taking over as president and CEO in 2005. She serves in several leadership positions within the Independent Community Bankers of America, as Chair of the Consumer Financial Services Committee, and as Chair of the ICBA's Minority Bank Council.

Third, Ms. Mara Falero, vice president of marketing and communications at Jetstream Federal Credit Union, a low-income CDFI operating in Miami-Dade County Florida, and in Puerto Rico.

She has over 33 years of financial institution experience in both credit unions and banks, and she is very active in her community, serving on several chamber and credit union boards, and as the past Chair of the Town of Miami Lakes Economic Development Committee.

Fourth, Mr. Jeff Bowman, president and CEO of Bay Bank, a Tribally-owned bank within the Oneida Indian Tribe of Wisconsin. Mr. Bowman has over 30 years in the banking industry, with the majority of his career working in bank management and commercial lending positions. He specializes in helping small businesses, by providing technical assistance. He is also active with several organizations that facilitate economic development and small business development. He specializes in assisting and capitalizing minority businesses, particularly Native American-owned small businesses.

And last but not least, Mr. Aaron Betru, managing director of the Center for Financial Markets at the Milken Institute. He has over 20 years of experience and leads the Center's Access to Capital and Strategic Innovative Financing initiatives to enhance social impact, both in the United States and in developing countries.

He also leads the Institute's work on Opportunity Zones and Qualified Opportunity Funds. Mr. Betru was a member of the steering group for the Blended Finance Task Force launched by the Business and Sustainable Development Commission, as well as co-chairing the Partnership for Lending in Underserved Markets, a joint initiative with the U.S. Small Business Administration. He is also a term member of the Council on Foreign Relations, and is a member of the Board of Directors for the Calvert Impact Capital NFHI Foundation.

The witnesses are reminded that your oral testimony will be limited to 5 minutes. And, without objection, your written statements will be made a part of the record.

Mr. Kelly, you are now recognized for 5 minutes to give your oral presentation of your testimony.

STATEMENT OF KENNETH KELLY, CHAIRMAN AND CEO, FIRST INDEPENDENCE BANK, AND CHAIR, BOARD OF DIRECTORS, NATIONAL BANKERS ASSOCIATION (NBA)

Mr. KELLY. Chairman Meeks, Ranking Member Luetkemeyer, members of the subcommittee, thank you for the opportunity to testify on behalf of First Independence Bank and the National Bankers Association.

I serve as chairman and CEO of First Independence Bank, a $272 million MDI headquartered in Detroit, Michigan. We are the only African-American bank in the State of Michigan and one of only two banks in the City headquartered in Detroit, and we are also a Community Development Financial Institution (CDFI). I also Chair the board of directors of the National Bankers Association, the leading voice of MDIs since 1927.

Our banks are in crisis. They fail at a higher rate, and while there is broad diversity in the MDI sector in terms of profitability, mission-oriented financial institutions encounter unique challenges ranging from investors who don't understand the value of the services we provide, to, oftentimes, regulatory review that does not understand the communities we serve.

We are the banks of first and last resort of our communities. Relative to non-MDIs, we do more small business and mortgage lending on a pro rata share. We often do specialty lending in terms of religious institutions and other community-based organizations.

We fully understand the value of our work, but absent intervention from Washington, fewer of our banks will exist to do this work.

The top issue for NBA members is raising capital, as we mentioned. Congress can take four steps now to alleviate our capital-raising concerns by: one, amending the Community Reinvestment Act (CRA) such that the majority institutions automatically receive positive CRA consideration in addition to enhanced CRA credit for equity investment in MDIs; two, amending the Investment in Opportunity Act such that MDIs are eligible for equity investments; three, exempting MDIs under $3 billion from the Bank Holding Company Act and change of control provisions; and four, creating an investment tax credit for equity investments in MDIs.

Congress can also act now to help our banks diversify their deposit basis by: one, lowering the barrier to participation in the Minority Bank Deposit program; and two, modernizing the Federal Deposit Insurance Act approach toward broker deposits so that smaller MDIs can diversify their deposit basis.

Congress is also well-positioned to use existing tools, like the Community Development Financial Institutions Fund, to create a fairer process for new markets tax credit allocation and to urge congressional appropriators to increase funding for all CDFI programs.

Should it become law, Congress should leverage the Improve Access to Traditional Banking Act to create a fund for MDIs for financial literacy and alternatives to predatory products.

Targeted deregulatory measures would benefit the NBA banks. The current leadership in the industry, the Executive Branch, and regulatory environments are working collaboratively within these constraints today.

Examples include the bolstering of the Treasury Mentor Protege Program and the FDIC's MDI roundtable. But there is an immediate need to streamline BSA/AML reporting requirements for smaller banks, and there is still a need to strengthen Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), requiring that significant regulatory developments include an impact analysis on MDIs and support MDIs' sustainability.

In order to do the work that we do, we often look to Washington for support. The actions outlined above and in our written submission provide a roadmap for helping us to do this.

Examples of that include actions taken by the forefathers of this great nation, including creating the Federal Reserve in 1913, creating the FDIC in 1933, and, particular to MDI's, creating the Freedman's Bank over 154 years ago in 1865.

You will hear a recurring theme throughout the hearing that demonstrates that leadership matters on issues related to these institutions, and in particular, policy matters more.

We commend the subcommittee and the committee, and Chairwoman Waters and Chairman Meeks on their longstanding leadership on MDI issues and, most importantly, for holding this hearing.

I look forward to answering the subcommittee's questions.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kelly can be found on page 61 of the appendix.]

Chairman MEEKS. Thank you for your testimony.

I now recognize Ms. Sung for 5 minutes.

STATEMENT OF JILL SUNG, CEO AND PRESIDENT, ABACUS FEDERAL SAVINGS BANK, AND CHAIR, INDEPENDENT COMMUNITY BANKERS OF AMERICA'S (ICBA'S) MINORITY BANK ADVISORY COUNCIL, ON BEHALF OF THE ICBA

Ms. SUNG. Chairman Meeks, Ranking Member Luetkemeyer, and members of the subcommittee, I am Jill Sung, CEO and president of Abacus Federal Savings Bank in New York.

I testify today on behalf of the Independent Community Bankers of America, where I serve as Chair of the Minority Bank Advisory Council and the Consumer Financial Services Committee. Thank you for this opportunity to testify at today's hearing.

MDIs play a critical role in promoting economic prosperity in historically marginalized communities. I would like to thank Chairman Meeks for his work on a thoughtful discussion draft. We are pleased to have the opportunity to offer input on this draft and hope to continue to work with you as it advances through the process.

Abacus Bank is a $350 million asset privately held savings and loan association headquartered in Chinatown, New York City, with branches in Chinese-American communities in Brooklyn, Queens, Edison, New Jersey, and Philadelphia. Abacus was founded in 1984 by my father, Thomas Sung, who immigrated through Ellis Island as a teenager from China. He went on to attend law school and eventually opened his own immigration law practice in Chinatown to help others like him find a better life in this country.

He was motivated to open Abacus Bank by the realization that banks were more than happy to take his deposits but were not willing to give him or people like him a loan. Abacus was founded to change that and to ensure that our community has access to credit, a fundamental factor for the economic stability and growth of any community.

The majority of our lending is in residential mortgages, particularly first-time homebuyers, a natural fit for our community, where the aspiration of owning your own home is almost sacred. We also lend on small multifamily and mixed-use investment properties. Our lending policy is extremely conservative, and our delinquency rates have always been unusually low, before, during, and after the financial crisis. We attribute this to our deep understanding of our customers, and we are very proud of how we have helped our community over the past 35 years, and we look forward to serving future generations.

I would like to speak to some of the unique challenges we face as MDIs that serve immigrants. These challenges reflect the vulnerabilities of our customers in the financial system. The first is the language barrier. Because most of our customers speak Chinese as a primary language, we must hire employees who are fluent in Chinese. This limits the supply of qualified employees, and we often have to hire people with little or no banking experience and train them at a significant expense to us.

The language barrier also increases our operating costs, as we spend much of our time translating, explaining to our customers disclosure forms and regulatory concepts with which there is often no literal translation in Chinese. The language barrier makes implementing a regulatory change, of which there have been many in recent years, twice as costly and time-consuming.

The second challenge is serving customers who come from a starkly different cultural and sociopolitical system. Many of them view not only the government but the banking system with deep suspicion. In order to overcome this lack of trust, we must heavily invest in financial education. We feel a tremendous responsibility to act as trust advisors to this vulnerable population and guide their decisions while at the same time respecting their concerns.

Technology, which is transforming financial services, is not always suitable for this population. Some of our most popular products are safe deposit boxes and passbook savings accounts, old school products which cannot be automated and are costly and labor-intensive for us to maintain. Despite this, we continue to offer these products to ensure that the particularly vulnerable pockets of our community, like the elderly, still have access to the banking system in ways they feel safe and comfortable to use.

As a small MDI, our business model does not easily lend itself to high margins and high profits. This is why access to capital is so key. We do not have access to public capital markets, and raising private capital through the regular channels is challenging, given our specific missions and our concentration of disadvantaged communities.

I know this predicament of lack of capital faces all MDIs. We need to find ways to help MDIs obtain capital, such as reducing our regulatory costs so we can retain more of our earnings, diversify

our income stream, and come up with new, nontraditional ways of raising capital. This is critical for our preservation, to ensure the fair and equitable access to the financial system is preserved for all.

When we look at Chairman Meeks' discussion draft, this is the perspective we bring, the unique challenges I discussed and the need for new capital resources. My written statement provides a more detailed assessment of the draft.

I would like to thank you again for your work on the promising constructive draft. We hope to continue to work with you to ensure the legislation reaches its true potential for strengthening MDIs in the communities we serve.

With that, I am happy to answer any questions you may have.

[The prepared statement of Ms. Sung can be found on page 67 of the appendix.]

Chairman MEEKS. Thank you.

Ms. Falero, you are now recognized for 5 minutes.

STATEMENT OF MARA FALERO, VICE PRESIDENT, MARKETING AND COMMUNICATIONS, JETSTREAM FEDERAL CREDIT UNION, ON BEHALF OF THE NATIONAL ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS (NAFCU)

Ms. FALERO. Good afternoon, Chairman Meeks, Ranking Member Luetkemeyer, and members of the subcommittee. My name is Mara Falero, and I am testifying today on behalf of NAFCU.

I currently serve as the vice president of marketing and communications at JetStream Federal Credit Union. We appreciate the opportunity to share our views on the important role that Minority Depository Institutions serve in our economy.

JetStream Federal has over $200 million in assets and serves more than 18,000 members in Miami-Dade County and parts of Puerto Rico. JetStream Federal is an NCUA-designated low-income credit union, a Minority Depository Institution, as well as CDFI-certified. All of our employees are community development certified financial counselors. This program trains our staff to identify financial distress within our membership and proactively work to prevent financial catastrophe. Our membership is diverse and reflective of the communities we serve.

Seventy-one percent of JetStream members are classified as low income, of which 40 percent are extremely low income; 68 percent of our members are Hispanic, of which 27 percent are Puerto Rican; and 19 percent of our membership is African American.

JetStream Federal is also a Juntos Avanzamos credit union, which is a community of credit unions committed to serving and empowering Hispanic communities. We were the first credit union in Florida to receive this designation.

JetStream Federal is committed to meeting the needs of our members, which has led us to offer a number of products to help newly arrived immigrants and those with lower incomes, such as a second chance checking program, no credit check loans, and even a resettlement loan program for those moving from Puerto Rico to the mainland.

Due to the areas that JetStream Federal serves, Hurricanes Irma and Maria critically affected our members in 2017. These

hurricanes were a life-defining moment for many of our members, and we knew we had to act. JetStream Federal provided $2.5 million of critical financial relief to our members during the first stages of recovery, including no-cost, zero-percent APR short-term loans, deferment of existing loan payments, elimination of transactional fees, and financial coaching for our members who were dealing with insurance cases while attempting to rebuild their homes.

The credit union industry strives to lead when it comes to diversity, equity, and inclusion. The majority of credit union CEOs are women. The minority of MDIs are credit unions: 528 in 2018, according to the NCUA.

MDI credit unions serve 3.9 million members and tend to be smaller institutions. Eighty-seven percent of MDI credit unions have assets of less than $100 million. They also tend to underperform growth in all categories, including asset size, membership, and loan volume, in comparison to the rest of the credit union industry, largely due to a decline in membership.

In my written testimony, I outline in detail several areas where Congress can act to help credit union MDIs such as JetStream Federal, and these include, first, fully funding the Community Development Financial Institutions Fund program. These grants have been an important tool for us to serve our members.

Second, allowing all credit unions to serve underserved areas. Field of membership restrictions on credit unions, such as JetStream, hamper our ability to serve those in neighboring counties who have the same needs as our members.

Third, making it easier to charter new credit unions by providing greater flexibility in the Federal Credit Union Act and giving NCUA the appropriate tools. This includes ensuring that NCUA has the authority it needs in areas such as credit union capital, subordinated debt, and loan maturity limits.

NAFCU is generally supportive of the efforts in the discussion draft of the Ensuring Diversity in Community Banking Act. In particular, we are pleased to see the idea of creating an MDI Advisory Committee within each regulator. We welcome the opportunity to continue to work with the subcommittee as you consider legislative approaches to address this critical issue.

In conclusion, credit unions are proud of the work we have done to serve minority and underserved populations. Still, MDI credit unions face a number of challenges. We urge the subcommittee to support efforts to improve the regulatory environment for MDI credit unions and modernize the Federal Credit Union Act.

Thank you, again, Chairman Meeks, Ranking Member Luetkemeyer, and members of the subcommittee for the invitation to testify before you. I welcome any questions you may have.

[The prepared statement of Ms. Falero can be found on page 48 of the appendix.]

Chairman MEEKS. Thank you.

I now recognize Mr. Bowman for 5 minutes.

STATEMENT OF JEFF BOWMAN, PRESIDENT AND CEO, BAY BANK

Mr. BOWMAN. Good afternoon, Chairman Meeks, Ranking Member Luetkemeyer, and members of the subcommittee.

My name is Jeff Bowman, and I am the president and CEO of Bay Bank. We are a small community bank located in Green Bay, Wisconsin. Our bank is owned by the Oneida Nation.

One of the things that makes us unique as an MDI is that there are only 18 Native American-owned institutions in the entire country, of the approximately 5,500 FDIC-insured institutions.

We are also the smallest bank in Green Bay. Part of the Oneida Reservation overlaps the City of Green Bay, so we have an urban and a rural market from which we solicit our customers.

Some of the services that we are very strong in and committed to include community and economic development as a small-dollar loan program. We do not base our credit decisions on credit scores. We look at expanded guidelines. This creates increased access, and it helps move people out of predatory lending.

There is a huge problem with Native American people utilizing payday loan stores and short-term lenders, where a $500 loan turns into a $3,000 debt. We dedicate a lot of resources to make sure that we have a robust and easy-to-access small-dollar loan program.

We are also very strong in mortgage lending. One of the original reasons why the bank was started in 1995 is, during the 1990s, there were a lot of bank mergers and acquisitions that left a void in community banking, Green Bay included. There were no small institutions. So, the Oneida Tribe partnered up with some local investors and started a brand new bank.

One of the reasons why the Tribe was interested in forming the bank is making sure that their Tribal members had access to financing to purchase a home.

If you are familiar with reservation communities, much of the land is checker-boarded, where it is a combination of fee land and then trust land. It is difficult to obtain a mortgage on trust land, especially when you go back in time to the 1990s. One of the reasons for forming the bank was to make sure that the bank was going to be the responsible party and figure out a creative way to make mortgage loans on trust land.

We are very good and strong in that space. We have originated over $90 million worth of mortgage loans to Native American borrowers throughout the Great Lakes area. So, we figured out how to solve that problem.

We are also very active in the small business space. Minority small business owners, we don't always feel, get a fair shake. And when they apply for a business loan at Bay Bank, they are going to have a Native American person in the management team looking at their credit decision.

It is interesting, and everybody's story and testimony here is we all have unique stories about our neighborhoods and our communities that we love. They can be ethnic-based. They can be low- to moderate-income. And one of the things that is encouraging in this bill is the formation of the advisory committee in which we have

a voice. This is the first time that a Native American bank has had the opportunity to come and talk about what we do.

We all have important stories, and we all need additional resources. But this advisory committee has an opportunity to share these stories with bank examiners.

We are a $100 million dollar bank. We are the smallest bank in our community. But we are not just a bank. We effect social change. We are also a CDFI. We have an outstanding CRA rating, and we wear that like a badge of honor. We earned that. So, it is important that we recognize the efforts that MDIs are doing, and I think that has to trickle down to the bank examiner level to let them know you are not just looking at another $100 million bank; you are looking at an institution that is effecting change.

This bill has the opportunity to heighten the awareness of MDIs, and bring in additional resources, and we are in favor of that.

In my testimony, I paint a picture of what the Oneida Community looks like. We have a 22-percent poverty rate and a 9-percent unemployment rate. There are 11 Tribal communities in Wisconsin, 11 federally recognized Tribes. Oneida has some of the strongest economic indicators. When I mention a 22 percent poverty rate and 9 percent unemployment, there are several other communities where it is much worse.

So, there is a role for what we do. We appreciate this opportunity to tell our story, and we hope that you will take this to the next level and keep bringing us additional resources so we can keep doing the work that we love to do.

[The prepared statement of Mr. Bowman can be found on page 43 of the appendix.]

Chairman MEEKS. Thank you.

And I now recognize Mr. Betru for 5 minutes.

STATEMENT OF ARON BETRU, MANAGING DIRECTOR, CENTER FOR FINANCIAL MARKETS, MILKEN INSTITUTE

Mr. BETRU. Thank you. Thank you, Chairman Meeks, Ranking Member Luetkemeyer, and members of the subcommittee. It is an honor to be here.

My name is Aaron Betru, and I am the managing director for the Center for Financial Markets at the Milken Institute. The Milken Institute is a nonprofit, nonpartisan think tank that promotes evidence-based research that serves as a platform for policymakers, industry practitioners, and community members to come together and address challenges we face here in the U.S. as well as globally.

For the past century, steady economic growth and ongoing job creation has led to prosperity in the United States. However, not all segments of society have been able to participate fully in this prosperity. Inequality does exist. Ensuring all segments of society have an equal opportunity to contribute and benefit when the economy grows is critical to an equitable and just society.

Minority Depository Institutions play a vital role here in promoting financial inclusion and economic viability for underserved communities by virtue of their presence and focus.

However, yes, their numbers have dwindled. Those that remain today are limited in their capacity to serve their communities. I would like to focus my comments today from both a bottom-up in-

stitutional but also a top-down economic perspective on understanding the decline of MDIs as well as how to reverse this decline, all with the perspective of improving access to capital for underserved communities.

From a bottom-up institutional perspective, I recently served as the co-Chair of Partnership for Lending in Underserved Markets, a joint initiative of the U.S. Small Business Administration and the Milken Institute to promote access to capital for minority-owned small businesses.

Small businesses are the backbone of broad-based economic development. But, unfortunately, over the past decade, the United States has seen a significant and growing underrepresentation of minority-owned enterprises.

In our work, we identified a series of factors as contributing to this situation, but one in particular stood out: access to capital. Without sufficient access to capital for a small business, not only were they limited in their ability to grow, but those individuals in the community who would have been hired lost out on jobs.

Those individuals that the businesses would have provided in terms of services from a grocery to a computer store to a day care, never happened. In this context, a lack of access to capital contributes to a lack of access to the American Dream.

As you have noted in your committee memo, a combination of factors emerged as contributing to a lack of access to capital. The 2008 financial crisis fueled bank closures, and home value reductions in minority neighborhoods, the collateral for these loans. This was exacerbated by longstanding bias in the banking sector. This is important, because bank loans nationally are the second-most prevalent source of start-up capital for a business. But for minority-owned businesses, it is a credit card, a far less efficient source of capital for funding long-term growth.

It has been well-documented. The Office of the Comptroller of the Currency recently confirmed that if you compare MDIs and Community Development Financial Institutions (CDFIs) to other banks, MDIs and CDFIs disproportionately focus on low-income communities.

However, MDIs are small in the broader commercial banking context, and the result of the small scale is increased susceptibility to challenges associated with increased compliance costs, operational complexity and fast-paced technology-enabled competitive markets.

If enhancing the scale of their impact is a target, understanding improvements strategies of MDIs and how to resource them is critical to assuring MDIs can be greater economic development engines for underserved markets from the bottom up.

Now, from the top-down economic perspective, we are sitting in the tail-end of one of the longest periods of economic expansion for this country. Yet for the past 30 years, median household wealth for African Americans and Hispanics, in particular, has declined by 75 and 50 percent, respectively. A recent study by McKenzie & Company detailed that closing the racial wealth gap, just looking at Black and white Americans in particular, could mean improving the U.S. GDP by as much as 7 percent. That is a trillion dollars.

As a demographic shift, the minority groups become a majority of the U.S. population, it is no longer a nice-to-have; it is an economic imperative to promote access to capital to these communities in order to grow the U.S. economy and retain our global competitive advantage. And we must meet this challenge with the full weight of U.S. public policy, and I believe MDIs are a part of this.

In my written statement, I have provided a more detailed set of comments and recommendations revolving around a series of issues, but I will just mention three right now: one, promoting increased Federal deposits to MDIs; two, exploring the potential of MDI/FinTech collaborations; and three, enabling Opportunity Zone investments into MDIs and CDFIs.

Let me conclude here. I thank you for this opportunity, and I look forward to the discussion today.

[The prepared statement of Mr. Betru can be found on page 36 of the appendix.]

Chairman MEEKS. Thank you.

I want to thank all of the witnesses for your excellent testimony. And I think this might be the first time since I have been Chair, that all of the witnesses finished within 5 minutes, and I didn't have to use the gavel one time.

Thank you. Maybe what we will do in this round is, I will recognize myself to ask questions for 5 minutes, but it will give you an opportunity to put some more meat on the bones of which you may have testified.

I will start with Mr. Kelly.

Can you please tell us and speak to the challenges that MDIs face in seeking to raise equity capital to achieve scale?

Mr. KELLY. Certainly. When you think about minority banks and their mission focus, one of the challenges has been that they have been measured to larger institutions. And by default, what happens is, they assume that they are not as profitable or their intent, in terms of what they are trying to improve, from a pretax return on assets is not worthy of investment. So you have what I will call an intra-industry issue.

We also have now an inter-industry issue, where we are seeing technology companies are moving in and being able to attract capital, and move into the logistics of moving money in a way that is attractive to investors.

One of our reasons for asking this committee to support us is to allow us to demonstrate that with the proper scale and the proper focus, our institutions can grow, be mission-oriented in serving the low- to moderate-income communities but also be profitable.

Chairman MEEKS. Thank you.

Ms. Falero, your bank is designated low income by NCUA. What advantages do you have with such designation, and how does NCUA work with you as a result of those?

Ms. FALERO. Being a low-income credit union allows us to serve the underserved better. CDFI certified also gives us a greater opportunity to be able to serve our community, and the grants that we receive from the Treasury that we have received, about two grants, helped us rebuild some of our loans in Puerto Rico, helped us do resettlement loans in Puerto Rico, and also helped us make people whole in Puerto Rico by assisting them with all of the items

that they can't afford that insurance doesn't cover, for example, your furniture, your patio furniture, all of those other types of loans that they are not able to access. We have been able to do a good job with those loans.

Chairman MEEKS. Thank you.

And, Ms. Sung, listening to Ms. Falero, do you think that other regulators should have designations similar to NCUA's low-income designation for banks? And what could some of those advantages and disadvantages be if they did?

Ms. SUNG. I think that any opportunity that we have to be able to obtain more access to capital, whether it is through a designation, as you stated, is important. At this point now, I am not clear, though, based upon the bills that I have seen, whether or not that would allow us to be able to access capital.

I am concerned that, as we create this issue of trying to gather more data and we create data creep in our process, that the things that we do naturally and the things that we already do will be stymied as we try to meet certain requirements that are new.

And I will tell you that my CRA rating has been outstanding for many years. And I know over 55 percent of my loans are to low- to moderate-income borrowers or Census tracts. And I feel already in what I do, I should be able to access that capital or grants that may be necessary to help us survive.

Chairman MEEKS. Thank you.

Mr. Bowman, does government do enough to leverage programs at its disposal to deposit funds in MDIs, and what more do you think that we or the government can do in this area?

Mr. BOWMAN. I am not an expert on that, so I may not have the perfect answer. However, the only the experience I have is a couple of years ago I went to a minority banking conference put on by the joint supervisors, FDIC and OCC, and there was a pamphlet advertising the Minority Banking Deposit Program. It had an application: Fill this out; we will contact you.

I had a bad experience. I filled out the paperwork, sent it in, and couldn't get a real live person to call me back. At that point in time, I just figured, we are on our own.

So, this bill has the opportunity to create access, and creating access would help reciprocal deposits. Every bank in this room needs deposits to make loans. Any opportunity would be appreciated.

Chairman MEEKS. Thank you.

Last, Mr. Betru, I am interested in your comment about closing the wealth gap. Can you articulate more about that, how MDI banks would help?

Mr. BETRU. Sure. We are all well aware that essentially, when you look at the biggest driver of wealth creation in this nation, it definitely comes from the small business sector. In the small business sector, when you look at post-2008, a number of things happened in minority neighborhoods, where the biggest source of collateral that was used typically for small businesses was home equity value.

After 2008, where in some ZIP Codes in minority neighborhoods, the value dropped by more than 50 percent, that collateral was not there anymore. Couple that with my previous statement with re-

gards to the closures of the banks, and you had a perfect mixture of issues that actually prevented access to capital.

If we want to create wealth, to actually bridge this gap, we have to think about providing the right type of capital, providing the right type of loan products, equity as well as debt, to minority-owned businesses so that they can actually grow those enterprises but also hire more in their neighborhoods. From there, then we can actually be in a much better position to create the wealth in minority neighborhoods to be able to address the gaps that we have been seeing across 30 years.

Chairman MEEKS. Thank you very much.

I now yield to the ranking member, the gentleman from Missouri, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

And witnesses, welcome to the panel today.

The first question is for Mr. Kelly.

Your testimony states that First Independence Bank remains, like so many CDIs, the bank of first and last resort for the communities that you serve.

In addition, the letter from the National Bankers that I read in my opening statement said that CECL would further restrict access to credit for consumers and businesses that already experience limited credit options.

Can you describe what limited credit options look like for individuals that your bank serves in your community?

Mr. KELLY. Thank you, Ranking Member Luetkemeyer.

What we find is that alternative financial services become very challenging for people. They are very expensive for individuals to have to do, check cashing, to have to do payday lending, et cetera.

What our bank and what banks like ours do is provide those individuals another opportunity for financial alternatives, and that is what I am describing in that comment.

Mr. LUETKEMEYER. My concern is—and I am anxious to hear your response here—I believe that CECL will raise the cost of loans that you give, because in order to reserve for those, you are going to have to find the income from someplace. And to me, that limits access to credit.

What would happen if access to credit to those consumers was further restricted due to CECL, where would those individuals go or what would they do?

Mr. KELLY. I think, exactly as you just referred to, they would have to resort to alternative lending.

If I heard your comment correctly, you were asking, does CECL put restraints on our business? Is that correct?

Mr. LUETKEMEYER. Yes.

Mr. KELLY. The answer to that is, yes. In fact, I think we all would agree on this panel that the discussion of CECL being delayed was something that we were very proud to hear, and that we celebrated. That has not been our primary fight at this point because we are talking about issues such as capital.

But your question and your premise is exact in that if we had to adhere to that, it would create even more pressure for institutions like ours.

Mr. LUETKEMEYER. Very good.

Ms. Falero, your testimony states that 71 percent of your customers are low income or below and 68 percent of your customers are Hispanic.

If the statement I read from the Center for Responsible Lending is correct, and CECL restricts lending to LMI and minority communities, what will that do to your business model and customer base? And I think you also—I know your association was very prompt in getting information to me with regards to the effect on your credit unions.

Ms. FALERO. Congressman, the effect of CECL on credit unions, not only our credit union, would be a tremendous regulatory burden and additional compliance costs. So, we would be spending more money dealing with that, and giving us less opportunity to deal with our actual members who need us.

Mr. LUETKEMEYER. We have heard in this committee before, testimony from the National Association of Home Builders that for every thousand dollars of increase in a home loan, 100,000 people across the country no longer have access to home mortgage lending.

And, to me, credit unions and small banks, community banks, are the crux of where this CECL accounting is going to hit and the very people who need access to the credit, low- to moderate-income folks, are where your business model is. Those are the folks that you take care of.

And so, it is very concerning to me that this is going on. And I appreciate your response to that. I think in the letter you said that your capital would be affected roughly $14 billion to $15 billion. How do you recover that? What is your revenue stream?

Ms. FALERO. I couldn't even answer that right now.

Mr. LUETKEMEYER. Probably interest rates and fees on the loans, right?

Ms. FALERO. It would have to be—yes. And that is something that we are not—

Mr. LUETKEMEYER. So you are going to raise the cost of the loan, which restricts the ability of people to have access to—

Ms. FALERO. Exactly, and that is not the way our operating model works.

Mr. LUETKEMEYER. Perfect.

Ms. Sung, your testimony states that CECL might make sense for larger institutions but is misapplied to your institution and its peers. Can you elaborate on that statement? And when you say "peers," do you mean small institutions or MDIs?

Ms. SUNG. Small institutions and MDIs.

Mr. LUETKEMEYER. Okay. How would it affect you?

Ms. SUNG. I think the cost of compliance is unknown right now, and that is what is scaring us. Also, the uncertainty of how the regulator will look at CECL once it is in effect is worrying us as well.

As a result, will we have to spend money on consultants? If so, that will cost money and time for us as well.

Mr. LUETKEMEYER. Do you believe there is a procyclinal effect? In other words, whenever the economy turns down, you are going to have to reserve more, and therefore you have to raise costs and it just keeps spiraling the wrong way?

I see Mr. Kelly nodding his head. Do you agree with that?

Ms. SUNG. Yes. There is no other way to understand that otherwise.

Mr. LUETKEMEYER. Ms. Falero, you agree with that?

Mr. Bowman, I see you shaking your head.

Mr. Betru, you also as well.

I see my time is up. Thank you so much for your comments today. I appreciate it.

I yield back.

Chairman MEEKS. The Chair now recognizes the gentleman from Georgia, Mr. Scott, for 5 minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman.

Let me just commend you. This is an extraordinarily important and critical issue. And let me tell you just how critical this is. You have to put it in the framework of the history of our country, when it relates to this issue, paramount of which came during the Civil War.

Alexander Hamilton, during the Revolutionary War, set the principles and the foundation of our great system, and we wouldn't have been here without that great centralized banking system; it required every State of the 13 States at that time to have a bank and to organize into a major central bank to power.

But something happened just a little while later. It was the Civil War, which tore the whole country apart, and which ripped this banking system apart. But it had to come back together very quickly. But here is the point: It didn't come back for 4.5 million Black slaves. But they realized that they had to do something. And that is where the Freedman's Bank came in. And then, later on, with *Plessy* v. *Ferguson,* separate but equal, they wouldn't let the Black folks go in the white folks' bank, so they had to get Black banks.

Here is my point. Right now, you have Mr. James Ballentine, who has just left. He is an executive vice president of the American Bankers Association, as an African American. Mr. Kelly, you are Chair of the National Bankers Association, as an African American. Wonderful.

What I am saying is, the pieces are here. But the energy, the thrust, the urgency of this government to respond to this is not.

Now, if we had 4.5 million slaves there without banking, what did they do? They put together the Freedman's Bank. Then what *Plessy* v. *Ferguson* did, they had to put the banks in each of the former Confederate States where there weren't any. Government policy moved to that.

The reason I am saying that is, the answer to our unbanked and underbanked population is to bring and give this as a tremendous seeding opportunity. What better group of banks do we have to service and get in there so that we can reduce this unbanked? There are 58 million unbanked and underbanked people.

Anyway, now that I have my sermon out, let me get to my question.

I want to get to you, Mr. Kelly. What should we in Congress be doing to take steps now to get more of these banks in? We have agencies for everything, but not this. We used to have some efforts. But unless we get an institutionalized approach, that there is an entity here in the Federal Government whose sole purpose is to increase Minority Depository Institutions and have that as a primary

goal of being able to enrich the banking system by solving this—it is a shame to have 58 million unbanked and underbanked people.

What say you on that? What else should we be doing?

Mr. KELLY. Congressman Scott, thank you for that. And it aligns with my opening statement. We talked a little bit about the creation of the Federal Reserve System in 1913, and the FDIC in 1933.

Mr. SCOTT. Yes.

Mr. KELLY. My point was that leadership matters, but policy matters more. And so, to your point, which is how do we help support the unbanked and underbanked, there is a bill right now, the Improving Access to Traditional Banking Act. We need to make that happen soon. We need to ensure that there is a fund created for MDIs to support financial literacy and alternatives to predatory products. That is the thing that I would say immediately.

But the second thing I would say is—

Mr. SCOTT. I thank you for that. That is my bill. I am on that. And I didn't ask for that commercial.

Mr. KELLY. You did not, but I—

Mr. SCOTT. You see the energy—the energy is on this committee to really get institutionalized on this.

And if they did it for the slaves coming out of the Civil War, 4.5 million, surely, we can do it to really solve the problem of getting to 58 million underbanked.

One other point—I know, Mr. Chairman, you want me to make my point here—but do you all know—and I am finished after this—that there has not been an additional African American-owned bank in 20 years, since 2002?

Chairman MEEKS. The gentleman's time has expired.

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman MEEKS. The gentleman from Texas, Mr. Williams, is now recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Dodd-Frank greatly increased compliance costs on smaller institutions throughout the country. Even though these banks pose little threat to financial stability, they have had to bear the greatest burden from a heavy-handed regulatory approach by the Federal Government. I have long been an advocate that banks should be hiring more loan officers than compliance officers, and this rings especially true for community banks.

Mr. Betru, how has a greater regulatory burden affected the number of MDIs as well as the cost of credit to their customers?

Mr. BETRU. Thank you. I think when talking about any of the regulatory issues, the number of capital rules worth considering, most of these come from, let's say, the Basel Committee and the Bank of International Settlements as an example. In particular, there are rules around the level of high-quality liquid assets, how much banks should be holding in reserves, should be rightsized to the inherent risk of the bank itself. MDIs in particular, given how small they are, we know that most of them are low $1 billion in assets. I believe there are only a few that exceed that number, yet the rules that govern them are pretty much exactly the same up and down the ladder.

A couple of things to kind of give you an example of this. The number of foundations that want to participate in supporting access to capital and work with the various MDIs, from the various Rockefeller Foundations, Kresge Foundations, is an unbelievable number. However, the way that they want to participate is by backstopping the credit risk that these different institutions have in providing access to capital, and they are willing to provide guarantees. These guarantees are governed, not just between the two different institutions, but those rules are governed by different bank standards around capital adequacy rules, leverage ratios, and the like.

Now, with these rules, it actually specifically stipulates whether or not a foundation that provides these guarantees treats those guarantees in terms of a high-quality liquid asset that can be both exchangeable within 30 days or tradable on the open market. That level of scrutiny has forced these foundations to say, well, the only way that we can provide this is in certain rules that actually will abide by Basel or the particular bank regulator that is engaged.

If we want to have the rest of the economy actually participate in pushing access to capital through the MDIs, we have to realize the exact rules that govern the capital adequacy rules, the liquidity ratios that these banks are subject to, have to be in line with our overall objective. We can't, in one way, support safety and soundness, and then from the other side, provide regulations that actually prevent that access to capital for underserved communities.

Mr. WILLIAMS. Thank you. Last week, I questioned CFPB Director Kraninger on the small business data collection provision contained in Section 1071 of Dodd-Frank. I spoke with many community bankers in Texas about the potential costs that this rule would impose on smaller institutions.

Ms. Sung, I understand that you operate a savings bank focusing primarily on mortgages. Can you talk about the HMDA data collection process for mortgages and why the Section 1071 data collection process for small business loans could have an adverse effect on lending by community banks?

Ms. SUNG. Yes. HMDA collection and reporting takes up 3 months of the 12 months of our lending season. We have about six people in our credit operations department, two of them, including my top senior credit officer, is actually—operations officer, is actually involved with the collection and ensuring the HMDA data scrub carefully, properly matching the fields, and finally uploaded to the government website.

I believe that this process would be very, very difficult, even more so difficult in the small business lending, even though I am not 100 percent in that space. What happens with residential lending is that at the very least, you have a uniformed residential application you give to every single borrower and that borrower is required to fill out those fields.

In small business lending, I was just in my Consumer Financial Service Committee meeting with the ICBA, and all of the business lenders are saying that a lot of them don't even use an application process in the beginning, and they are actually having different ways themselves customized to ensure that they are able to meet the credit needs of their community in the small business space.

This alone is completely—seems to me going to be very impossible for these small business lenders to be able to create this uniformity to upload this data and collect it.

Mr. WILLIAMS. Thank you. I yield back.

Chairman MEEKS. Thank you. The gentleman yields back.

The gentleman from Missouri, Mr. Clay, who is also the Chair of our Subcommittee on Housing, Community Development, and Insurance, is now recognized for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman, especially for conducting this hearing. And I thank all of the witnesses for your attendance.

I will start with Mr. Betru. Data shows that MDIs operate predominantly in low- and moderate-income communities and have as their client base an overrepresentation of communities of color. Can you speak to the challenges of having a business model like that?

Mr. BETRU. Sure. I think it is important to put that within the context of what is actually going to be the financial services of tomorrow. There are currently a number of online and mobile banking services that made themselves available post-2008. We talked earlier about what happened in the financial crisis in terms of the amount of wealth that was destroyed, the amount of home values that were destroyed, and the amount of bank closures that happened in 2008. What swept in was definitely a number of nonbanks that were providing financial services.

These financial services firms have a different set of rules with regards to the type of loans that they provide and different types of products. If we look at low- to moderate-income communities, they are still of the exact same ilk as any business where cash matters, speed in being able to obtain working capital loans, CapEx loans, and the like.

Now, with the absence of minority depository institutions, what are they doing? They are going to the only sources that they can find, whether it be payday-based or more reputable ones. And I think it is important to mention that online firms, in general, are actually—there is a wide swath of them. We did an evaluation of more than a hundred different institutions, different models, different approaches, so you can't paint them with the same brush.

Mr. CLAY. But have the participation levels, has the actual lending improved as compared to a brick-and-mortar institution?

Mr. BETRU. Absolutely. In fact, PayPal Working Capital in particular released a study, I believe in 2017, that found that when they launched their service online, the vast majority of the customers that they serviced were principally minority and women in the ZIP Codes where they saw a number of bank closures. Essentially, the answer to your question is, yes.

Mr. CLAY. Any explanation for that, or what do you hypothesize about it?

Mr. BETRU. There is a mixture of things. Either, we are talking about in financial services where, because the banks were not in their ZIP Codes, they went to alternative sources, and those alternative sources met the need of the particular borrowers.

Mr. CLAY. Okay. Thank you for that response.

Let me ask Mr. Kelly and Mr. Bowman, minority banks operate more than their peers in minority and LMI communities. They also continue to engage with minority small businesses which face sig-

nificant discrimination from nonminority banks. How successful have you been in extending products and services to those who want to start a business in your community? Mr. Kelly, you can start.

Mr. KELLY. Certainly. I will say—and thank you, Congressman Clay. In my opening comments, I mentioned in several cases where the first and sometimes last resort for those entrepreneurs, you heard that ethnic minorities typically don't get to fund out of their home equity; they do it out of credit cards. That is just a metaphor for the challenges that we see within our communities, and that is why it is so important when you look at, on a pro-rata share, these institutions serve a market that is typically left behind.

It is our intention to continue to be focused on those in that space of the community and to try to provide services where they normally wouldn't have an alternative. That is not predatory.

Mr. CLAY. I see.

Mr. Bowman, anything you can add to that?

Mr. BOWMAN. Yes. I think a real live example is appropriate. We have conducted outreach into some of the other Native American Reservations looking for opportunities to help people, and it is really interesting, because when they have a Native American banker approach them, they feel that they are going to get a fair shake. I spent the first half of my career working for a giant money center bank, and the rules were very rigid. The guardrails are very narrow. If I utilize those lending guidelines to help that Native American borrower, I am not going to make that loan.

What you have to figure out, from an entrepreneurial standpoint, is how am I going to help? In the center of Wisconsin, there is a reservation, the Menominee Indian Reservation. It is 240,000 acres, 95 percent wooded. The primary industry is logging, and Menominee Tribal members log that land. I have made equipment loans to loggers with no down payment, buying a piece of equipment, because if you don't have a down payment, you can't go to work.

Chairman MEEKS. The gentleman's time has expired.

Mr. CLAY. My time is up. Thank you.

Chairman MEEKS. I now recognize the gentleman from Georgia, Mr. Loudermilk, for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman. I appreciate everybody on the panel here.

It is a very interesting discussion, especially, Mr. Bowman, kind of the direction you were going right there are some of the concerns I have being from Georgia, when our State lost over 70 banks during the financial crisis, and we still have a lack of community banks. And that is one of the issues is, the bank that is managed closest to the people understands the culture, they understand the people, they understand the needs, and it is like the Federal Government has come in and taken away the local decision-making that best fits that community.

Ranking Member Luetkemeyer brought up CECL, and I fully agree with his assessment on that. And when I talk to our community bankers in Georgia—and keep in mind, we still have 50 counties in the State that do not have a locally owned community bank

or credit union in that county. We even have some counties that don't have a bank branch at all, and that is a big concern.

And when I ask about the challenges our community banks face and why we don't have the creation of de novo banks—we haven't seen them come back. We have had a few, but they are just not coming back in a way that we think they should—I am continually told it is like the death of a thousand cuts. It isn't one thing; it is a multiplicity of things. And I see CECL is that thousand and first cut into that because of the uncertainty. It is like, all right, we had a bad situation, now let's just throw out an idea that is not tested and we will just see how the market reacts. And it is going to hurt the local communities more than anyone else if it fails.

Ms. Sung, the scenario I have laid out with community bankers and just the not seeing a revival of those locally controlled banks because of multiplicity of existing regulations, the uncertainty of new regulations, in your testimony, you said Congress and the banking regulators should pursue policies to promote the de novo banks and MDIs. Do you have any specific recommendations of those policies that we should be pursuing?

Ms. SUNG. There is talk about this in the draft bill, and I believe the streamlined process to be able to apply as a de novo bank is extremely important. However, I also don't want to just base it upon an application process. I think it is important to allow these banks, once they apply and they are granted a charter, the ability to actually breathe and live, and that is in the capital ratio requirement. You should not have a bank that is just starting and hasn't had a chance to live and to be something with a capital ratio requirement that is equal to a high-risk, big money center bank.

I believe that one way to do this, other than streamlining, is to create several tiers of capital requirements that are lower when the bank begins, and then as it grows and matures, is higher as it takes on more risk and gets bigger.

Mr. LOUDERMILK. I agree with you. I think that is one of the problems we have with Dodd-Frank is lumping everybody into one category without consideration of the constituency or the customer base or the community.

Ms. Falero, what are the biggest barriers to de novo credit unions, particularly MDIs?

Ms. FALERO. I have to agree with Ms. Sung, the requirements to create a de novo credit union are extremely stringent, and then when they do get their charter, all of the other requirements and all of the compliance issues that the credit union has to come to terms with, it is extremely difficult for them to compete.

Mr. LOUDERMILK. And, Mr. Bowman, again, I appreciate your testimony, because I remember when I started my business. Under today's regulations, I would not have been able to establish a line of credit, but the bank president knew me, knew my character, knew me personally, and was willing to take a risk, and we ended up making a fairly successful business. And that has just been taken away from our banks.

Mr. Kelly, how is BSA/AML playing in this issue of not being able to develop new banks? Do you feel that the Bank Secrecy Act and the regulations around that play a factor?

Mr. KELLY. Yes. I will give you one example of that, Congressman. The Beneficial Owners Act that we have to comply with is very challenging. Now, the question is, we have been given the authority to be the police to know who is actually behind the business, but the reality is, most of those should be governmental records, when someone gets a license for a business, et cetera. That is just one example where that burden needs to be taken off of the banking system.

But the others have been old and maybe stale. One example would be the cash requirement of $10,000. People don't use cash the same way they did 50 years ago, or 40 years ago when that was put in place, but we still have to adhere to it. So, that means I have to have personnel in the back office to ensure that we are tracking those. So, we need a more comprehensive view of money and how it moves.

And I agree that there are things we need to do to be sure that there aren't detrimental or prerogative things happening inside of a bank, but the principles from 40 years ago don't apply today. And that is just one example.

Mr. LOUDERMILK. Thank you for that.

I yield back.

Chairman MEEKS. The gentleman's time has expired.

I now recognize the gentleman from Illinois, Mr. Foster, for 5 minutes.

Mr. FOSTER. Thank you. And thank you to our panelists.

This is something that has been worrying me for a long time. I am just so worried that small community banks are going to go the way of small community newspapers, and that our country will be poorer as a result.

One question I have is whether the competition from FinTechs is landed disproportionately on minority-owned financial institutions. Anyone want to pick that up, either in the mortgage space, where I am pretty sure it probably may have, and just in the general overall banking?

Mr. BETRU. Yes. We looked at, essentially, what has been going on in terms of the access to capital in underserved markets and, in particular, because of all the issues again with regards to lowering of assets, lowering of credit scores, the absence of the banks in low-income communities, other providers of capital have definitely stepped in, the FinTechs in particular. And, again, per my previous statement, there is a wide number of models and platforms, and so you can't paint everybody with a broad brush, the same brush. However, they are using technology in a way that a lot of the banks are having a hard time adopting because of difference between the regulatory standards that the nonbanks have versus the banks have.

And so as you look at ensuring some of the rules with regards to fair lending, disparate impact, it is not at the same level; however, here is where regulation can actually go a little bit further. If you look at the access to capital mission of the CDFI space in particular in targeting low-income individuals, specifically, if I look at the small business sector, you have seen the banks essentially utilizing the entrepreneur's own credit score rather than the cash flow of the business. That is what the larger banks do in a business

profile. However, utilizing that cash flow requires a completely different cost profile.

Now, the FinTechs have actually started to use technology in an unbelievable way to be able to do that, and so we actually did that test. We brought in a number of institutions and we looked at, can a cash flow base methodology for providing access to capital to a small business in underserved markets actually—does that yield a positive outcome?

And this is a study that we recently released with our partner organization FinRegLab, but, yes, it does. But the issue is the ability for the banks to utilize that type of data is something that is regulated versus on the FinTech side.

Now, we have been asking this question, why can't the MDIs and the FinTechs actually collaborate more? But this is another part of regulation. Third-party lending platforms, which are governed by the OCC, actually are a little bit more complex, and allow a bank to partner with a FinTech to utilize that technology, and increase the access to capital. In the absence of finding that regulation that enables that collaboration, FinTechs have moved in and actually are doing it in a way that sometimes is a bit opaque.

Mr. FOSTER. They come into all of our offices and say how they are going to provide services to the underbanked and so on and so forth, but they sound a lot like all of your traditional customers, that they are going to go cherry pick profitable opportunities and just make your life harder. And so, it is a double-edged sword.

We are also very interested in bias in algorithmic lending, but that may cause them to focus on traditional, mostly white groups they traditionally lend to because that is their training set for their artificial intelligence and leave your customers alone. And so I am just wondering which way the sword is cutting here and whether you feel like it is just putting all small banks under stress or preferentially the minority-owned banks. Mr. Bowman?

Mr. BOWMAN. Thank you. Wisconsin has 11 Tribal communities. We are very big in one, and a small presence in others. FinTech has the opportunity of using this to access those communities. One of the challenges is when you are a small community bank, you are a small business. We watch every penny, every dollar, and everything has to be right every day for it to be a good business model.

You could go to a FinTech conference and there would be 1,000 FinTechs there. How do you vet them? We have 27 employees. Who is going to vet them? Part of banking regulation is you have to have a scoring model for your vendor management program. They are now going to be a critical vendor, just like your core processor. We are going to stumble. We need some help to figure that out, but that is the future. We need to embrace that.

Mr. FOSTER. Thank you.

Chairman MEEKS. The gentleman's time has expired.

I now recognize the gentleman from Colorado, Mr. Tipton, for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman. I appreciate you holding this hearing. And I appreciate all of you taking the time to be here today.

It is an interesting title of this on MDIs. I find it interesting the commonality between the MDIs, and my district in Colorado has 29

counties, small, rural areas that qualify certainly for low- to moderate-income, more on the low-income strata as well. As I have had the opportunity to be able to go through, we do have a CDFI that is active, First Southwest Bank, that is in our district to be able to make some loans, but those small community banks are echoing the very same concerns that you are putting out here today in terms of regulatory compliance and costs.

And I think we probably have—I do want to certainly associate my thoughts with the ranking member's comments in regards to CECL as one more additional cost, potentially, that is going to impact the ability to make loans. But can we just go down the line, do compliance costs impact your ability to have profitability and to be able to make loans? Mr. Kelly?

Mr. KELLY. Yes, it does.

Mr. TIPTON. Ms. Sung?

Ms. SUNG. Yes, it absolutely does.

Mr. TIPTON. Ms. Falero?

Ms. FALERO. Absolutely, it does.

Mr. TIPTON. Mr. Bowman?

Mr. BOWMAN. Yes, absolutely.

Mr. TIPTON. Mr. Betru?

Mr. BETRU. Not as a bank, but as a nonprofit, yes.

Mr. TIPTON. It does. Great.

In listening to Mr. Kelly during his opening comments, he said that leadership matters, but policy matters more. And that is the role, I think, that Congress needs to actually be active in. We have had Chair Yellen before the Full Committee, and we have had Chair Powell before the Full Committee. I have a piece of legislation called the TAILOR Act, to be able to sculpt regulations to be able to meet the size and the risk portfolio of the institutions, rather than having one-size-fits-all.

I think many of us recall some of the comments after the passage of the Dodd-Frank Act, the bigger banks, one CEO had noted, it becomes a moat around those big banks, making it harder for the smaller banks to be able to compete simply because you can't keep up with the regulatory costs that are coming through.

As we visited with Chair Yellen, and as we visited as well with Chair Powell, the regulations aren't necessarily supposed to apply to the smaller institutions, but something called best practices comes in when the examiners come in the door. And so, those costs do continue to multiply and inhibit that ability to be able to grow our communities.

I had a very similar circumstance to Mr. Loudermilk when I started my business. I filled out a form to the Secretary of State sales tax license, got a character loan for $10,000, and I was in business. What bank can really do that today?

You can. You are one of the few who might be able to make some of those character-type loans. But knowing the clientele that you work with, knowing your community is something that ought to be respected by the financial policy that is coming out of Washington, D.C., because it does have a real impact.

And we are looking at some of the MDIs. Have you seen mergers between MDIs that have taken place? Ms. Sung, you are nodding your head. Is some of this a practice really of regulatory cost,

meaning that you have to have the economy of scale to be able to just simply survive?

Ms. SUNG. Yes, it has absolutely had to do that. I have seen two Asian-American banks in my community in the past 24 or 12 months have merged because of that issue. AML/BSA compliance regulation is actually one of the highest regulatory costs. I would say one-half of my compliance resources are used to that particular regulation, and one-third of my board meetings are actually spent reviewing AML/BSA reports by my AML/BSA officer. So, that is an enormous outweighted focus on one regulation.

Mr. TIPTON. Thank you for that.

We had a study that was put on by the Council of State Bank Supervisors, and they found that regulatory costs for State-chartered community banks was 4.2 percent just in 2018. And as I have talked to my community banks throughout my district, we don't have a lot of the big banks that are actually there, but those regulatory costs and how that is impacting their profits, which ultimately impacts their ability to be able to pay the people who work there more and to be able to make those loans, has become an inhibiting factor for being able to help underserved and rural areas to be able to grow and to be able to provide jobs.

I appreciate, Mr. Chairman, you holding this hearing, and I invite the witnesses to take a look at this TAILOR Act. I think it is something that might benefit you as well.

Thank you. And I yield back, Mr. Chairman.

Chairman MEEKS. The gentleman's time has expired.

I now recognize the gentlewoman from New York, Ms. Ocasio-Cortez, for 5 minutes.

Ms. OCASIO-CORTEZ. Thank you, Mr. Chairman. And I would like to thank all of our witnesses here for being here today.

I think, particularly when we are talking about issues like the wealth gap, it is important that we operate and have these discussions with the context of history. And in the United States, we have a long and ugly history of discrimination and economic discrimination. And that history of discrimination and plunder has kept communities of color impoverished, and it is as apparent today as it was in 1865, when Lincoln signed the Freedman's Savings and Trust Act. And it dates back to communities like in New York City, when one of New York City's first free Black communities was demolished to build Central Park.

I think it is important that we, again, recognize that context in history today and see where that inertia of injustice and identify where those areas may be in our present financial systems, whether it is for Native communities, Black communities, Latino immigrant communities, et cetera.

Minority depository institutions lend to minorities at a dramatically higher rates, is that correct, Mr. Kelly?

Mr. KELLY. Representative, I am not sure of that answer.

Ms. OCASIO-CORTEZ. Is there someone on the panel who does know the answer to that question?

Mr. BETRU. In terms of the portion of their total lending and total assets, disproportionately, they focus on minorities more than others.

Ms. OCASIO-CORTEZ. Okay. Thank you, Mr. Betru. Is it also true that despite strong financial performance, minority depository institutions continue to struggle to raise capital?

Mr. BETRU. Yes.

Ms. OCASIO-CORTEZ. Why is that?

Mr. BETRU. There is a misconception, I would say, in terms of their efficiency. Essentially, there is a perception by MDIs by virtue of the fact that they predominantly live within minority neighborhoods, that they are in and of themselves inefficient and essentially less likely to be a good investment source for an investor. And that is actually something that we at the Milken Institute wanted to challenge. So, we decided to do an analysis of the return on assets in small business lending efficiencies of MDIs. We collated everything from 2002 to 2019, and did a data and envelope analysis, and actually found that that is actually not true.

On a size-weighted basis, the efficiencies of MDIs versus non-MDIs was not different between those two cohorts. We are actually hoping to have this study published in the next week or two, but it gets at this point: The perception of inefficiency belays the reality of what these institutions are doing.

Ms. OCASIO-CORTEZ. To clarify, minority depository institutions, by the books, are strong and exhibit strong financial performance, but they struggle to raise capital because of the perception that minority depository institutions are somehow a bad bet?

Mr. BETRU. The perception blocks the ability of investors to support them and help them to scale. It is the scale the fact that, A, their inability to attract the right type of scale to defer the cost of compliance, the scale that actually drives the real drive towards efficiency, but it is a triumvirate of scale, perception, and a number of other compliance-related issues that all conflate the problem that you are talking about.

Ms. OCASIO-CORTEZ. Thank you very much for that insight.

Ms. Falero, I wanted to thank you for your testimony today. As I am sure you are aware, during economic downturns, communities of color are almost always hit the hardest. We need look no further than the last financial crisis to see that.

As a lender to Puerto Rico, I am interested in hearing how your organization approaches lending during economic downturns and some of the challenges that you face?

Ms. FALERO. Thank you, Congresswoman Ocasio-Cortez, for that question. We are very proud to serve the community of Puerto Rico. We had a branch there for 25 years, so we are very familiar with the needs and wants of that community. And during the hurricanes, we worked with our members, and helped them as much as we could. We deferred their loan payments. We waived all their fees, late fees, ATM fees in the islands, anything that we could do to assist them.

We have a strong auto lending program right now in Puerto Rico. The unfortunate part of it is that, since we are a credit union, we are very limited in our field of membership, so we are only able to serve three cities—Carolina, San Juan, and Trujillo Alto—because of the field of membership expansion rules that we have.

Ms. OCASIO-CORTEZ. Thank you very much.

Chairman MEEKS. The gentlelady's time is expired.

I now recognize the gentleman from Kentucky, Mr. Barr, for 5 minutes.

Mr. BARR. Thanks, Mr. Chairman. I appreciate the hearing, and I appreciate the testimony from the witnesses.

I have a question about mortgage lending for all of you all, and we will start with Mr. Kelly and work down the panel, if you don't mind. At the conclusion of the promulgation of the Qualified Mortgage rule, did you observe a decline in the availability of mortgage credit, particularly as you reflect upon the fact that your institution serves low- and moderate-income borrowers?

Mr. KELLY. Congressman, I am not sure I understood the first part of your question.

Mr. BARR. Did you observe, in serving your customers after the Qualified Mortgage rule went into effect, that that materially reduced access to mortgage credit for your customers?

Mr. KELLY. Congressman, here is how I would answer that. We have seen it become more challenging for us, for a number of reasons, to compete in the marketplace, some FinTech-related, as one of the witnesses had mentioned here, but also, it is a combination of many things.

And I will give you one example. On CRA, we have seen larger banks be able to give rebates to customers for CRA credit, and these are much larger banks. We have to compete with that, and we can't compete with that.

The point I am trying to make is that for small institutions like ours, it is very difficult to play in the mortgage space with the compliance you have to support the scale that you have.

Mr. BARR. I guess what I am getting at—

Mr. KELLY. Like HMDA, the following of the HMDA rules and all of those is a burden for us. And so, for players who are in the 100 to 200 over the 2-year period, that becomes very challenging to spread that compliance cost based on the spread of where we can actually compete and place those mortgages in the market. That doesn't include the ones we keep on the books in terms of our portfolio—

Mr. BARR. I guess what I am getting at is, did the inflexible, rigid 43 percent debt-to-income rule limit your ability to originate mortgages for your customers?

Mr. KELLY. The answer to that is a simple yes.

Mr. BARR. Yes.

Ms. Sung?

Ms. SUNG. When the Dodd-Frank rule came out on the Qualified Mortgage, we saw a tremendous drop in lending. It took me a year to review the rule and to understand the small creditor exception, which was very important for us to be able to continue to lend and to lend on our portfolio. I had to go to my regulator, despite the fact this was legislatively approved, to get them to approve. I had to literally write a research and White Paper for them, for them to accept and allow me to do this.

To this day, they are continuing to monitor my lending in the small creditor exception space continuously. They are worried about concentration risks. I tell them that my mission is to serve my community, and my community cannot fall in the cookie-cutter

profile that other bigger banks are, I must go to that. However, they are concerned about concentration risk.

Mr. BARR. And, Ms. Falero, did your members see a drop in access to mortgage credit after the Qualified Mortgage rule went into effect?

Ms. FALERO. Unfortunately, we are not able to offer first mortgages right now because of the cost involved and our size credit union and all the regulations involved.

Mr. BARR. So you just got out of the business altogether?

Ms. FALERO. We did.

Mr. BARR. So, QM to you is quitting mortgages?

Ms. FALERO. Yes.

Mr. BARR. Mr. Bowman?

Mr. BOWMAN. We did see a decline in lending. We are fortunate, however, because we have a niche product. We serve a Native American customer base. There is a product called the HUD Section 184 loan, and one of the eligibility requirements is you have to be an enrolled member of a federally recognized Tribe. Our business continued when QMI came in. What suffered were the applicants who didn't qualify, who were non-Native American and couldn't qualify for the specialty.

Mr. BARR. Mr. Betru, I am going to come back to you. But just for the other witnesses, I am sorry that the CFPB's rule negatively impacted your customers. What we were able to do in a bipartisan basis in the last Congress was, through a portfolio lending provision for institutions below $10 billion in consolidated assets, is provide that portfolio lending relief, and our hope is and our intent was to provide your institutions and, more importantly, your customers, that flexibility to access mortgage credit where you can retain that risk and hold those credits on your books.

And that is what we were trying to remedy there. Last question to Mr. Betru, Mr. Betru, the valid-when-made doctrine, if we were to restore valid when made and overturn Madden, would that help invite FinTech assistance for minority-owned institutions?

Mr. BETRU. I believe on valid-when-made component, and I think both sides of the argument have a valid point. On one end, you have proponents that are making the right case that when a loan is made from a borrower and a provider, that financial services having that clarity throughout the life of that loan makes absolute sense. I think the fact that we have differences with regards to what is affordable across multiple States, in some places like in Utah where there are no usury laws, is putting a little bit of consternation for various lenders. That being said, from a FinTech's perspective, they are operating throughout multiple different jurisdictions.

I think the biggest point that we have to figure out is, the banks that are sitting here are dealing with a different regulatory regime than the nonbanks, and bringing parity to that absolutely makes sense. In the absence of that parity, I think the situation we are dealing with is, we have FinTechs that are able to provide a type of financing that a lot of these banks are not.

Chairman MEEKS. The gentleman's time is expired.

I now recognize the gentleman from Florida, Mr. Lawson, for 5 minutes.

Mr. LAWSON. Thank you, Mr. Chairman, and witnesses, welcome to the committee.

Mr. Kelly, could you tell me how many African-American banks are still in existence? Do you have that number?

Mr. KELLY. There is a round number that I would say is roughly around 21, 22, is the number in the country out of roughly 5,500-plus banks.

Mr. LAWSON. Okay. The other question would be—and I might know some of the answers, but I would like to hear some of the answers from you, if you are aware. What led to the major decline? It wasn't a financial crisis; it probably started before then. But what led to the major decline of African-American banks?

Mr. KELLY. I would say it is a host of things. I think it was Representative Loudermilk who mentioned that it is death by a thousand cuts, and that has been prevalent in the industry. The challenges that you heard him describe in Georgia, I think Georgia lost more banks than any other State in the country. These are not MDIs, but I think it is somewhat prevalent.

The other aspect of it that I would say to you, Congressman, is the propensity of where African-American banks were built. You heard Congressman Scott mention there hasn't been one chartered in 20-plus years. Our banks were centered in the heart of what used to be the middle-class African-American community where the doctors, and the lawyers, et cetera, lived. Some of that was because of redlining issues that the Congresswoman made reference to, but the reality is, through kind of some of the changes in our economy where you saw people move away from the city and to the suburbs, our institutions weren't capable of being able to deliver beyond the brick and mortar and the circumferences that they were built in. And so you saw kind of a decline of business activity around some of these institutions that have been somewhat challenging for them.

Mr. LAWSON. Mr. Betru, would you like to comment on that?

Mr. BETRU. Sure. In answering your question, I think it is important to take the Congresswoman's comment earlier about making a historical context point. I think when we look at the middle of this previous century dealing with redlining, it wasn't, at least on paper, an overtly racist issue. It was utilizing the construct of these markets are too risky to engage in.

Now, if we are talking about the failure of MDIs in quotations, and I don't believe the failure is an accurate description, it is a mixture of everything that happened post-2008, in terms of the individuals being targeted by certain unscrupulous mortgage lenders, their wealth being destroyed. Eventually, those institutions that served them felt the brunt of the 2008 crisis. And post, what do we do, we started introducing a number of regulatory standards that were unfairly at parity between an institution that is sub-$1 billion in assets with all the other banks.

In essence, are we looking at introducing, it is too risky for these banks to operate in these areas in a similar way that is unfair? The MDIs are $250 billion in assets, the entire 150 of them, $250 billion. That is like 1 percent of the total assets of the all 5,500 institutions, yet we are subjecting them to the exact same level of regulatory scrutiny as we have other banks north of $200 billion in as-

sets. If we want them to actually deploy capital to the exact communities that need it, then we have to rightsize the rules which govern them.

Mr. LAWSON. That is amazing.

And the last question is, if I have enough time, it seems like the credit unions that are associated with a university seem to have a much higher opportunity to survive during the financial crisis and so forth. Is it because they have built-in depositories that are used from the universities, especially with minority universities? Is that one of the reasons why you can still find credit unions associated with the universities and in many of the cities where there are minority institutions?

Mr. Bowman, you seemed like you wanted to say something?

Mr. BOWMAN. I work in the banking industry, and I think I would defer to Ms. Falero. She runs a credit union.

Ms. FALERO. Congressman, yes, I work at a credit union, and I believe the reason why credit unions are a little bit more able to survive is the way we do our loans. We are very conservative, highly regulated, and our mission in life is to deal with the underserved. That is what we do.

Mr. LAWSON. Okay. I yield back, Mr. Chairman.

Chairman MEEKS. Thank you.

I am now going to yield a minute and a half to the ranking member for a closing statement.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

I thank each one of you for being here today. You have done a great job of stating your case and informing us. It has been very informative for me to be able to ascertain some of the things that I think are important.

I think from the standpoint that small banks and credit unions provide many resources to the communities that you serve, you have the same problems that every small community bank, every small credit union in the country has from the standpoint of compliance, because it is just through the roof. It is driving consolidation, it is driving them out of business, and we need to find ways to minimize that, if not get rid of it altogether.

Obviously, my focus has been on CECL today because I think it is a huge problem for, I think, our economy and especially for small banks and credit unions in particular from the standpoint of having to reserve more money for that, and there is only one place to go get that and that is when you make that loan. And that is going to raise the cost. It is going to keep people from having access to credit.

I think one of the things we talked about, I think Ms. Sung talked about, was concentration of credit or concentration of risk. If you are doing a good job of representing your community, you are going to be invested in your community. You know what you are going to do? You are going to have a lot of risk in your community, because that is where your risk is. That is what you want to do, you want to improve your community.

As a small institution, yes, you have your investments in the community and that is where your risk is, but if you do a good job of—and this is where the analysis of the regulator needs to be. And as a former regulator, I can tell you some of them do a good job

and some of them don't. You wind up with some folks who don't want to do their job, and they are lazy, but they need to go in there and depend on you to give them a review of the economic activity in your area and how you can help interact with that and build a better community.

Each of you, I can see, have your community at heart. I thank you for that.

And with that, I will yield back.

Chairman MEEKS. Thank you.

First, let me ask unanimous consent to enter statements into the record submitted by the Credit Union National Association, the Creative Investment Research, and the inclusive and its network of CDFI credit unions.

Also, without objection, I ask for unanimous consent to submit an article published on the OCC website entitled, "Citibank: Partnering With Community Banks to Expand Financial Access," which speaks out about Citi's program which provides over 440,000 customers of 25 participating community banks, minority deposit institutions, and Federal credit unions with surcharge-free access at 2,300 Citibank branch ATMs.

Without objection, it is so ordered.

And I now recognize myself for a minute and a half for a closing statement.

As we conclude this hearing, I first wish to thank the witnesses for your testimony and for choosing to tackle some of the most difficult challenges in banking, namely, ensuring access to financial services for marginalized, underbanked, and discriminated communities. We sometimes portray banking and bankers as a monolith, but it is a complex and diverse industry that is reflective of the diversity of America, but it is also reflective of the problems in America.

We cannot allow minority banks to disappear. And we must work in earnest to tackle the challenges of banking discrimination in lending and foster genuine diversity in the banking sector. We must do that, because that is the way we close the wealth gap. If we look at what took place prior to 2008, we were closing the wealth gap, but after 2008 and the crisis, when individuals in minority communities were most directly affected, that wealth gap just blew open, and we are not lending in the way or having access to capital in the way that we should in our MDIs.

So, I have taken note. I have been listening very carefully to the feedback on my bill, and I will work to make appropriate changes ahead of its introduction.

I must close with thanking, again, Chairwoman Waters, for putting issues of diversity and inclusion at the heart of our committee's work, as well as to congratulate my colleague, Mrs. Beatty, for her able leadership on the Diversity & Inclusion Subcommittee.

But I also want to thank my colleagues from across the aisle, Mr. McHenry and Mrs. Wagner, and, of course, the ranking member of this subcommittee, Mr. Luetkemeyer, for engaging with us constructively on issues of diversity and, in particular, on today's hearing on minority banks and tackling issues faced by underbanked communities. These issues cut across parties and districts, and I

believe that our work here matters to the vulnerable communities we all represent in Congress.

Again, I thank the witnesses for their testimony today.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing is now adjourned.

[Whereupon, at 3:50 p.m., the hearing was adjourned.]

A P P E N D I X

October 22, 2019

Testimony of

Aron Betru, Managing Director of Milken Institute Center for Financial Markets

Before the Subcommittee on Consumer Protection and Financial Institutions
U.S. House of Representatives

"An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities"

Tuesday, October 22, 2019

Written Testimony

Thank you, Chairman Meeks, Ranking Member Luetkemeyer, and Members of the Committee.

It is an honor to be here. My name is Aron Betru, and I am the Managing Director for the Center for Financial Markets at the Milken Institute. The Milken Institute is a nonprofit, nonpartisan think tank that promotes evidence-based research that serves as a platform for policymakers, industry practitioners, and community members to come together in catalyzing practical solutions to challenges we face both here in the U.S. and globally.

For the past century, steady economic growth and ongoing job creation have led to prosperity in the United States. However, not all segments of society have been able to participate fully in this prosperity; inequality does exist. Ensuring all segments of society have an equal opportunity to contribute and benefit when the economy grows is critical to an equitable and just society.

Minority Depository Institutions (MDIs) play a critical role in promoting financial inclusion and economic viability for underserved communities by their presence in and focus on serving these communities. But, for the past decade, their numbers have dwindled, declining by more than 30 percent. A mixture of negative outcomes stemming from the 2008 financial crisis, cost of regulatory compliance, which impacted smaller banks disproportionately, and competition from technology-led nonbanks have resulted in each of the different MDIs, African American, Hispanic American[1], Asian American, and Native American to experience measurable declines in assets;

[1] The Milken Institute recognizes the difference between "Hispanic" and "Latino" designations and the ongoing debate regarding which is most appropriate. However, because our research is data-driven and the U.S. Census Bureau uses the "Hispanic" classification, for consistency we have chosen to use "Hispanic" throughout. Likewise, we defer to "Black" versus "African American," again consistent with the Census Bureau classification, unless the data source denotes "African American."

46 percent, 34 percent, 26 percent, and 14 percent, respectively. Those that remain today limited in their capacity to serve their communities.

Understanding the forces that led to MDIs' decline can help identify both policy and industry actions required to reverse this, and ultimately, increase access to capital for underserved communities. Fort these communities, a lack of access to capital for small businesses is a key factor limiting their access to the American Dream.

A. Background Context

Historically, small businesses have been the backbone of broad-based economic development, and adequate funding for these enterprises is key to ensuring their ability to create jobs. Unfortunately, over the past decade, the United States has seen a significant (and growing) underrepresentation of minority-owned small businesses.[2] The Milken Institute has been at the forefront of investigating the root causes of this discrepancy and the related negative effects on job creation and wealth generation within minority communities.

Building on initial conversations carried out at the White House in 2016, the Milken Institute and the U.S. Small Business Administration formed an initiative to develop actionable solutions to the challenges limiting minority-owned small businesses' access to capital. The Partnership for Lending in Underserved Markets (PLUM), a two-year pilot program, was launched to this effect in September 2016 and has since completed its research.[3] Building on the initial findings of PLUM, the Milken Institute committed to exploring market-based solutions that specifically address the identified shortcomings in this space.

A key issue identified was that the primary source of startup and acquisition funding for all small businesses is savings and equity investments from personal networks and, secondarily, bank loans. However, for minority-owned businesses, the second most prevalent source of funding is credit cards. While credit card products are effective for short-term liquidity needs, in many cases, they are not designed to catalyze long-term growth, which can place minority-owned businesses at a disadvantage and potentially stymie new business and job creation. Increasing access to traditional bank lending, therefore, is an important component of improving the

[2] In 2016, 12.7 percent of the U.S. population was Black, 17.8 percent was Hispanic, and 5.4 percent was Asian, compared to 2.2 percent, 6.0 percent, and 5.9 percent, respectively, in terms of % of firms with paid employees, according to U.S. Census data. US Census Bureau, https://www.census.gov/quickfacts/fact/table/US/PST045217, accessed May 29, 2018.

[3] In 2017 and 2018, the Milken Institute published summary reports of phase I, phase II, and phase III of Partnership for Lending in Underserved Markets. The papers provide details of the joint Milken Institute-US Small Business Administration initiative and the operational activities in two target markets. The papers also discusses challenges of minority-owned small businesses in relation to capital access.

potential for both the growth of minority-owned small businesses and associated employment gains in the communities in which they operate.

Unfortunately, there is evidence that minority-owned small businesses have restricted financing choices. According to the findings of a mystery borrower experiment published in the *Journal of Consumer Research*,[4] minority business owners are presented with more loan requirements and offered less help than non-minorities. These challenges limit their ability to secure financing and make them less likely to even continue their financing application due to a negative perception of the process and its likely outcome.

Furthermore, after the 2008 financial crisis, minority and low-income communities disproportionately experienced bank closures. The net effect is that an average of 72 percent of minorities do not have a bank branch in their neighborhood. Simultaneously, regulatory efforts to protect Americans with a more prudent, safe, and sound financial system did increase compliance cost and further fueled the consolidation of financial institutions, resulting in fewer branches in already underserved communities.

The lack of bank coverage in these communities did not dissipate the need for banking services. What resulted was a huge demand met by online platforms and payday lenders. To be clear, there are many types of models and institutions[5]. In fact, there are many reputable institutions leveraging technology to meet the needs of underserved populations in a fair and transparent way. Unfortunately, given the disaggregated regulatory architecture, it's difficult to keep out the bad actors. Indeed, many borrowers have found themselves back under the thumb of unscrupulous lenders.

Given the challenges faced by small businesses,[6] especially minority-owned small businesses, it is imperative to assess which type of lender and products are best placed to provide access to capital for minority communities.

B. A deeper dive into MDIs

With support from Rockefeller and JP Morgan Foundation, the Milken Institute conducted a series of analyses on MDIs. According to our recently published market overview of minority-

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[4] Bone, S., Christensen, G., and Williams, J., 2014, "Rejected, Shackled, and Alone: The Impact of Systemic Restricted Choice on Minority Consumers' Construction of Self," Journal of Consumer Research, 41: 451-474.

[5] Muller, Jackson, 2016, "The U.S. Online, Non-Bank Finance Landscape," Milken Institute.

[6] Schulman, Carolyn, 2018, "Partnership for Lending in Underserved Markets: Increasing Minority Entrepreneurs' Access to Capital," Milken Institute.

owned banks,[7] there is evidence to suggest that MDIs (especially Black and Other MDIs), could be meaningful funding sources for minority-owned small businesses, and therefore, important economic development engines due to their relative prioritization of small-business lending. However, these minority-owned banks are small in scale, with median total assets of certain categories of MDIs being less than $200 million, as shown in Table 1. Many questions remain about what these MDIs would need—equity capital, human capital, technology—to prudently increase their scale, and potentially, their impact. In addition, what community impact would result? Would small business loans be prioritized by these institutions?

Table 1: Medians for Selected Bank, Demographic, and Income Items by Type of Bank and Census Tract, 2017

	Total Assets ($'000)	Number of Small-Business Loans	Small-Business Loans to Total Assets (%)	Tier 1 Capital to Total Assets (%)	Percentage of Total Population (%)				Median Family Income ($)
					Minority	Hispanic	Black	Asian	
All FDIC-Insured Institutions	212,688	357	17.10	10.39	23.92	6.24	3.33	1.77	69,679
All MDIs	312,360	224	13.24	11.36	85.36	35.37	1.27	3.72	55,790
Black MDIs	173,477	165	19.35	9.09	91.02	4.87	73.15	1.60	46,490
Hispanic MDIs	469,282	285	8.43	10.98	96.22	93.59	0.00	0.00	42,917
Asian MDIs	363,516	194	13.27	11.87	75.46	17.40	2.83	39.18	72,801
Other MDIs	103,493	259	18.76	11.15	36.87	4.99	2.67	0.66	51,413

The FDIC recently completed its analysis of MDIs, and during and after the 2008 crisis, found MDIs were 2.5x more likely to fail than all other banks. Some have suggested the relative inefficiency of MDIs as the cause and/or the lack of market opportunities in underserved areas; let us not conflate the issues.

In a paper to be published by the end of 2019, we engaged in a study to compare the ROAs and small business lending efficiency of MDIs and depositories categorized as "non-MDIs."[8] The research also examined these institutions for a period that included a recent macroeconomic shock, the 2008 financial crisis. Utilizing data from the FDIC Reports of Condition and Income (Call Reports) for a substantial set of banks, a Data Envelopment Analysis (DEA) was used to determine how a set of MDIs performed relative to comparable institutions. The results indicate that MDIs are not systematically less efficient than comparable non-MDIs. Recognizing that MDIs are not

[7] James R. Barth, Aron Betru, Matthew Brigida, and Christopher Lee, (2019), "Minority-Owned Depository Institutions: A Market Overview," Milken Institute.

[8] Gregory B. Fairchild, Young Kim, Matt Brigida, Aron Betru, (2019), "Good Money after Bad? The Comparative Efficiency of Minority Depository Institutions (MDIs)," Milken Institute. *[NOT YET PUBLISHED]*

homogeneous, however, the study also examined relative efficiency across types of MDIs by racial/ethnic grouping, and the findings were that there were differences across MDI types.

The analysis shows that Black MDIs, in particular, are small in the broader commercial banking context, and as a result have greater susceptibility to challenges associated with increased compliance costs, operational complexity, and a fast-paced, technology-enabled competitive market. If enhancing the scale of their impact is the target, the following questions need to be answered about their potential to be greater economic development engines for underserved markets:

- What are potential capacity improvement strategies to better enable an MDI's ability to serve these markets?
- How can these institutions attract resources for their improvement strategies, and what are potential implementation approaches?

C. Strategies to increase the credit capacity of MDIs

With greater credit capacity, MDIs could be an even more effective resource for underserved communities. To enhance their capacity, a series of strategies are available.

- *Promote MDI's increased access to Federal deposits.* To increase output and revenue, MDIs must compete for market share in terms of securing more deposits and borrowers alike. With regards to deposit growth, larger banks have experienced considerable deposit growth, typically at the expense of smaller institutions, according to the FDIC. A key driver of this is the introduction of easier multi-point customer engagement leveraging technology and remote banking capabilities. Simultaneously, MDI's minority communities themselves are still recuperating from the reduction in assets that resulted from the 2008 crisis. MDIs need deposits to grow. Increasing the U.S. Treasury's Minority Bank Deposit Program may be a path forward.

- *Explore potential MDI-FinTech collaborations to improve lending.* A new report from FinRegLab details how new FinTech entrants built online platforms for delivering various credit products to small businesses. The report provides a broad picture of the use of cash-flow data in the small business lending market and finds that the data is useful because it provides a more detailed, timely picture of small businesses' income flows and cash reserves than traditional credit history information. Potential bank-nonbank collaborations should be explored, including implication on consumer protection, which

may be particularly important in determining the pace of adoption going forward. More importantly, these partnerships can also assuage regulatory concerns about a non-bank platform given the role a partner bank plays in conducting oversight and compliance in its partnerships with third-party providers. As a regulated entity, a depository institution must adhere to FDIC and OCC third-party vendor management guidelines, which essentially place the FDIC and OCC, and potentially their Offices of Innovation, as de-facto regulators of bank-partnered FinTech firms that provide another layer of protection. Through a partnership approach, both FinTechs and incumbent banks can utilize each other's strengths to address several weaknesses. For MDIs, partnerships with third-party FinTech firms offer the opportunity to lead in the future of banking without spending considerable resources on building the future.

- *Leverage Opportunity Zone investments to increase the equity capital of MDIs and CDFIs.* Opportunity Zones were established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. As the Opportunity Zones initiative is currently structured, MDIs can participate by creating and operating Qualified Opportunity Funds. Low-income communities, however, would greatly benefit if MDIs serving Opportunity Zones could themselves be eligible for investments from Opportunity Funds. But, because Qualified Opportunity Zone Businesses cannot have more than 5 percent of their assets in "nonqualified financial property" (as defined in paragraph (8) of 26 USC section 1397C(b)), MDIs are excluded from eligibility for Opportunity Fund investments. Even Community Development Financial Institutions (CDFIs), which can be either MDIs or non-MDIs and must demonstrate that at least 60 percent of their total lending or investing activities benefit qualified target markets (e.g., low income or underserved people and places) are excluded. Legislative action would be required to address the exclusion of these institutions. All financial institutions, including CDFIs and MDIs, have more than 5 percent of their assets in the form of nonqualified financial property. The original purpose of this exclusion in the Federal Enterprise Zone statute was to exclude conventional financial institutions or market-rate investment vehicles that are viable without subsidy from benefiting from federal tax incentives. CDFIs (especially MDIs that are also CDFIs) are different, and their creation as a class of financial institutions occurred after the formation of the Federal Enterprise Zone statute. CDFIs, including MDIs that are also CDFIs, are required to submit annual reports on their aggregate activities to the U.S. Treasury Department to maintain their certification status. Many businesses and projects located in designated Opportunity Zones are smaller in scale, and thus may not be able to directly utilize the type of investment incentive offered by Opportunity Funds due to capital structure, size or inability to pay sufficient returns to meet Opportunity Fund

expectations. These businesses, however, are important to the economic vitality of Opportunity Zones. With increased capital to fuel their capacity, CDFIs, and in particular MDIs, could be more effective in serving their communities and further the original intent of the Opportunity Zone initiative.

In conclusion, we are now more than 150 years after the creation of MDIs, as well as the 50th anniversary of the establishment of the Minority Business Development Agency. We are sitting in the tail end of one of the longest periods of economic expansion for this country. Yet, for the past 30 years, median household wealth for African Americans and Hispanics has declined by 75 percent and 50 percent, respectively[9]. A recent study by McKinsey &Company[10] detailed that closing the racial wealth gap (just looking at black and white Americans) could mean improving the U.S. GDP by as much as 7 percent. As demographics shift, and minority groups become a majority of the United States population, it is no longer just a nice to have, it is an economic imperative for the growth of the U.S. economy and our global competitive advantage that we meet this challenge with the full weight on U.S. public policy, and I believe MDIs can play a critical role here.

[9] CFED, Racial Wealth Divide Initiative, Institute for Policy Studies, 2016

[10] https://www.mckinsey.com/industries/public-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap

Bay Bank Testimony to the Subcommittee on Consumer Protection and Financial Institutions Hearing

Appearing before the committee to deliver this testimony is Jeff Bowman, President and CEO of Bay Bank.

Bay Bank Overview
Bay Bank is a Wisconsin state chartered, FDIC-insured financial institution. The Bank is a wholly-owned subsidiary of a holding company named Bay Bancorporation Inc. The holding company is owned 100% by the Oneida Nation. Bay Bank is a full service community bank that offers a full range of deposit and loan accounts, online banking, bill pay, mobile banking and remote deposit capture. Bay Bank's asset size is $100 million with $65 million in loans, $79 million in deposits and capital of $14 million. We operate 2 full-service banking offices and have a team of 27 employees. The bank is growing, profitable and well capitalized.

Bay Bank was co-founded in 1995 by the Oneida Nation and a group of local business people for the purpose of establishing a community bank that would cater to small businesses, the Oneida Nation, Oneida tribal members, and others in the surrounding community. The banking industry was going through a period of consolidation with numerous bank mergers in the 1990s and this left the Green Bay area without a strong community bank presence. The founding of Bay Bank was intended to fill that void and provide a small-bank feel to banking customers and ensure there was local decision making in the operation of a community bank. In the year 2000 the Oneida Nation bought out its partners and became the sole shareholder of Bay Bancorporation Inc.

Because Bay Bank is owned by a federally-recognized Indian Tribe, the Oneida Nation, it meets the definition of an "MDI" – a Minority Deposit Institution. This is unique because Bay Bank is one of only 18 Native American owned financial institutions in the entire country.

Bay Bank and its holding company are governed by a Board of Directors. Unique to the Bay Bank organization is that a majority of the board members are enrolled members of federally-recognized Indian tribes, of which three are Oneida tribal members. This creates accountability back to the shareholder and the Oneida community. In addition, both the CEO and the Vice President of the Bank are enrolled tribal members.

Mission Driven Bank
Bay Bank is a mission driven bank that aims to have a financial and social impact in the communities we serve, particularly Native American communities in Wisconsin which are largely underserved. We have deep experience in these areas and we have learned how to accommodate the unique banking needs of the Native American communities.

CDFI Designation
Both Bay Bank and its holding company have been certified as a Community Development Financial Institution by the US Treasury CDFI Fund. This is a validation of our mission and our track record of providing financing to our targeted market.

We are sharing with you the Mission Statement, Vision and Values of Bay Bank. These are the guiding principles of the bank and are written within our strategic plan.

Mission Statement

We create positive impact by building a bridge to personal and financial success for ALL

Vision
By 2025, Bay Bank will be widely known as the Native American Owned Bank which provides fair and empowering services with a welcoming attitude towards all customers.
We will succeed in reaching Tribal Communities in the Midwest and appealing to the diverse segments of the larger Green Bay Community by staying true to our roots while building new skills and capabilities.

Values
- We are driven by purpose first
- We view everyone to be deserving of our time and talents
- We respect and appreciate individual initiative and personal growth
- We understand the risk of our actions but we are not afraid to act
- We work together to achieve the best results possible
- We believe that honest and integrity are the basis for lasting success

Markets We Serve
Bay Bank's current target market is divided into four categories: the Oneida Nation tribal community, small and medium size businesses including minority owned businesses within a 60 mile radius of our main location, retail customers immediately surrounding the Bank, and other Indian tribes and tribal organizations in the Great Lakes region.

The Oneida Indian Reservation is approximately 65,400 acres and located in Brown and Outagamie Counties in northeastern Wisconsin. According to the US Census, there are 24,213 people living on the reservation with a median age of 37.9. In addition, there are 9,232 total housing units with an average household size of 2.7. There are approximately 4,473 Oneida citizens living within the reservation boundaries and 3,167 Oneida citizen living off the reservation in the two adjacent counties. According to the Oneida Nation's Quality of Life survey, the unemployment rate of Oneida members living on the reservation is 8.9% and the poverty rate is 22%. The nearest major principal metropolitan area is the City of Green Bay with a population of approximately 104,057 people, according to the US Census.

The Green Bay area and Brown County is a competitive banking market. According to data from the FDIC Deposit Market Share Report, Bay Bank had a 1.02% market share position of all bank deposits in Brown County. The FDIC also reports that there are 72 banking offices in Brown County with total deposits of $7.08 billion. 11 of the 19 financial institutions within the Brown County market have over $1 billion in total deposits.

Unique Services We Offer

Small Dollar Consumer Loans
Access to affordable small dollar personal loans is an ongoing need in the communities we serve. Each year Bay Bank originates 500 to 600 consumer loans and over 90% of these loans are to Native American borrowers. About one half of these loans are unsecured signature loans that have an average loan size of approximately $2,200. These loans allow the consumer to borrow funds for a variety of household reasons and we structure the repayment term over 1 to 3 years which makes the payment affordable. The other half of these loans are for the purchase of a used vehicle with an average loan size of $9,800. In almost all cases we finance 100% of the cost of the vehicle and we structure the repayment over a term of up to 5 years. Many of our borrowers travel long distances to get to work and to take care of themselves and their families. Having reliable transportation helps them succeed in today's world. An interesting aspect of our consumer loan customers is that about one half of our borrowers have credit scores of less than 600. This is generally the cutoff of having "bad" or "good" credit. We do not base credit decisions on credit scores. Instead, we use expanded underwriting guidelines that allow higher debt-to-income ratios and we consider numerous other factors to help make the loan decision. We have developed these guidelines through years of practice. This not only helps the borrowers in the communities we serve, but the revenue off the loans makes this a sustainable service for the Bank.

Residential Mortgage Loans
Home ownership is a goal for many Native Americans. Obtaining a mortgage to purchase a home can be a challenge because in most Indian reservations the ownership of the land is held in trust. This can create a barrier in obtaining financing. The tribal member will secure a lease from the tribe on a property, however, conventional mortgage products do not "fit" Indian Country and trust land in particular. Fortunately, Bay Bank offers a long term mortgage product to overcome these challenges. Specifically, we offer a mortgage loan product specifically for Native American borrowers named the HUD Section 184 loan. This is a government backed loan product that not only allows a leasehold mortgage on trust land, but it also has a low down payment requirement, a 30 year fixed rate at a market rate and no private mortgage insurance. Bay Bank is the leading provider of this mortgage loan product in the Great Lakes area. We have originated over 900 of these loans to Native American borrowers with a total value of over $90,000,000. We dedicate 6 of the Bank's 27 employees to our mortgage lending business. This has increased home ownership in tribal communities with an affordable loan product. We have loans in approximately 20 tribal communities in Wisconsin, Minnesota and Michigan.

Small Business Loans
Bay Bank also provides loans to Native American-owned small businesses. We have successfully launched new businesses by providing financing for working capital and equipment purchases. We use the Bank's funds to make these loans, but we also administer a separate set-aside loan portfolio for the Oneida Nation called the OSB loan ("Oneida Small Business"). Using the Oneida Nation's funds, Bay Bank originates loans to Oneida tribal members that are starting or growing their small business. These funds provide the borrower with flexible loan terms at an affordable interest rate. We are not aware of any other bank that has this type of relationship with an Indian tribe.

Large Commercial Loans to Tribes
We have found that Indian tribes are at various levels of entrepreneurship and new business development. There are a small number of tribes that have large, profitable gaming operations along with ownership in other diversified businesses. However, many do not and they struggle with access to capital to support economic development. Bay Bank has had success in supporting the tribes with financing to grow or start new businesses. For example, we recently provided a loan of $2.7 million to a business entity owned by the Lac du Flambeau tribe in northern Wisconsin. Our loan is funding the construction of a new grocery store for their community. We utilized a government loan program called the Indian Loan Guaranty offered by the Department of the Interior's Office of Economic Development. This placed a government loan guaranty on the loan. This helped mitigate the bank's credit risk, but more importantly it provided access to financing for a new project in a low income tribal community. The new store will increase the tribe's revenues and create a profitable business for them. It will also provide the community with access to a full-service grocery store with healthy foods. This project would not have happened without the assistance of Bay Bank. Our mission is to provide access to responsible financing to tribal communities. We take the time to understand the needs of a tribal community and we provide financial solutions to help them realize their goals.

Larger Housing Projects
Bay Bank has also helped several tribes in Wisconsin develop new and rehab existing housing units on their reservations. Nearly every tribe in Wisconsin has a shortage of housing units. Some tribes do not have the resources to fund the housing needs of their communities. One financing tool that is effective is called the Low Income Housing Tax Credit program (LIHTC). To assist the tribes, Bay Bank has provided construction loans for several LIHTC projects. Several of these projects were turned down by their local bank. To assist these tribes Bay Bank took the time to learn how the LIHTC program works. And to support these projects financially, we sponsored Affordable Home Program grants from our Federal Home Loan Bank which added another layer of grant funding to the capital stack and we provided the bank financing to make these projects happen.

Providing access to capital in minority communities is an ongoing needed. While Bay Bank is just a small community bank, we have a desire to serve the underserved. Bay Bank is a prime example of how a mission-focused MDI can serve their targeted communities and make a difference.

Expansion Plans for Bay Bank
While there has been a decline in the number of MDIs, Bay Bank is bucking that trend. We have grown our asset size by focusing on the Native American community. We are in the process of developing even more access to the bank by expanding product channels, optimizing product features and considering geographic expansion into other tribal communities. Bay Bank is on a mission to affect change in Native American communities.

Comments on the Proposed Bill
Bay Bank supports this bill. There are several features in the bill that will help our bank continue its mission.

Formation of an MDI Advisory Committee
The bill includes a recommendation to create an MDI Advisory Committee in which its committee members can provide advice on the support for MDIs. Bay Bank supports this measure.

Enhancements to the Minority Deposit Program
The bill includes a provision to effectively expand MDI participation in the US Treasury's Minority Deposit Program. Bay Bank needs access to affordable deposits to grow. We need new deposits to make new loans. We are the smallest bank in our marketplace. It is difficult to compete for new deposits because we cannot afford to pay the high interest rates offered by our larger competitors. Because most of our personal customers maintain small balances in their deposit accounts, they are not providing the bank with a significant amount of deposits to lend out. Therefore, easier access to government deposits could create a source of cost-effective deposits for Bay Bank. By allowing the use of a reciprocal deposit service, this would bring new deposits to Bay Bank, provide insurance on the deposits and provide new funds that we can use to make new loans.

Loan Loss Reserve for Small Dollar Loans
The Bill encourages the creation of a grant program to assist MDIs in expanding their Small Dollar Loan programs. Bay Bank supports this effort. As we explained earlier, we have a long history of providing affordable consumer loans. This has the potential to encourage even more lending.

In summary, Bay Bank supports this draft discussion bill. It will be good for MDIs that are providing banking services in underserved communities.



Testimony of

Mara Falero
Vice President of Marketing and Communications
JetStream Federal Credit Union

On behalf of
The National Association of Federally-Insured Credit Unions

"An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities"

Before the
House Financial Services Subcommittee on Consumer Protection and Financial Institutions

October 22, 2019

Introduction

Good afternoon, Chairman Meeks, Ranking Member Luetkemeyer, and Members of the Subcommittee. My name is Mara Falero, and I am testifying today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU). I have been employed with JetStream Federal Credit Union for over 25 years, currently serving as the Vice President of Marketing and Communication. Thank you for holding this hearing today. We appreciate the opportunity to share our views on the important role that minority depository institutions serve in our economy. In addition to our testimony, NAFCU member credit unions look forward to continuing to work with you beyond this hearing to ensure access to robust financial services products for all Americans.

Founded in 1948 and headquartered in Miami Lakes, Florida, JetStream FCU has $212 million in assets and serves more than 18,000 members in seven locations, including one in Puerto Rico. Membership is open to those who live or work in Miami-Dade County, Florida, or in Carolina, Trujillo Alto, or San Juan, Puerto Rico. Today, the credit union offers a variety of products, including checking and savings accounts, credit cards, and auto loans.

Background on Credit Unions

Credit unions serve a unique function in the delivery of necessary financial services to Americans. Established by an act of Congress in 1934, the federal credit union system serves as a way to promote thrift and make financial services available to all consumers, many of whom would otherwise have limited access to financial services. Every credit union is a cooperative institution organized "for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes" (12 § USC 1752(1)). Congress established credit unions as an alternative to banks and to meet a precise public need, and today credit unions provide financial services to over 118 million people. Since President Franklin D. Roosevelt signed the *Federal Credit Union Act* (FCUA) into law over 85 years ago, two fundamental principles regarding the operation of credit unions remain every bit as important today as in 1934:

1. Credit unions remain totally committed to providing their members with efficient, low-cost, personal financial services; and,

2. Credit unions continue to emphasize traditional cooperative values such as democracy and volunteerism.

The nation's approximately 5,000 federally-insured credit unions serve a different purpose and have a fundamentally different structure than traditional banks. Credit unions exist solely for providing financial services to their members, while banks aim to make a profit for a limited number of shareholders. As owners of cooperative financial institutions, united by a common bond, all credit union members have an equal say in the operation of their credit union—"one member, one vote"—regardless of the dollar amount they have on account. These singular rights extend all the way from making basic operating decisions to electing the board of directors, something unheard of among for-profit, stock-owned banks. Unlike their counterparts at banks and thrifts, federal credit union directors generally serve without remuneration, epitomizing the true volunteer spirit permeating the credit union community.

Credit unions continue to play a very important role in the lives of millions of Americans from all walks of life. Since the Great Recession, consolidation of the commercial banking sector has progressed at an increasingly rapid rate. At a time when for-profit banks are deemphasizing the human touch for financial services, credit unions are second-to-none in providing their members with quality personal financial services at the lowest possible cost.

Credit Unions as MDIs, CDFIs

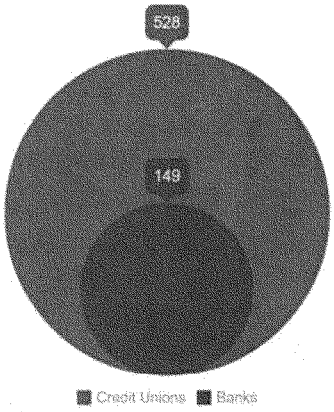
Credit unions are also proud of their record of diversity. As you can see from the charts on the next page, credit unions outpace banks when it comes to minority-designated institutions and in having female CEOs. According to NCUA's "2018 Minority Depository Institutions Report to Congress," 528 of federally-insured credit unions are minority depository institutions (MDIs), 418 of which also have the low-income credit union designation. The number of credit union MDIs decreased by 6% from 2017 to 2018, largely due to mergers. Credit union MDIs are located in 37 states, Washington, D.C., Puerto Rico, and the U.S. Virgin Islands. These institutions serve 3.9 million members and tend to be smaller institutions: 87% of MDI credit unions have assets of $100 million or less. They also tend to underperform growth in all categories, including asset size, membership, and loan volume, in comparison to the rest of the credit union industry, largely due to a decline in membership.

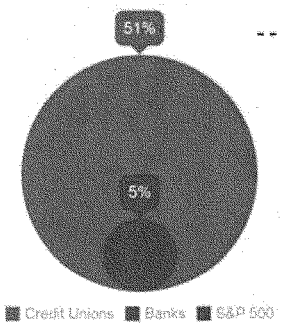
Credit unions are also proud of their participation in the Community Development Financial Institution (CDFI) program, which provides grants to allow credit unions to better serve low-income members and underbanked communities. There were 285 CDFI-designated credit unions as of Nov. 30, 2018, and those institutions held more than 50 percent of total CDFI assets. In addition to helping credit unions in low-income areas serve members in need, the CDFI program gives credit unions access to funds that they are not able to raise from the capital markets. As Congress continues to work on Fiscal Year 2020 appropriations bills, NAFCU urges lawmakers to fully fund the CDFI program at the levels approved by the House earlier this year. It is this program that gives credit unions like JetStream an important resource to help create programs to serve our community.

MORE **DIVERSE**

The credit union industry is committed to diversity and inclusion.

There are more than **3X** as many minority-designated credit unions as banks.





There are more than **10X** as many female CEOs in credit unions than in banks.

JetStream FCU's Role as an MDI/CDFI

In 2011, JetStream became an NCUA designated low income credit union, and a year later became CDFI certified, the first credit union that services both Miami-Dade County, FL, and Puerto Rico to do so. Since 2014, we have worked to ensure that every person employed at JetStream, including interns, receive certification from the National Cooperative Business Association in Community Development Certified Financial Counseling. This program trains our staff to identify financial distress within our membership and proactively work to prevent financial catastrophe.

Our membership is diverse, and reflective of the communities Jetstream serves:

- 71% of JetStream members are classified as low income or below;
- 40% are classified as extremely low income;
- 67.5% of our members are Hispanic (27% of which are Puerto Rican)
- 18.8% of our membership is African-American.

JetStream is also a "Juntos Avanzamos" credit union ("Together We Advance"), which is a community of credit unions committed to serving and empowering Hispanic communities. We were the first credit union in Florida to receive such a designation. JetStream is committed to meeting the needs of our members, and that has led us to offer a number of products to help immigrants and those with lower incomes, such as a second chance checking program, low dollar loans, and even a resettlement loan program for those moving from Puerto Rico to the mainland.

Due to the geographical areas JetStream services, Hurricane Irma and Hurricane Maria critically affected our membership in September 2017. The two Hurricanes were a life-defining moment for many of our members, and we knew that we had to act. JetStream provided $2.5 million of critical financial relief to our members during the first 8 months of recovery, including no-cost 0% APR short-term loans, deferment of existing loan payments, elimination of transactional fees, and financial coaching for our members who were dealing with active insurance cases, attempting to rebuild their home.

We played a big role for our members with small businesses after the hurricanes. When Hurricane Maria hit the island of Puerto Rico, almost every household was affected. During this time,

residents looked for ways to help their neighbors. One of our members saw the necessity on the island for accessible diesel gas to refuel generators in people's houses. He and his wife bought a truck in the states and brought it to the island to start their new business, *Chester Energia y Transportes*. He worked with the credit union to open a business account to help their business get off the ground. Due to need, their business took off rapidly and they were able to assist other large and small businesses.

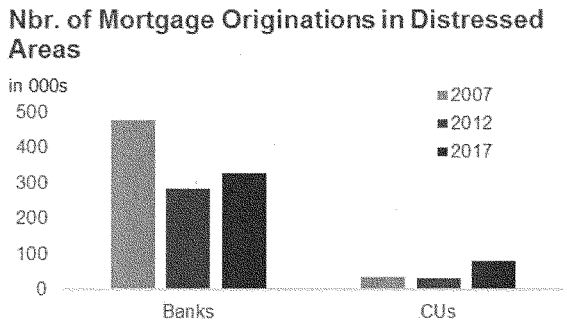
Recommendations

As the Subcommittee examines approaches to aid minority designated institutions, we would urge you to consider the following areas to assist credit unions:

Allow all Credit Unions to Serve Underserved Areas

As has been noted by Members of Congress across the political spectrum, credit unions were not the cause of the Great Recession, and an examination of their lending data indicates that credit union mortgage lending outperformed bank mortgage lending during the downturn. This is partly because credit unions did not contribute to the proliferation of subprime loans. Before, during, and after the financial crisis, credit unions continued to make quality loans through sound underwriting practices focused on providing their members with solid products they can afford.

In addition, both during and after the crisis, credit unions have been committed to helping the portions of their communities that are most in need with high quality products and services. As an example, recent *Home Mortgage Disclosure Act* (HMDA) data indicates the extent of credit union lending to communities within census tracts defined as "distressed" in 2007 by the Federal Financial Institutions Examinations Council (FFIEC). As evidenced in the chart below, the one-to-four family, first-lien purchase loan originations made by credit unions in these communities held up better through the Great Recession than those made by banks (from 2008 to 2012, there was a 33 percent decline in credit union mortgages versus a 59 percent decline in bank mortgages). In 2017, credit unions expanded their mortgage loan originations by 70 percent in these distressed areas as compared to 2007, whereas bank mortgage lending decreased by 46 percent during that same period. This is just one example of credit unions' willingness to serve communities that other lenders have abandoned.



Note: Figures reflect 1- to 4-family, first-lien purchase loan originations in MSAs where median income declined between 2007 and 2012
Source: FFIEC

There is still more that credit unions may offer. Credit unions are limited in who they can serve by the FCUA, which restricts credit unions to serving a distinct field of membership. Many credit unions want to help those in underserved areas but the ability to add underserved areas to their field of membership is restricted. Currently, only multiple-common-bond credit unions have the authority to add underserved areas. We would urge the Committee to amend the FCUA to allow all credit unions the ability to petition NCUA to add underserved areas to their field of membership. Representatives Gwen Moore (D-WI) and Paul Cook (R-CA) introduced a bill to this effect in the 115th Congress, H.R. 4665, the *Financial Services for Underserved Act of 2017*, but the House Financial Services Committee did not act upon it.

De Novo Credit Unions

The rising cost of compliance deters many would-be de novo (start-up) credit unions. Additionally, the initial capital infusion and cash outlays are often too great for many communities and associations, and there is little to no return on investment. Starting a new credit union is essentially an altruistic endeavor, as there is no ultimate financial incentive for those who are successful and the costs and hurdles can be discouraging. Furthermore, the complex chartering process is relatively easy and straightforward when compared to what a de novo credit union will face once it is chartered and operating. All of these factors contribute to a significant decline in the pace of de novo credit unions post financial crisis.

The table below outlines the number of de novo federally-insured credit unions chartered since the year 2000:

New FICU Charters since 2000

	Federal Charters	State Charters	Total
2000	8	4	12
2001	7	3	10
2002	4	2	6
2003	11	4	15
2004	2	3	5
2005	5	4	9
2006	7	1	8
2007	3	0	3
2008	4	3	7
2009	2	0	2
2010	1	0	1
2011	1	0	1
2012	4	1	5
2013	1	0	1
2014	3	0	3
2015	4	0	4
2016	0	1	1
2017	3	0	3
2018	1	0	1
Total (2000-2018)	71	26	97
Pre-crisis (2000-2009) Annual Average	5.3	2.4	7.7
Post-crisis (2010-2018) Annual Average	2.0	0.2	2.2

The NCUA takes an active role to help new credit unions form and provides support as an agency. The NCUA does provide a number of important resources for de novo credit unions. NAFCU appreciates the NCUA Board's recent initiatives to modernize and increase the efficiency of the chartering process. This includes the launch of a new automated system, the Chartering Proof of Concept tool, aimed at helping credit union organizers better understand how to prepare charter applications. NAFCU is supportive of the tool, as the chartering process can be difficult and costly. Still, the NCUA's abilities are limited by what is allowed under statute. We would urge Congress to adopt more flexibility in the FCUA regarding prompt corrective action capital requirements for de novo credit unions. Although the FCUA gives the NCUA some prompt corrective action flexibility for new credit unions, allowing more flexibility, such as the power to approve forms of subordinated debt for all credit unions, including de novo institutions, would help.

Subordinated Debt

Congress may provide more flexibility to credit unions' ability to serve low- and moderate-income individuals in their communities by supporting the NCUA in its efforts to permit credit unions to issue subordinated debt. Currently, low-income credit unions are able to offer a form of subordinated debt called secondary capital. Low-income credit unions may issue secondary capital accounts to non-natural persons and these accounts are generally treated as regulatory capital. The approval process to offer secondary capital can, however, be complex. NAFCU appreciates the NCUA's recent supervisory guidance pertaining to the evaluation of secondary capital plans, as it provides valuable insight into why a secondary capital plan may be denied. Nonetheless, NAFCU continues to urge the agency to provide further support and guidance to low-income credit unions so they can better utilize this important resource.

NAFCU advocates for a more streamlined process for the approval of secondary capital applications. Although every secondary capital plan is necessarily different depending on the credit union in question, the process should be more standardized to help credit unions anticipate and better prepare their secondary capital plans for approval. Additional flexibility, guidance, and other resources, particularly on how credit unions can more comprehensively project future performance over a reasonable time horizon would be helpful as many low-income credit unions continue to face obstacles in the approval process. Additionally, NAFCU supports improved flexibility in

credit unions' capital framework to enhance consistency across regions of the treatment of secondary capital as it applies to a credit union's net worth calculation.

Furthermore, NAFCU supports a proposed subordinated debt framework, commonly referred to as supplemental capital, for all well-run, well-capitalized credit unions. NCUA has been working on this project under the leadership of both former Chairman Mark J. McWatters and current Chairman Rodney Hood, and look forward to this important project coming to fruition.

Loan Maturity Limits

NAFCU supports giving the ability for the NCUA Board to extend the 15-year limit on federal credit union loans to longer terms for specific loans as the Board deems necessary. The FCUA currently places a 15-year maximum maturity on credit union loans, with a few exceptions, such as for a mortgage on a primary residence. This loan limit is outdated and does not conform with maturity rates currently available in the for-profit market. It forces credit unions striving to offer financial products to underbanked and underserved communities to turn away their members for some loan services, including member business loans and student loans. Credit unions, by their nature, know their members best. Loan maturity flexibility was supported by Chairman Hood in his testimony before the House Financial Services Committee on May 16, 2019, and H.R. 1661, introduced by Representatives Vicente Gonzalez (D-TX) and Lee Zeldin (R-NY), would provide this flexibility for the industry.

Other Areas to Help Credit Unions

Data Security

NAFCU supports holding negligent entities financially liable for any losses that occurred due to data breaches on their end so that consumers are not left holding the bag. Under the *Gramm-Leach-Bliley Act,* depository institutions have stringent requirements for the collection and storage of their consumer data. These same consumer protections do not exist for other entities that may collect and store consumers' personal and financial data. Credit unions suffer steep losses when re-establishing member safety and confidence after a breach occurs. In many cases, we are forced to absorb these fraud-related losses. As previously noted, credit union MDIs tend to be smaller institutions, heightening the financial impact these third party breaches have on our

community. Credit unions are not-for-profit cooperatives, which leaves members as the ones that ultimately are impacted by these costs.

Current Expected Credit Losses (CECL)

CECL is a new accounting standard update from the Financial Accounting Standards Board (FASB) that was first finalized in 2016. The standard would generally require lenders to estimate and book expected credit losses over the life of a loan at origination, possibly the most significant accounting change to the financial services industry in decades. Although the FASB Board recently unanimously approved delaying implementation of CECL until 2023, we are still very worried about what the effects will be on the credit union industry, especially smaller institutions. This is why we support H.R.3182, the *CECL Consumer Impact and Study Bill of 2019*, introduced by Reps. Vicente Gonzalez (D-TX) and Ted Budd (R-NC), along with other bipartisan Members of Congress. This bill would halt regulators from enforcing the CECL accounting standard until a comprehensive study is conducted on the impact it will have on the financial services industry. Credit unions' unique capital framework limits the NCUA's ability to mitigate CECL's effect on net worth without action from FASB, and this study would be necessary to properly guide the best course of action for the industry.

Legislation Before the Subcommittee Today

H.R.___: Ensuring Diversity in Community Banking Act

NAFCU is generally supportive of language in the *Ensuring Diversity in Community Banking Act*. In particular, we are pleased to see the idea of creating an MDI Advisory Committee within each banking regulatory agency, with the goal of preserving current MDIs, preserving the minority character of MDIs during mergers, encouraging the creation of new institutions, as well as providing technical assistance to MDIs. This would be a great way to promote engagement between the NCUA and MDI credit unions. It would provide greater access to available resources, and guarantee a seat at the table to ensure that the concerns of MDIs are heard in a way that promotes their creation and retention. We would welcome the opportunity to continue to work with the Subcommittee as you consider this and other legislative approaches to address this critical issue.

Conclusion

NAFCU believes the legislation under consideration is a positive first step. MDIs and CDFIs play a vital role in the daily lives for millions of Americans. Preserving MDI and CDFI credit unions and fostering the development of new ones would continue to grow the financial industry as an inclusive part of the American economy.

Credit unions throughout the country are proud of the work they have done to serve minority and underserved populations. We would urge this Subcommittee to support regulatory relief for credit unions and support modernizing and updating the *Federal Credit Union Act*. Allowing established credit unions to service the communities that need help the most and providing pragmatic regulatory relief for chartering new credit unions would bring thousands of Americans into financial institutions that put their financial wellbeing over profits

Thank you again, Chairman Meeks, Ranking Member Luetkemeyer, and Members of the Subcommittee for the invitation to testify before you today. I welcome any questions you might have.

Testimony of Kenneth Kelly
Chairman and Chief Executive Officer, First Independence Bank

Chairman, Board of Directors, National Bankers Association

On Behalf of both First Independence Bank and the National Bankers Association

Before the House Financial Services Subcommittee on Consumer Protection and Financial Institutions

"An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities."

October 22, 2019

Chairman Meeks, Ranking Member Luetkemeyer, Chairwoman Waters, Ranking Member McHenry, and members of the Subcommittee, good afternoon and thank you for this opportunity to testify on the causes of the decline of Minority Depository Institutions or "MDIs" and its impact on underserved communities and the consumers and small businesses that depend on our institutions.

I am Kenneth Kelly, and I serve as the Chairman and Chief Executive Officer of First Independence Bank ("First Independence"). First Independence opened its doors in May 1970, and is now a $272-million bank. We are one of only two banks headquarted in Detroit, Michigan, and we are the only African American-owned bank in Michigan. First Independence is also a Community Development Financial Institution or "CDFI", where a significant amount of our activity takes place in LMI communities throughout metro Detroit. While our designation as an MDI and a CDFI affirms our mission-driven focus on LMI communities throughout metro Detroit, in acting as a bank of first and last resort for Detroiters and Michganders, our bank faces a number of challenges unique to institutions like ours that intentionally bank communities that many financial institutions choose not to.

We are a relatively small institution, so we are particularly sensitive to any regulatory changes in Washington because we have to cover additional compliance costs across a smaller asset base. We are a mission-driven financial institution, so we intentionally bank in lower and moderate-income communities and the businesses and the institutions that serve them which is often costlier. Because of the communities we serve, we're often at odds with examiners who don't always understand our banks. We also have to navigate an investor community that doesn't always see the value of our institutions.[1] These are all challenges in addition to the normal marketplace challenges that every financial institution faces, and yet, First Independence remains – like so many MDIs – the bank of first and last resort for the communities we serve.

Many of our MDIs are in crisis. The number of minority-owned banks has declined dramatically in recent years. In 2008, there were approximately 215 MDIs; ten years after the crisis, there were 149 – a 30% decrease.[2] For African-American owned banks, the decline was much worse going from 42 banks during the same time period to 26.[3] Spotty profitability, higher compliance costs, a constantly evolving regulatory environment, low interest rates, and less-than-optimal loan demand have created an operating environment for many MDIs that make operating profitably incredibly difficult. All of these circumstances notwithstanding, we believe that Congress can be a partner in helping to provide targeted relief and support that can help our institutions better meet the credit needs of the communities we serve.

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[1] *See generally*, Robin Newberger, "Capital-raising among minority-owned banks before and after the financial crisis." (2018). Available at: https://www.chicagofed.org/publications/profitwise-news-and-views/2018/capital-raising-among-minority-owned-banks-before-and-after-the-financial-crisis.
[2] *Id. See also*, the Independent Community Bankers Association, "Minority Banks", https://www.icba.org/advocacy/industry-issues/minority-banks (Accessed October 21, 2019).
[3] *Id.*

There is broad diversity within the MDI sector with African-American-owned banks encountering the most difficulty.

Like every other segment of the banking community, there is broad diversity *within* the MDI sector – in terms of business models, market service areas, size, profitability, and performance with clear patterns across and within each of the five ethnic groups used by federal banking regulators to classify MDI ownership (African American, Asian, Hispanic, Native American, and other). Understanding the heterogeneity within the MDI sector and the drivers of MDI performance are important in helping Congress develop policy interventions that are comprehensive and responsive to diverse needs of MDIs.

- **The post-crisis decline of MDIs was significant across ethnic groups:** According to the Federal Reserve Bank of Chicago, the average failure rate of MDIs from 2008 to 2015 was 2.4 percent compared with less than 1 percent for nonminority banks. The average annual failure rate for African American, Hispanic, and Asian-owned banks were 4.5%, 2.7%, and 1.9%, respectively in the seven-year period following the financial crisis.[4]

- **MDI earnings have been underwhelming since the financial crisis:** Hispanic-owned banks posted notable losses from 2008 to 2010 (ranging between 2 percent and 3 percent of risk-weighted assets) with African-American owned banks posting losses of about 1% of assets, and between 0.5% and 1% for Asian-owned banks. Native American-owned banks had slight profits in 2008 and 2010. Since 2010, on average, African American-owned banks have posted losses in *every year* after 2010. Hispanic- and Asian-owned banks did, fortunately, report positive earnings in each year between 2011 and 2016.[5]

- **Capital-raising activity has taken a similar pattern within the MDI sector:** Retained earnings at Asian-owned banks contributed to a larger share of new equity than all community banks, and Asian-owned banks were disproportionately represented in the sale of common stock post-crisis. African American-owned banks as a group retained no income every year from 2007 to 2016. Hispanic-owned banks were far less active in capital markets transactions relative to other MDIs during the same study period further underscoring the diversity of the MDI sector.[6]

The reasons for the divergences in performance, profitability and capital-raising activity run the gamut, but the key takeaway for Congress and federal regulators is that any efforts to support MDIs must be comprehensive and reflect the sector's diversity and the unique challenges facing many of our institutions – particularly African-American owned banks that have fared worse relative to other MDIs since the financial crisis and have had a more difficult time recovering post-crisis.

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[4] Maude Toussaint-Comeau, Robin Newberger, "Minority-Owned Banks and Their Primary Local Market Areas." (2017). Available at: https://www.chicagofed.org/publications/economic-perspectives/2017/4.
[5] Robin Newberger, "Capital-raising among minority-owned banks before and after the financial crisis." (2018). Available at: https://www.chicagofed.org/publications/profitwise-news-and-views/2018/capital-raising-among-minority-owned-banks-before-and-after-the-financial-crisis
[6] *Id.*

Raising capital remains the most difficult challenge for MDIs, and meaningful support for MDIs must prioritize helping MDIs raise capital.

The lifeblood of every financial institution is their ability to raise capital, and in the view of many of our member institutions, the difficulty that we encounter in the marketplace with investors directly contributes to our restricted ability to meet the credit needs of the communities we serve.

As we noted in previous testimony before the Oversight and Investigations Subcommittee this Congress, Congress should strongly consider a mix of capital-access or capital-injection programs, expanding the technical financial assistance available to our institutions through agencies like the Community Development Financial Institutions Fund, and bolster public deposit programs.

With respect to capital infusions, we view the Community Reinvestment Act and the Investing in Opportunity Act as potential opportunities that Congress should consider now to encourage equity investments in our institutions.

- **The Community Reinvestment Act:** While various forms of majority depository institution investments in MDIs are already generally CRA-qualified, the types of investments that our institutions need – preferred and non-voting common stock purchases – receive the same treatment as other types of MDI investments like loan participations despite having far less significant impact on MDIs. **Congress should amend Section 2903(b) of the Community Reinvestment Act such that majority institutions automatically receive positive CRA consideration for equity investments in MDIs. Congress should also instruct federal regulators to consider a "tiered" approach to CRA credit awarding enhanced CRA credit for equity investments in MDIs relative to other forms of CRA-motivated engagement between MDIs and non-MDIs. Doing so sends a clear signal to CRA officers at both MDIs and majority depository institutions that regulators are seeking to prioritize equity investments over other forms of CRA activity and gives MDIs a compelling and familiar tool to bring to bank investors in addition to traditional metrics that banks use to make investment decisions.**

- **The Investing in Opportunity Act:** While we understand that the Investing in Opportunity Act is outside the Financial Services Committee's jurisdiction, we believe that the Investing in Opportunity Act provides an opportunity to help alleviate the capital-raising challenges of MDIs. MDIs are already doing the kind of lending activity in LMI communities and communities that have been designated as "Opportunity Zones" pursuant to the Investing in Opportunity Act. Unfortunately, in an oversight during the drafting of the Investing in Opportunity Act, MDIs and CDFIs were lumped in with all other financial institutions and excluded from being designated as Qualified Opportunity Zone Businesses. Several MDIs have branches in Opportunity Zones and long-standing -- and often extensive -- relationships and experience lending in Opportunity Zone communities. We believe that the impact of the Opportunity Zones program could be

amplified if eligible equity investments are allowed into MDIs and/or CDFIs. Nearly 60% of the activity of CDFIs takes place in LMI census tracts, so leveraging the Investing in Opportunity Act to push more equity investments into our CDFIs and/or MDIs better ensures that Opportunity Zone investments actually benefit the communities the law was originally intended to benefit. **Congress should amend Section 1400Z-2 of the Investing in Opportunity Act such that MDI-CDFIs are eligible for equity investments from Qualified Opportunity Funds.**

There are a number of other steps Congress can take now to support MDIs.

In addition to better leveraging the Community Reinvestment Act and the Investing in Opportunity Act to encourage equity investments in MDIs, Congress can also take a number of additional steps to support MDIs, including:

- Lowering the barriers to participation in the Minority Bank Deposit Program and encouraging more agency participation in the Program;
- Requiring that financial institutions acting as Financial Agents to the Treasury Department participate in Treasury's Financial Agent Mentor Protégé Program and partner with MDIs with assets under $1 billion;
- Expanding the annual appropriations to the CDFI Fund to support funding for programs like the Bank Enterprise Award and Technical Assistance programs;
- Reforming the New Markets Tax Credits programs allocation process so that Community Development Entities affiliated with MDIs have a fairer opportunity for securing allocations;
- Modernizing the Federal Deposit Insurance Act's approach toward brokered deposits making it easier for smaller MDIs to have access to a more diverse base of stable deposits;
- Urging the CFPB's reporting pursuant to the Improving Access to Traditional Banking Act to include the creation of a fund within Treasury for MDIs for financial literary and the development of alternatives to predatory, high-cost lending products;
- Exempting MDIs and CDFIs under $3 billion from the Bank Holding Company Act's change-of-control provisions which will allow for encouraging a larger pool of investors in our institutions;
- Creating an investment tax credit for acquiring preferred shares or non-voting common shares in MDIs;
- Further simplifying capital ratios for community banks;
- Streamlining BSA and AML reporting and call form reporting for institutions below $1 billion; and,

- Amending Section 308 of FIRREA requiring that regulators conduct impact analysis of any significant regulatory developments on MDIs.

CONCLUSION

We applaud Chairman Meeks and the leadership of this Subcommittee for this hearing. On behalf of the National Bankers Association, we are appreciative of Chairman Meeks' original sponsorship of the draft discussion that contains many of the recommendations above, and his long-standing advocacy on behalf of the country's MDIs.

While the trends regarding many of our MDIs are concerning, we firmly believe that policy interventions that represent the right mix of access to business opportunities at the federal level, incentives for equity investments in our banks, and targeted regulatory relief present a historic opportunity for Congress to provide support to the country's MDIs.

I look forward to answering any questions.



Testimony of

Jill Sung

Chief Executive Officer and President

Abacus Federal Savings Bank

New York, New York

On behalf of the

Independent Community Bankers of America

Before the

United States House of Representatives

Committee on Financial Services

Subcommittee on Consumer Protection and Financial Institutions

Hearing on

"An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities"

October 22, 2019

Washington, D.C.

Chairman Meeks, Ranking Member Luetkemeyer, and members of the Subcommittee, I am Jill Sung, CEO and President of Abacus Federal Savings Bank ("Abacus Bank") in New York, New York.

I testify today on behalf of the Independent Community Bankers of America where I serve as Chair of the Minority Bank Council as well as Chair of the Consumer Financial Services Committee. Thank you for the opportunity to testify at today's hearing on the decline of minority depository institutions (MDIs) and the impact of this decline on underserved communities. I am pleased to provide the perspective of MDIs such as ours that strive to remain prosperous and independent so that we can best serve our communities.

I appreciate you raising the profile of this critical issue and urge this committee and Congress to pursue policies to strengthen MDIs. With the 1989 FIRREA, Congress recognized the importance of preserving and promoting MDIs, not for their own sake but for their role in promoting economic prosperity in the historically marginalized communities they serve.

I would like to thank Chairman Meeks for his work on a thoughtful and constructive discussion draft. We are pleased to have the opportunity to offer input on this draft and hope to continue to work with you as it advances through the process.

Our Story

Abacus Bank is a $350 million asset, privately held, federal savings and loan association, regulated by the Office of the Comptroller of the Currency. Our headquarters is located in Chinatown in lower Manhattan, and we have additional branches in ethnic Chinese communities in Brooklyn and Queens, as well as Edison, New Jersey and Philadelphia – six locations altogether.

Abacus was founded in 1984 by my father, Thomas Sung, who immigrated from China as a teenager through Ellis Island. After working in farming in Florida, and then as a financial analyst in a large print media company, he decided to go to law school and to open his immigration law practice in Chinatown to help others like him find a better life in this country. After several years successfully practicing law, he decided to purchase a small real property, but when he applied for a mortgage, he was surprised to find out that while his bank was more than happy to take his deposits, it was not willing to give him a loan. He went to several banks in Chinatown and faced the same challenges and quickly learned that many others in Chinatown shared the same experience. Not willing to accept this as business as usual, my father decided, along with a couple of small business owners in the community, to create Abacus Bank for the purpose of not only providing depository services, but also to lend money to our community.

From its inception, Abacus has focused on financing real estate, a natural fit for our community, where the aspiration of owning your home was and continues to be almost sacred. The majority of our lending is on residential mortgages, particularly with first-time homebuyers. Over the years, as our customers start to build their assets, we also lend on small multi-family and mixed-use properties. Our lending policy is extremely conservative. Our delinquency rates have always been under 1%, in most years less than ½%. During the Financial Crisis of 2008, the residential mortgage portfolio we originated and serviced for Fannie Mae, which at its height reached over

$1 billion (almost 6,000 loans), never had a delinquency rate higher than 0.60%. We attribute these unusually low delinquency rates to our deep understanding of our customers and our belief that to build a lasting and strong community, homeownership must be sustainable. Accordingly, we have built very conservative credit practices both at the origination and portfolio management level.

The work we do for our community is reflected in the multiple "Outstanding" CRA ratings we have received. We are very proud of how we have helped our community over the past 35 years and look forward to serving future generations. Many MDIs have similar stories. ICBA President Rebeca Romero Rainey led an MDI in Taos, New Mexico, Centinel Bank, founded in 1969 by her grandfather after he was declined a loan for a mere $500 to setup a law practice.

Despite all of this, in 2009 we found ourselves being prosecuted by the Manhattan District Attorney's Office for mortgage fraud. Some of you may already know the story of our five-year legal battle as told in the acclaimed documentary, *Abacus: Small Enough to Jail*. This prosecution was, without a doubt, an attack on our community. We fought heart and soul against those baseless charges for our family's honor and reputation, but mostly for our community. Although we were fully exonerated after a 5-month jury trial, it was at great economic loss to both our small bank and to our community. We estimated that the cost to us to defend ourselves was at least $10 million which all came out of our own capital. Using a leverage capital ratio of 10%, the cost to our community was $100 million of loans not given to first-time homebuyers and small businesses. To this day, our bank, a small, minority-owned bank serving a minority population, is the only bank ever charged in the wake of the Financial Crisis of 2008.

MDIs Face Unique Challenges

You have asked for examples regarding the challenges facing MDIs in a rapidly consolidating banking landscape, accelerated by developments in technology and access to capital, as well as changes in regulatory policy and supervision. Below are examples of how these challenges directly impact Abacus Bank and my customers.

The community we serve remains dominated by first-generation immigrants, a customer base that creates at least three challenges for us. The first is the language barrier. For most of our customers, English is a second language; others don't speak English at all. This raises multiple issues, from the necessity to hire and fully train staff from within the community who have language skills but likely no experience or background in banking, to the challenge of explaining to our customers complicated regulatory concepts and forms, such as the Loan Estimate and Closing Disclosure. The fact that our customers' primary language, Chinese, is a character-based written language, versus English which has an alphabet, makes the translation process all the more difficult.

The second challenge is the socio-political and economic cultural background of many of our customers. They have chosen to leave their country of birth where the government (the "State") is all-powerful, controlling many aspects of their lives. Hence, they have a natural distrust of government and institutions in general. This increases the burden on us with respect to financial

education. At the same time, we recognize the tremendous responsibility we carry, as one of the "trusted" advisors of this highly vulnerable population, to balance between providing them all of the information required for them to make their own responsible financial decisions, while also trying to explain that the context in which they are making these decisions is quite different than what they experienced in their country of birth.

The third challenge is our customers' understanding of money and the building of wealth. Many of them are merely trying to survive on a daily basis. They view money as currency enabling one-time transactions to pay for basic necessities: shelter, food, education. They save a lot, but they are saving for the rainy day, the day when their lives will be disrupted again by forces they cannot control. As a result, they are supremely conservative with their savings, preferring to keep their funds in cash. This stops them from truly building-up wealth, as holding cash does not pay the returns that other investments have. Eventually, if they build up enough funds, they will invest their savings in the one tangible investment they trust – a home. But this can take a very long time and much sacrifice and struggle.

Technological Solutions Not Always Suitable

Unfortunately, we are constrained in our ability to reap efficiencies from recent technological advances in financial services. A significant portion of our population demands traditional banking products that cannot be offered over technological platforms. Without access to these products, this population is at risk of slipping into the un-banked population.

A prime example of this is the safe deposit box. Our immigrant community is migratory. In order to survive, they often seek jobs all over the country. Moreover, New York City is of course not known to be the most affordable living community. As a result, they are often forced to share tight living quarters with others, not necessarily family, and may not feel secure enough to leave their personal belongs at home. For this reason, they prefer to keep their important documents in safe deposit boxes – passports, other identity papers, etc. To meet this demand, Abacus maintains many safe deposit boxes, more than other banks of similar asset size. However, safe deposit box services are labor intensive, requiring bank personnel to escort customers to and from their boxes. We offer this service because it is important to our community.

Similarly, many of our elderly and new immigrant customers prefer to use passbook savings accounts, an "old school" banking product most people today have not even heard of. It is literally a paper bound book, resembling a passport, which is used to record the balance in a savings account. Deposits and withdrawals must be made through a teller, and transactions are noted in the passbook. Online or ATM transactions are not permitted because there is no mechanism on such platforms to note transactions in the passbook. Instead of receiving mailed statements or viewing the balance online, the customer tracks their balance through the physical passbook. This is a solution for a person who may not have a stable address at which to receive statements, and/or people who want personal contact with bank employees. This product cannot be automated, and thus the cost of providing such product is high. These are examples of services we offer to accommodate our unique community that squeeze our profit margins.

State and Condition of MDIs

MDIs are diverse in terms of the ethnic communities they serve, asset size, market demographics (urban, suburban, rural), and other defining characteristics. MDIs face unique challenges, including (as discussed below) access to capital, in addition to the challenges that face all community banks, which include: regulatory compliance expense disproportionate to any systemic or consumer risk they pose; historically low interest rates; and competition from larger banks, tax-exempt credit unions and less regulated, non-banks.

Agency reporting as required by FIRREA provides comprehensive analysis of MDI data, though it is difficult to draw generalities. Nevertheless, in considering policy initiatives to address the unique challenges faced by MDIs, it is helpful to make the observations noted below.

- The total number of MDI charters has declined in recent years from a high of 215 in 2008 to 155 today, though total assets have recovered following a dip in the wake of the recession and stand at a nominal high of $223 billion today.
- Relative to non-MDIs, MDI originate a greater share of their mortgages in low-to-moderate income census tracts.
- Performance has not been equal among MDI segments. Asian American, Hispanic American, and Native American MDIs have declined modestly in numbers since the recession, while increasing assets. However, African American MDIs have declined sharply in both numbers and assets. Since 2001, the number has declined from 44 to just 22 today, with the largest decrease coming in the years following the recession. Total assets have declined from $6.8 billion in 2008 to $5.3 billion today.
- Considerable size variation exists among MDIs. Native American MDIs have average assets of $166 million, and African American MDIs average $228 million, while Asian American MDIs have average assets of $1.7 billion, and Hispanic American MDIs have average assets of $3 billion.
- MDI lending is concentrated in commercial real estate, an asset class that fared poorly during the 2008-2009 recession. As a result, MDI net earnings fell more than other banks during that period, with fully half of MDIs suffering losses. Since that time, MDI asset quality has improved, and MDI noncurrent loans and net charge-offs are now at new lows.
- MDIs generally enjoy strong gross revenues relative to non-MDI community banks. However, these revenues are accompanied by higher expenses, especially among small MDIs.
- MDI overhead expense ratios, which reflect salaries, premises, and other fixed assets, have been historically higher than those of other banks. This is particularly true for smaller MDIs and MDIs that operate in urban areas where property values are higher.
- Due primarily to these higher expense ratios, MDI return on assets have historically been lower than those of larger banks or comparable community banks.

Lack of De Novo MDIs: A Troubling Indicator

Preservation and strengthening of existing MDIs – as important as this goal is – is not enough. In order to offset the loss of institutions through consolidation and acquisition by non-MDIs, the MDI sector must be continually fed by a stream of new entrants in order to live up to its potential for supporting the economic prosperity of minority communities.

Unfortunately, the FDIC has approved only one de novo MDI – and very few non-MDI de novos – since the financial crisis. In January of this year, the FDIC granted conditional approval to Moxy Bank to operate as an MDI in the District of Columbia, though Moxy has yet to open. We need to see more of these. Congress and the agencies should pursue policies to promote de novo MDIs.

New Sources of Capital are Needed

As I noted above, Abacus Bank's first priority is serving our community with its unique characteristics. In this we are typical of MDIs. We have a service-focused mission, where a primary measure of our success is how well we serve our community. We do not have access to the public capital markets. For that matter, private capital would mostly likely contravene our business model, as investors may demand higher returns than we can offer. For these reasons, Abacus and other MDIs have limited-to-no access to the capital markets.

Without access to outside capital, our only reliable source of capital is retained earnings. For this reason, we have never paid dividends to our shareholders since the bank was formed. Our retained earnings is our capital. This has made us very conservative in how we approach risk, particularly in our lending and, as I noted above, helps explain our unusually low loan default rates. This distinguishes us from larger banks who, given their easy access to capital, can afford to leverage that capital and take on much more risk to increase their potential for return.

For these reasons, MDIs truly need access to non-traditional ways of raising capital. This is critical for our preservation and to ensuring that fair and equitable access to the financial system is preserved for all.

Regulatory Relief

MDIs could be helped by the same policies that would help all community banks: additional regulatory relief. As smaller institutions with limited access to outside capital and limited legal and compliance resources, MDIs are disproportionately and adversely impacted by the surge of new regulations which began before the financial crisis and only intensified in its wake. Our size and niche markets effectively insulate us from systemic risk, and the stake we hold in our communities, where our reputation for fair dealing can make or break our franchise, make consumer mistreatment or abuse impossible. We ask this committee's support in further tiering of regulation, which would provide relief for all community banks and be that much more impactful for MDIs.

Earlier this year, I provided Chairman Meeks with our perspective on the Current Expected Credit Loss standard, and I will not repeat those comments here, except to say that it is an example of a policy that might make sense for a larger bank with a robust accounting department and technical resources, but it has been misapplied to Abacus and our peer banks.

In this regard, I want to thank this committee for passage of two regulatory relief bills. The first is the SAFE Banking Act (H.R. 1595), sponsored by Rep. Ed Perlmutter, which creates a safe harbor for financial institutions that serve cannabis-related businesses and their service providers in states, such as New York, that have legalized cannabis. As a New York bank, it is often impossible for us to know whether some of our business customers are also serving cannabis-related businesses. The safe harbor created by H.R. 1595 will give us the assurances we need to operate without fear of retaliation from our regulator, the OCC, or other federal authorities.

The second bill I wish to mention is the Corporate Transparency Act of 2019 (H.R. 2513), sponsored by Rep. Carolyn Maloney, which would require companies to disclose their "beneficial owners" to the Financial Crimes Enforcement Network (FinCEN). The current Customer Due Diligence Rule requires financial institutions to collect this information from company account holders. However, FinCEN collection of beneficial owner information, as opposed to its collection by banks, would provide uniformity and consistency across the United States. Making the formation of an entity contingent on receiving beneficial owner information more directly would create a strong incentive for equity owners and investors to provide such information and ensure its accuracy.

I understand that H.R. 2513 will be considered on the House floor this week, and I urge all members of this committee to support it.

ICBA Comments on Chairman Meeks' Discussion Draft

I would like to reiterate my thanks to Chairman Meeks and his staff for their work on this discussion draft. It is a constructive document that could form the basis of important legislation. Below are comments on specific sections of the draft.

Section 8: Application Process for De Novo Community Development Financial Institution Applicants

ICBA supports the intent of Section 8 of the discussion draft, which would streamline the application process for de novo MDIs to also become CDFIs. We recommend expanding this section to streamline the process by which an existing MDI applies to become a CDFI.

ICBA believes that many MDIs that are eligible for CDFI status choose not to apply because of the burdensome application process. Abacus Bank, for example, is not currently a CDFI. While we believe we would qualify, we simply cannot spare the resources at this time to perform the required analysis. CDFI status would allow us to use more flexible underwriting standards, potentially attract outside capital, and become eligible for competitive and technical assistance grants to offer new programs and services to our customers.

For these reasons, ICBA proposes that the agencies create a streamlined CDFI application in which, at the bank's option, the FDIC, OCC or Federal Reserve would perform initial loan portfolio analyses on behalf of the bank.

According to ICBA surveys, community banks view loan portfolio analysis as the most burdensome aspect of the CDFI application. If the prudential regulators were to perform the analysis on behalf of the banks, we believe many MDIs and other community banks would take advantage of the streamlined process and obtain the benefits of CDFI status. This would be similar to a National Credit Union Administration program in which the agency analyzes a credit union's loan portfolio and produces a report for the credit union to use in their CDFI application. If a bank does not want the prudential regulator to conduct the analysis for them, the bank can still use the current, non-streamlined application to become designated as a CDFI.

Section 11: Qualified Opportunity Fund Investments in Community Development Financial Institutions

ICBA supports Section 11 of the discussion draft which would provide that a CDFI, including a CDFI bank, may be a "qualified opportunity zone business" (QOZ).

The Opportunity Zone program seeks to encourage economic growth and investment in qualified opportunity zones by providing Federal income tax benefits to taxpayers who invest in QOFs. The benefits include: (1) a temporary tax deferral for capital gains reinvested in a Qualified Opportunity Fund (QOF,) (2) a step-up in basis for any investment in a QOF held for at least five years (10% basis increase) or seven years (15% basis increase), and (3) a permanent exclusion of capital gains from the sale or exchange of an investment in a QOF held for at least 10 years.

The Opportunity Zone program can be a key mechanism to break the cycle of poverty and give distressed communities an opportunity to leverage new resources. Allowing CDFI banks to be QOZs will provide a further incentive for community banks, including MDIs, to become CDFIs.

Section 12: Sense of Congress on Funding the Loan Loss Reserve Fund for Small Dollar Loans

ICBA supports Section 12 of the discussion draft which expresses the sense of Congress on appropriating funds for the loan loss reserve fund and technical assistance programs as mandated by Dodd-Frank Act Title XII. We are pleased to note that this funding is included in the version of the 2020 Financial Services and General Government Appropriations bill that passed the House of Representatives in June.

Title XII was enacted to provide millions of low-to-moderate income individuals living in the United States the opportunity to access and use appropriate mainstream financial products and services.

Title XII authorizes the Secretary of the Treasury to create multi-year grant programs designed to encourage the targeted group to establish accounts at federally insured banks. Title XII also authorizes participating institutions to issue small-dollar loans to targeted individuals and

provide recipients with the financial counseling and education. These loans provide low-cost alternatives to non-traditional forms of financing that often impose excessive interest rates and fees.

ICBA Recommended Addition to Chairman Meeks' Discussion Draft

Lower Capital Requirements for De Novo Banks

Need for Change:

As noted above, only one de novo MDI has been approved by the FDIC in the last 10 years. Changes are needed to encourage more applicants.

One of the biggest hurdles to creating a new bank is the high capital requirements imposed by the FDIC. At present, the FDIC expects the initial capital of each de novo institution to be sufficient to provide a tier-one-capital-to-assets leverage ratio of not less than 8 percent throughout the first three years of operation. In addition, the institution must maintain an adequate allowance for loan and lease losses. In short, the de novo institution must have capital on day one equal to 8 percent of what it projects its assets will be three years from the opening date.

Recommendation:

To ease the burden of raising capital and encourage the formation of new de novo minority depository institutions, the FDIC should lower its tier-one-capital-to-assets leverage ratio and phase it in for minority de novo banks. Specifically, the FDIC should only require de novo MDIs to have 6 percent capital on day 1, 7 percent at the beginning of the second year, and 8 percent at the beginning of the third year. This would give new MDIs additional time and a more gradual on-ramp to meet the its capital requirements.

Conclusion

Thank you again for convening today's hearing and for the opportunity to offer our perspective. We look forward to continuing to work with you to strengthen MDIs and to create incentives for a new generation of de novo MDIs.

I'm happy to answer any questions you may have.



Sunday, October 20, 2019

The Honorable Gregory W. Meeks
United States House of Representatives
Chair, Subcommittee on Consumer Protection and Financial Institutions of the US House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Representative Meeks:

I note that on Tuesday, October 22, 2019, the Subcommittee on Consumer Protection and Financial Institutions of the US House Committee on Financial Services will hold a hearing on "The Decline of Minority Depository Institutions and the Impact on Underserved Communities."

I have been studying Black-owned banks for the past thirty years and am submitting this letter to provide research and to suggest a new approach to preserving these institutions. Please see the appendix for additional minority bank data.

The hearing follows a number of failed legal and regulatory initiatives designed to preserve the number of Black banks. In August 1989, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). Section 308 of FIRREA established the following goals:

- Preserve the number of minority (including Black) depository institutions;
- Preserve the minority character in cases of merger or acquisition;
- Provide technical assistance to prevent insolvency of institutions not now insolvent;
- Promote and encourage creation of new minority depository institutions.

An objective review of 308 leads to the conclusion that banking regulators, the Fed, in particular, failed to follow the law. As I noted during my 2011 webinar on the crisis in Black banking, there were 55 Black owned banks and thrifts in 1994. By 2016, there were just 23. Twenty four remain today.

There have been other regulatory failures. Section 342 of Dodd-Frank requires nearly 30 agencies, including the Federal Reserve, the Treasury Department and the Federal Deposit Insurance Corp., to establish offices of minority and women inclusion to monitor diversity within the agencies and in the ranks and the pool of contractors who provide goods and services to them. One would think this would help Black banks. It did not.

Banking regulators have recently attempted to cover up their history of neglect. On September 26, 2019, the Federal Reserve Bank of Kansas City held a seminar on Minorities in Banking, 22 years after I gave a talk there (in November, 1994) on "The Role of Minority-Owned Banks in Meeting Credit Needs in the Marketplace." Unfortunately, my talk did not help the Fed preserve black banks. As they exist now, Black banks are too small and too weak to make a difference.

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At the Kansas City Fed in 1994, I suggested the Fed's Federal Open Market Committee (FOMC) purchase mortgage backed securities (MBS) originated by Black banks as part of open market operations. The Fed, then under Alan Greenspan, declined, saying that only Treasury securities were appropriate collateral. Since the financial crisis, the Fed has purchased trillions in securities, helping white owned banks, broker dealers, insurance companies auto companies and investment banks. Not only did few Black banks receive any assistance, but the ones that did were the wrong banks.

We still believe one possible solution to the Black banking crisis is to have the FOMC create a Black bank liquidity pool totaling at least $50 billion by conducting repo and reverse repo transactions, purchasing Treasury, MBS securities (and/or SBA loans) from Black banks with a record of actually making loans to the Black community.

With a little federal help, Black banks might be able to grow and get stronger. In this way, they may be able to finally help small businesses and would-be homeowners realize their dreams, as one Black bank in New York City, Carver Federal, tried to do after the financial crisis:
http://twisri.blogspot.com/2008/03/racial-divide-in-mortgage-mess-carver.html

Of course, there are bound to be concerns with this approach. Below are two:

1. Black banks would have an incentive under this program to purchase home mortgage and small business loans from white owed banks and simply stamp their label on them. Fortunately, technology allows us to look thru the securities to reveal the origination process and path. Any pools that consist to loans purchased from white owned banks for purposes of participating in the Fed Black bank program should be rejected, with one exception; loans originated by entities with a track record of actually helping the community, in the model of ACORN (the Association of Community Organizations for Reform Now).

2. The wrong Black owned banks, like OneUnited, will be the first to participate. This specific bank is the wrong bank for this initiative given their history of not making loans to the Black community they claim to serve and based on the unethical behavior of managers at the bank - OneUnited "bought or leased luxury real estate the CEO used and, until federal regulators complained in 2008, paid for his Porsche. OneUnited CEO Kevin Cohee's East Coast spread was an $880,000 condominium on Miami Beach's Ocean Drive, and out west the bank leased a $26,500-a-month mansion for him on Palisades Beach Road in Santa Monica, Calif...the bank's CEO was twice arrested, on sexual assault and drug charges." Black banks like these should be prohibited from participating in this type of FOMC program.

Even with these potential problems, I think the effort would be worthwhile, not only for Black banks, but for the country as a whole, since we know, according to McKinsey, that racial discrimination against Blacks "will cost the US economy between $1 trillion and $1.5 trillion between 2019 and 2028—4 to 6 percent of the projected GDP in 2028." The right Black banks can help prevent and recover some portion of this loss.

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Thank you,

Sincerely,

William Michael Cunningham

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APPENDIX

Research on Minority and Black Banks

Sample report on minority-owned banks. See: http://minoritybank.com/MinBank1.pdf

Looking Back at the History of America's Black Banks, Even as They Strive For Vitality - Black Enterprise Magazine. https://www.blackenterprise.com/black-banks-struggle/

William Michael Cunningham on "Saving Black Banks" at Congressional Black Caucus. https://www.prlog.org/12586217-william-michael-cunningham-to-speak-on-saving-black-banks-at-congressional-black-caucus.html

Crisis - The Current State of Black Banking. June 14, 2011. https://www.prlog.org/11541435-crisis-the-current-state-of-black-banking.html

Black-owned Banks are Disappearing at An Alarming Rate - http://fusion.net/story/336786/black-owned-banks-study-cir/

Bank Black' movement boosts embattled local bank. https://www.bostonglobe.com/metro/2016/09/09/bank-black-movement-boosts-embattled-local-bank/X3A0H9jkpOE3GuQjJWtDBK/story.html#

What Can Be Done to Save Black-Owned Banks? American Banker Newspaper - http://blackfrb.blogspot.com/2016/08/what-can-be-done-to-save-black-owned.html

When it Comes to Black Financial Institutions, Representation Matters - http://chicagodefender.com/2016/08/20/when-it-comes-to-black-financial-institutions-representation-matters/#.V7h8frB1jyA.twitter

What's Next if Payday Loans Go Away? - https://morningconsult.com/2016/09/07/whats-next-payday-loans-go-away/

"Three African American executives are trying to raise $50 million to create a black-owned bank holding company with some help from the federal government." https://www.blackenterprise.com/executives-working-to-create-black-owned-holding-company/

Social Performance Indicators for Banks. https://www.creativeinvest.com/SocialPerformanceIndicatorsfortheFinanceIndustry.pdf

How to Finance a Black Women-owned Business in 2019.
https://www.blackenterprise.com/webinar-black-women-founders-capital/ and
https://www.udemy.com/course/blackwomenbusinessfinancing/

FEDERAL RESERVE BOARD STUDY SAYS BANKS DO NOT DISCRIMINATE AGAINST MINORITY APPLICANTS. The American Banker. January 25, 1995. Page 1.
https://www.creativeinvest.com/frbdiscriminationstudy.html

Carver Federal after the financial crisis: http://twisri.blogspot.com/2008/03/racial-divide-in-mortgage-mess-carver.html

Black Bank Rescue Act. https://www.blackenterprise.com/new-bill-black-banks-black-investors/

Links to the articles and research below can be found at: https://www.creativeinvest.com/sitemap.html

MinorityBank.com

HR 41 - Black Bank Rescue Act

Black Banks in New Orleans - Page from the Minority Bank Monitor, 2005.

East West Securities - Minority Broker Monitor Report, 2005.

Wall Street Investment Corporation - Black Brokerage Firm Report from the Minority Broker Monitor, 1994.

MinorityFinance.com

Black Banks after the LA Riots. Wall Street Journal. Friday, August 21, 1992. Page B1.

More on Carver Federal. Crain's New York Business. Monday, September 26, 1994

Business and Basketball. Liz Wolf/Special to the Twin Cities Finance & Commerce Newspaper. March 5, 2004.

SECURITY BACKED EXCLUSIVELY BY MINORITY LOANS. The American Banker. Friday, December 2, 1994

WORRIES ON 3 BLACK-OWNED LENDERS IN NEW ORLEANS. Tuesday, December 13, 2005 by Damian Paletta.

RETURNS BETTER, GROWTH STILL STRONG AT MINORITY BANKS. The American Banker. Wednesday, September 21, 2005.

PAN PACIFIC BETS ON ASIAN COMMUNITY. By Matthew Bunk FREMONT, BUSINESS WRITER. Inside Bay Area - Oakland Tribune October 26, 2005

A Bank Rebuilds - Tellers Are on the Front Line of the Recovery in New Orleans. Summary of an article appearing in the New York Times. November 5, 2005

METROBANK, A SMALL, ASIAN-AMERICAN BANK IN HOUSTON. The Wall Street Journal. Monday, January 15, 1996. Page A1. New York, NY.

FANNIE MAE TO INCREASE FOUNDATION ASSETS. The Washington Post. Thursday, December 28, 1995. Page A1.

NEW FORM OF BANK EQUITY TIED TO LENDING. The American Banker. April 5, 1994. Page 5.

W.R. LAZARD. Investment Dealers' Digest March 20, 1995. Page 14.

BLACK ENTERPRISE FIXED INCOME ROUNDTABLE. Black Enterprise Magazine. April 1995. Page 80.

MINORITY BANK EFFORTS TO GET FINANCING FROM MAJORITY-OWNED BANKS. The Wall Street Journal. Wednesday, December 16, 1992.

A SHAKY PILLAR IN HARLEM: BLACK-OWNED CARVER BANK IS RESISTANT TO PROFITABILITY AND CHANGE. From the New York Times, Sunday, July 11, 1999. Page C-1.

FOUNDERS NATIONAL BANK OF LOS ANGELES. Wall Street Journal, 4/29/98.

BANKING REGULATORS CLOSED SOUTH CAROLINA'S ONLY MINORITY-OWNED BANK. March 30, 1999. American Banker Newspaper.

OCC CLOSES PEOPLES NATIONAL BANK OF COMMERCE, MIAMI. From an FDIC Press Release dated 9-10-99.

GRIGSBY BRANDFORD. Associated Press. Wednesday, October 2, 1996 6:27 pm EDT

Predicting the Financial Crisis: The First Bank Failure of 2008. US News and World Report. January 28, 2008. 1:55 pm EDT

Central Bank (was) the only Tampa Bay area bank listed as a minority depository institution by the FDIC because the majority of its directors are Asian Americans.

A partnership between Tom Barrack's Colony Capital LLC and a minority-owned investment firm won the bidding for a $1.85 billion portfolio of distressed commercial real-estate loans auctioned off by the Federal Deposit Insurance Corp.

With public sentiment running so hard against the banking industry these days the story of Dwelling House Savings and Loan Association, a $13.4 million minority-controlled mutual in Pittsburgh, is nothing short of amazing.

Top Women, Minority Brokerage Firms, 2006

Black-Owned Bank Draws Big Names, With Bigger Plans

Black owned bank has few urban loans. OneUnited sought aid as community 'beacon.' March, 2009.

March, 2006 - Robert L. Johnson, the founder and former chief executive of Black Entertainment Television, said yesterday that he acquired a tiny Florida savings and loan and plans to move it to

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Washington to use as the springboard for a large consumer financial services company aimed at black customers.

April, 2006 - Robert Johnson, who left BET in January and now owns RLJ Cos., announced last month that he is starting a bank. Urban Trust Bank will be geared mainly toward African-Americans and other minorities, providing mortgages, investment opportunities, student loans and other banking options.

September, 2012- Minority Contracting and the Offices of Minority and Women Inclusion (OMWI).

August, 2009 - Creative Investment Research Challenge to the US Securities and Exchange Commission (SEC). UN Principles for Responsible Investment (UN PRI)

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CUNA

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October 22, 2019

The Honorable Gregory W. Meeks
Chairman
House Financial Services Committee
Subcommittee on Consumer Protection and Financial Institutions
U.S. House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
Ranking Member
House Financial Services Committee
Subcommittee on Consumer Protection and Financial Institutions
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Meeks and Ranking Member Luetkemeyer,

On behalf of the Credit Union National Association (CUNA), I am writing to express our views ahead of the Subcommittee's hearing entitled, "An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities." CUNA represents America's credit unions and their 115 million members.

Credit unions value and embrace diversity, equity, and inclusion (DEI). Advancing DEI is an explicit priority of credit union leadership as is evidenced by the recent CUNA Board resolution to clearly and prominently establish diversity, equity, and inclusion as a shared cooperative principle of America's credit unions.

Together, CUNA, the state credit union leagues and associations, credit union service organizations, partners focused exclusively on DEI for specific minority groups, and credit unions are working to support and deepen DEI in the credit union industry.

Credit unions are unique within the financial services industry because we have a values case for DEI that is rooted in our cooperative principles of "democratic member control and open and voluntary membership without discrimination"; philosophy of "people helping people"; nonprofit, member-owned cooperative structure which drives us to put our members' interests first; and our mission of promoting thrift and providing access to credit for provident purposes, especially for those of modest means. Significantly, credit unions' genesis story is about providing financial access to those who were previously excluded from the traditional financial sector.

Minority Depository Institutions and Financial Inclusion

Minorities account for approximately 41 million households (32% of total) in the U.S.[1] A recent U.S. Census Bureau report shows that in 2018 U.S. median household income reached an all-time high of $63,179. Not all groups did equally well though. The median household income was $70,642 for White households; $51,450 for Hispanic/Latinx households; $41,361 for Black households; and $87,194 for Asian households.[2] The Census Bureau report shows that the sizable disparity in median income for Black and Hispanic/Latinx households as compared to White households has persisted since the late 1960s.[3] These same groups also face significant wealth

[1] U.S. Census Bureau, Current Population Survey, March and Annual Social and Economic Supplements, Accessed 10/16/2019;
[2] U.S. Census Bureau, Income and Poverty in the United States: 2018.
[3] Ibid.

disparities. For example, Black and Hispanic/Latinx households account for a mere 14% of U.S. household wealth yet represent approximately 32% of U.S. households.[4]

In general, Black and Hispanic/Latinx households are far more likely to experience financial disparities than White and Asian households. These disparities increase the likelihood of their financial exclusion.[5] In this context, millions of minorities choose minority depository institutions (MDIs), which are organized to serve the financial needs of specific minority groups. Indeed, the majority (over 50%) of MDI credit union boards and member-owners must come from a specific minority group. Since directors of MDIs reflect the community they serve, these institutions are better positioned to understand their communities' challenges, build trust with communities who often distrust financial institutions, and ultimately, provide tailored products and services (e.g., financial education and counseling, small dollar loans for borrowers with poor or no credit as alternatives to payday loans, bilingual services, etc.) that help their members and their communities prosper.[6] Further, MDIs are more likely to have branches in minority neighborhoods and lend more in these communities, which often lack access to the capital needed to prosper and build wealth.

MDI Credit Unions and Their Impact on Their Communities

Minority depository institution credit unions represent an important way in which credit unions are fulfilling their mission by advancing financial inclusion and well-being for minority and underserved communities.

Today, MDI credit unions represent approximately 10% of all credit unions and serve approximately 3.9 million memberships (representing 3% of all credit union memberships).[7] As of March 30, 2019 there were over three times as many MDI credit unions (535)[8] as MDI banks (148), representing 10% of the total number of credit unions compared to 3% of banks. These MDI credit unions held 3% of loans and 3% of total credit union assets compared to MDI banks, which held 1% of total bank assets. Nearly 80% of MDI credit unions hold the low-income credit union designation.[9]

Most MDI credit unions (87%) are small institutions with assets of $100 million or less.[10, 11] While MDI credit unions are well capitalized with 95.1% reporting a net worth ratio of at least 7%,[12] in 2018 they underperformed

[4] Federal Reserve, Survey of Consumer Households, 2016; U.S. Census Quick Facts, accessed on 10/18/2019. https://www.census.gov/quickfacts/fact/table/US/PST045218

[5] Dopico, Luis G., "Reaching Minority Households: Learning from Minority Credit Unions," Filene Research Institute, 2016; and Nembhard, Jessica Gordon. "Community Development Credit Unions: Securing and Protecting Assets in Black Communities," *Review of Black Political Economy*, 2013.

[6] Dopico, 2016.

[7] National Credit Union Administration (NCUA), Credit Union Call Report, first quarter 2019, CUNA calculations and FDIC. Following the NCUA's definition, we use the term "Minority Depository Institution" for credit unions that have reported that over 50% of their current membership, potential membership, and board members are Hispanic American, Black American, Asian American, Native American, or a combination of multiple groups. We include both federally-chartered and state-chartered credit unions. Note the definition of an MDI has changed over time. The change in definition of what qualifies as an MDI has contributed to the decrease in MDI credit unions.

[8] The following is the breakdown of the number of MDI credit unions serving distinct racial and ethnic groups. As of March 30, 2019, there were 272 MDI credit unions serving Black American members; 93 serving Hispanic/Latinx American members; 49 serving Asian American members; 12 serving Native American members; and 102 serving two or more races. NCUA, Credit Union Call Report, first quarter 2019, CUNA calculations.

[9] NCUA, "2018 Annual Congressional Report on Minority Depository Institutions."

[10] NCUA, Credit Union Call Report, first quarter 2019, CUNA calculations.

[11] To put a finer point on the small size of MDI credit unions, as of March 30, 2019, 67% of MDI credit unions held assets of $20 million or less.

[12] NCUA, Credit Union Call Report, first quarter 2019, CUNA calculations.

compared to low-income credit unions, small credit unions, and federally insured credit unions in the following growth categories: assets, memberships, shares, loans, and net worth.[13]

CUNA estimates that during the twelve months ending March 30, 2019 MDI credit unions provided approximately $324 million in direct financial benefits to their members as a result of lower rates on loans, lower fees, and higher rates on deposits compared to banks. These benefits are equivalent to $85 per member or $179 per member household.[14]

While significant, these figures underestimate the benefits provided by MDI credit unions to members and their communities. For example, these figures don't consider the benefits of tailored products and services offered by MDI credit unions to their members such as financial education and counseling; small dollar loans for borrowers with poor or no credit as alternatives to payday loans; lending to borrowers with poor or no credit if they participate in direct deposit; and bilingual services.[15] Together, these benefits increase MDI credit union members' financial security and wellbeing and that of their communities.

MDI Credit Union Consolidation Trends and Opportunities

CUNA's analysis of MDI credit union consolidation since 2011 finds that MDIs have merged or liquidated at a slightly higher rate compared (32%) to all credit unions (25%).[16] While the number of MDI credit unions has decreased from 912 in 2011 to 532 as of March 30, 2019, approximately 14% of that decline was a result of changes in the MDI definition.[17] Of those credit unions that were not affected by the change in MDI definition (786), 32% were merged or liquidated since 2011.[18] Of those MDI credit unions that were merged 28% of these mergers were to other MDI credit unions, allowing the institutions to maintain their focus on a minority population and in some cases, to expand services.[19]

Nearly all the consolidation in the credit union industry over the last decade has been due to larger credit unions merging with smaller credit unions.[20] This is generally true for MDI credit unions, the majority of which are small.[21]

Small MDI credit unions face several challenges that are typical for small credit unions, including higher operating expense ratios than larger credit unions, which have the benefit of economies of scale; and small staff (approximately 40% of all small credit unions have five or fewer staff).[22]

These small credit unions face the same regulatory requirements as larger credit unions. Indeed, CUNA estimates that the cost of compliance for small credit unions under $115 million in assets is 0.69% of assets compared to large credit unions with over $1 billion in assets where the cost is estimated to be 0.43% of assets.[23] The dramatic

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[13] NCUA, "2018 Annual Congressional Report on Minority Depository Institutions."
[14] CUNA, "First Quarter 2019 Member Benefits Report: MDI Credit Unions." Estimated total benefits of credit union membership are calculated by accounting for differences in credit union and bank pricing. Specifically, average credit union savings account yields, loan interest rates and fees are compared to average bank savings account yields, loan interest rates and fees. The interest rate differences are then applied to respective average credit union loan and savings balances. Fee differences are weighted and applied to credit union non-interest income to obtain the total estimated benefits arising from fees. Note that these benefits represent averages.
[15] Dopico, Luis G., "Reaching Minority Households: Learning from Minority Credit Unions," Filene Research Institute, 2016
[16] We start with the year 2011 because that is the first time that some form of questions related to minority status of membership and credit union leadership were included in the Call Report.
[17] NCUA, Credit Union Call Report, 2011-first quarter 2019. CUNA calculations and analysis.
[18] Ibid.
[19] NCUA, "Minority Depository Institutions Annual Report to Congress," 2018. https://www.ncua.gov/files/publications/2018-mdi-congressional-report.pdf
[20] CUNA analysis of NCUA Call Report data, 2009-2019.
[21] Ibid.
[22] NCUA, Call Report, second quarter 2019.
[23] CUNA and Cornerstone, "2017 Regulatory Burden Financial Impact Study: An Elevated New Normal."

difference in cost is explained in part by the ability of larger credit unions to spread the fixed costs associated with compliance over a larger asset base.[24] Further, nearly one-third of total staff (32%) at small credit unions are devoted to regulatory activities while that figure is 21% for medium-size credit unions ($115 million to $1 billion) and 19% for large credit unions (over $1 billion).[25] Finally, credit unions of all sizes, but especially small credit unions face challenges from fintech and the costs related to ensuring data security.

The National Credit Union Administration's (NCUA's) MDI Preservation Program, which was approved in 2015 and is managed by the NCUA's Office of Credit Union Resources and Expansion (CURE), aims to encourage the preservation of MDI credit unions via technical assistance, educational opportunities, grants, outreach to understand the particular challenges MDI credit unions face and provide MDIs considering mergers support in identifying appropriate merger partners. This program represents a valuable resource for MDI credit unions because it offers an opportunity to bolster their sustainability.

MDI credit unions play a critical role in advancing financial inclusion and the economic wellbeing of minorities and underserved communities. MDI credit unions form an integral part of the credit union movement and despite field of membership restrictions, the relatively large number of MDI credit unions compared to banks highlights our commitment to financial inclusion and DEI more generally.

At the same time, we recognize that given the preponderance of small MDI credit unions, they are more vulnerable to consolidation. If consolidation takes the form of merging with other MDIs, allowing them to maintain their focus on a minority population and expand services, then members and their community stand to benefit. CUNA supports NCUA's MDI Preservation Program, which we believe is well placed to support MDI credit unions' resiliency in the face of industry challenges and bolster the chances that minority and underserved communities continue to benefit from financial opportunities that MDIs provide.

On behalf of America's credit unions and their 115 million members, thank you for considering our views.

Sincerely,

Jim Nussle
President & CEO

[24] Ibid.
[25] Ibid.

/ inclusiv /

WRITTEN TESTIMONY
COMMITTEE ON FINANCIAL SERVICES, UNITED STATES HOUSE OF REPRESENTATIVES
REGARDING HEARING: AN EXAMINATION OF THE DECLINE OF MINORITY DEPOSITORY INSTITUTIONS AND THE IMPACT ON UNDERSERVED COMMUNITIES
ON BEHALF OF INCLUSIV
AND MINORITY-DESIGNATED COMMUNITY DEVELOPMENT CREDIT UNIONS

OCTOBER 22, 2019

Thank you, Chairwoman Maxine Waters, and the members of the House Subcommittee on Consumer Protection and Financial Institutions for holding this hearing to examine "the Decline of Minority Depository Institutions and the Impact on Underserved Communities," and for the opportunity to submit written testimony for the record. This testimony is being submitted on behalf of Inclusiv and the national network of minority-designated community development credit unions (or, CDCUs) among our membership. We are strongly in favor of ensuring diversity among community depository institutions.

Inclusiv is the leading champion for creating a more just and equitable economy by building, growing and supporting local ownership and control of capital in low-income communities and communities of color. We believe that financial and economic inclusion is a fundamental right. We dedicate ourselves to closing the gaps and removing barriers to financial opportunities for people living in distressed and underserved communities. Inclusiv is a certified CDFI intermediary that transforms local progress into lasting national change. We provide capital, make connections, build capacity, develop innovative products and services and advocate for our member community development credit unions (CDCUs).

Our strategic goals for this effort are:

- ***Preserve and build*** the diversity of the Credit Union movement
- Increase ***organizational capacity*** and effectiveness of minority depository institutions and CDFIs to grow and serve their community
- Propel ***innovation and impact*** among low-income communities through technology

Inclusiv works to build a more inclusive economy and nation by promoting, supporting and growing a robust network of minority depository institutions.

The Challenge

African Americans as a group are among the most financially underserved Americans, resulting from our country's long history of discrimination and redlining. But even in today's economy disparities continue to widen. Income gains since the financial crisis have not been shared equitably. The family income in census tracts served by community development and minority credit unions fell by more than $800 relative to tracts served by mainstream financial institutions. A recent Prosperity Now report demonstrates that from 1983-2013 the wealth of African American households declined by 75%

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compared with a 14% increase for White households. While 27% of all Americans are unbanked or underbanked, 49% of African Americans are either unbanked or underbanked, regularly relying on payday lending and other high-cost financial services to meet household needs. These predators target communities of color and exacerbate wealth gaps extracting exorbitant fees and trapping people into cycles of debt.

Building wealth may start with a safe place to bank and grow savings but credit unions recognize that it requires a clear and achievable pathway of productive credit and services to ultimately access wealth building tools such as the purchase a home, accessing an education or starting a business.

The Solution

We support the solutions presented by Congressman Meeks as part of the "Ensuring Diversity in Community Banking Act" and the discussion draft regarding Treasury's Mentor-Protégé Program introduced by Congresswoman Beatty. Federal Government-held deposits would be beneficial for minority depository institutions, but including injections of capital will be necessary in order for MDIs to fully utilize the benefits of those deposits.

Minority depository institutions, like black owned credit unions and banks, have been the most effective vehicles for helping African Americans build and grow wealth in this country. And they represent the best solution for rebuilding assets and bridging the racial wealth divide. FinTech has an important role to play designing tools along the way, but on-the-ground trusted financial institutions and advisors are critical to put the pieces together. Minority depository institutions have taken a hit in the past two decades with limited capital to withstand the financial and economic shocks. But with the expansion of CDFI programs, increased interest among socially responsible investors and access to other tools for growth (Bond guarantee, tax credits and potentially opportunity zone credit) these historic institutions can recast and rebrand their historical role into new opportunities that being a CDFI affords.

In 2016, the #BankBlack movement took off as consumers and socially responsible investors around the country chose to put their money with their values and opened accounts at Black banks and credit unions. These efforts are only going to continue to grow. But it requires a proactive federal policy that promotes equity (and near-equity) investment into these institutions to allow these institutions to grow and deploy those deposits into affordable loans and a supportive regulatory environment committed to building lasting sustainable growth models for minority and community development credit unions.

Building a Robust Network of Sustainable MDIs

There are currently more than 500 minority credit unions chartered in the United States, though as was noted in the memorandum related to this hearing dated October 17th, 2019, the NCUA's Minority Depository Institutions Annual Report to Congress indicated a one-third decline in MDI credit unions since June, 2013. The Inclusiv Network spans 270 community development credit unions in 48 states

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and serve nearly 10 million residents of low-income urban, rural and reservation-based communities across the US and hold over $99 billion in community-controlled assets. All credit unions in the Inclusiv Network were formed by and for underserved communities historically excluded from mainstream financial services. Roughly one-half of these community development credit unions have the designation of minority credit union.

Inclusiv launched its Inclusiv Communities work to support minority credit unions through initiative like the African American Credit Union Initiative to build the tools that will enable its members, credit unions primarily owned by and serving black communities, to create a new sustainable growth-oriented business model for the future. These credit unions are in communities few others have been able to reach and serve well. Many of these smaller, historically black credit unions want to reach more but have limited capital and resources to so do. Inclusiv has set out to help create the model and the environment for African American credit union growth and sustainability through:

- Intensive training and technical assistance to guide credit union through key stages of stability and compliance support; leadership development through board and staff planning sessions;
- Expanding product and service suite and the delivery of these products through investment in technology;
- Developing strategic partnerships with local government, service organizations, community development efforts and local business to expand the reach and connection to consumers in need;
- Design and execution of Marketing strategies and the development of marketing collateral to provide clear and culturally appropriate information and education about using the credit union;
- Investing capital in the form of deposits and secondary capital to foster next stage of growth;
- Advocate on the national and local level to create a regulatory environment where minority credit unions are able to thrive.

We started with the fundamentals: ensuring that we have a stable and solid network of black-owned credit unions to work with. The first and most critical step is supporting the safety and soundness of each institution to ensure they are on stable footing for growth. Inclusiv began with a cohort of African American credit unions in New York and Chicago, and then grew to connect with an emerging group of credit unions serving high-poverty African American communities across the Southeast (Alabama, Mississippi and Louisiana). In the past two years, Inclusiv has provided 30 trainings to 50 African American credit union leaders. This year we are expanding the work to Detroit and Cleveland while building a national leadership council to promote the practices nationally in all 48 states we serve.

Advocating for an Innovative Approach

A vision for growth must be driven by an institution's Board and leadership. But it can also be greatly aided or hampered by the broader policy and regulatory environment. Too many credit unions seeking to grow and change to their adapting communities, have been constrained or even halted by insufficient capital to experiment and grow; and regulatory overreach. We seek a supportive policy and regulatory

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environment that will:

- **Direct resources specifically to minority credit unions through both NCUA and the CDFI Fund.** Both CDFI Fund and NCUA administer capital and technical assistance funds that help build the capacity of CDFIs and credit unions. However, the vast majority of these funds are not reaching minority led CDFIs and credit unions. We urge targeted appropriations with explicit language that earmarks resources to build capital and impact of these institutions.
- **Extend the benefits of a regulatory sandbox approach** for innovation in the development and implementation of a new growth and sustainability business model for minority credit unions. For small CUs an examiner can wield outsized influence both positive and negative on operations. Examiners frequently prevent minority credit unions from growing, innovating and piloting new products and strategies. With the rise of FinTech, there have been proposals and pilots exploring the establishment of a regulatory sandbox, a regulatory approach that allows live, time-bound testing of innovations under a regulator's oversight. An equal regulatory sandbox for minority credit unions seeking to grow would give sufficient time and flexibility to move toward growth and effectuate changes in their loan policies, implement new services and expand their fields of membership more readily to find their own pathway toward growth.

Thank you for your interest in this subject and for your consideration of our testimony.

Office of the Comptroller of the Currency
U.S. Department of the Treasury
[https://occ.gov/index.html]

Community Developments Investments (May 2018)

Citibank: Partnering With Community Banks to Expand Financial Access

Janet Fix, Analyst to the Deputy Comptroller for Community Affairs, OCC


OCC

Natalie Abatemarco, Managing Director of Citi Community Development, and Guillermo Diaz-Rousselot, President of Continental National Bank, discuss their banks' ATM partnership.

When the Office of the Comptroller of the Currency (OCC) encouraged minority depository institutions (MDI) in 2016 to form collaborations with larger banks, Guillermo Diaz-Rousselot was initially as skeptical as anyone would be if asked to team up with a competitor.

"Yeah, right," thought Mr. Diaz-Rousselot, President and Chief Executive Officer of Continental National Bank, an MDI in Miami. As a trustee for Miami's Olympia Theater at the Gusman Center for the Performing Arts, he said, "I thought collaboration was something only musicians did."

A phone call from Citibank, however, soon gave Mr. Diaz-Rousselot reason to be more optimistic. Continental's customers were invited to use—without paying out-of-network fees—any of Citibank's 2,400 branch automated teller machines (ATM), including those in Chicago, Los Angeles, Miami, New York, San Francisco, and Washington, D.C., cities where Citibank has 600 retail branches.

What did Citibank request in return? "They did not request anything," said Mr. Diaz-Rousselot. "At first, I did not take them seriously, but it was true and it turned out to be the beginning of a beautiful relationship."

For Citibank, it was a serious strategic move that led to positive relationships with seven other MDIs, four community banks, and 11 credit unions across the nation that are initial partners in Citibank's Citi ATM Community Network, a pilot program created in July 2016.

"At Citi, we share the same goal as minority-owned banks and credit unions, which is to provide wide access to safe and affordable financial products and services, especially in low-income communities and communities of color," said Bob Annibale, Global Director of Citi Community Development and Inclusive Finance. "The Citi ATM Community Network enables us to collaborate in a new way by expanding access and convenience for the customers of these partner institutions, while at the same time strengthening local trusted credit unions and minority-owned banks."

Expanding financial access and inclusion for community bank customers is a key part of Citi's corporate strategy, said Mr. Annibale, who leads Citi's partnerships with global, national, and local organizations on these efforts to aid financially underserved individuals, families, and communities.

Together, the MDIs and other institutions in the Citi ATM Community Network serve more than 400,000 customers, many of whom live in low- to moderate-income and majority-minority neighborhoods considered to be underserved by large financial institutions. The typical MDI customer has a relationship with his or her community bank, which may have only a handful of ATMs locally.


OCC

Spanish language marketing in Continental Bank's lobby in Miami is presented by, from left, Sonia Canessa-Gonzalez, CFO of Continental National Bank; Natalie Abatemarco of Citibank; and Natalia Arana, Marketing Director of Continental National Bank.

In 2016, Citibank executives learned the OCC was encouraging Citibank and other OCC-supervised banks to collaborate with MDIs. At the same time, Citibank was building off the creation of both the Access Account, in 2014, and its pioneering collaborations to develop savings accounts for schoolchildren in the city and county of San Francisco and the low-income immigrant clients of Grameen America. In addition, Citibank was looking to further expand its financial inclusion efforts by exploring ways to expand ATM access to small community financial institutions. Soon after, Citibank began its ATM pilot program and contacted Mr. Diaz-Rousselot to invite Continental to join the Citi ATM Community Network.

By participating in the network, banks enable their customers to avoid paying out-of-network ATM fees that otherwise could total nearly $5 per transaction. Typically, bank customers pay both an ATM fee charged by the out-of-network bank that owns the ATM and a second fee that their own bank charges for using an ATM owned by another bank. In 2017, out-of-network ATM fees in the United States hit a record high of $4.69 per transaction, up 2.6 percent from the previous year, Mr. Annibale said. "People who are juggling limited cash flows and withdrawing just $40 at a time are paying a significant potential cost to get access to their money," he said.

The Citi ATM Community Network does not boost Citi's bottom line or allow Citi to sell its products to its bank partners' customers, Mr. Annibale said. Proof of this, he said, is in the data Citi has collected since the pilot began. "Most of these customers are just using our ATMs, not the rest of the bank," Mr. Annibale said.

The Citi ATM Community Network benefits the customers of Continental National Bank of Miami and seven other MDIs:

- American Plus Bank, California
- Broadway Federal Bank, California
- City National Bank, New Jersey
- Executive National Bank, Florida
- Mission National Bank, California
- National Bank of Malvern, Pennsylvania
- Pacific Global Bank, Illinois

In addition, four community banks are participating in the Citi ATM Community Network: City First Bank of DC, Spring Bank in New York City, Neighborhood National Bank in San Diego, Calif., and Quontic Bank in New York City. The Citi ATM Community Network recognizes the way bank customers work and live. "These partnerships expand ATM access to people who have relationships with the local banks that, perhaps, they feel best about," Mr. Annibale said. "They also leverage Citi's branch network and expand our footprint in the local communities of our partners."

In 2018, the Citi ATM Community Network continues as a pilot, and Citibank will, at its discretion, add new partners while maintaining control over the impact of the added volume on its retail branch network, according to Mr. Annibale.

"We know that people who use our 399 Park Avenue ATM don't live a few blocks away from 399 Park Avenue," Mr. Annibale said. "They come from all over New York, from all over the country, and around the world. They live elsewhere but may work in Manhattan, or they pass by as taxi drivers, delivery men, cleaners, office workers, civil servants, and pedestrians."

While Citi may not quickly expand its ATM network, it does hope that other OCC-supervised banks will see what it has done and follow its lead by providing access to their ATMs at no charge to other community banks.

"There are many other [large banks] which could do the same, and that would be amazing," Mr. Annibale said. "We could continue, almost exponentially, to expand financial access."

Meanwhile, Continental Bank and its customers are enjoying the benefits of Continental's relationship with Citibank, including greater brand awareness and free access to their cash at any Citibank ATM.

Mr. Diaz-Rousselot said the Citi ATM Community Network has helped Continental to stand out in a crowded South Florida banking market where 60 community banks compete for the same customers and market share. "Our partnership is a big plus, at the board level, with our officers, our customers ... and in terms of branding and public relations," Mr. Diaz-Rousselot said. Results, he said, have "been quite positive."

His customers increased their ATM usage by 10 percent, with 30 percent using ATMs to check balances before making withdrawals. He said 67 percent of customers are using the network to withdraw funds.

In addition, Mr. Diaz-Rousselot has overcome his initial concerns that Citibank might try to entice his customers away or cross-sell Citibank products to them. Citibank has not done this, Mr. Diaz-Rousselot said. Most importantly, Mr. Diaz-Rousselot is pleased because his customers are happy and saving money.

"We know 91.3 percent of our customers are aware of our alliance with Citibank and 64 percent have used a Citibank ATM at no cost," Mr. Diaz-Rousselot said. "It's been fantastic for us."

For more information, contact Patricia Tuma, Vice President for Corporate Communications at Citibank, at patricia.tuma@citi.com [mailto:patricia.tuma@citi.com].

National Bankers Association

May 14, 2019

DELIVERED VIA ELECTRONIC MAIL

The Honorable Maxine Waters
Chairman, House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member, House Committee on Financial Services
4340 O'Neill House Office Building
Washington, D.C. 20024

The Honorable Gregory Meeks
Chairman, House Committee on Financial Services, Subcommittee on Consumer Protection and Financial Institutions
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Blaine Luetkemeyer
Ranking Member, House Committee on Financial Services, Subcommittee on Consumer Protection and Financial Institutions
4340 O'Neill House Office Building
Washington, D.C. 20024

Dear Chairman Waters, Ranking Member McHenry, Chairman Meeks, and Ranking Member Luetkemeyer:

On behalf of the National Bankers Association ("NBA"), I write to share the NBA's position regarding the Financial Accounting Standards Board's ("FASB") implementation of the Current Expected Credit Losses accounting standard ("CECL"). The NBA is the leading trade association for the country's Minority Depository Institutions ("MDIs"). We occupy a unique position as both an advocate for our member institutions and as an advocate for the low and moderate-income communities that our member institutions predominantly serve. Accordingly, our perspective on CECL reflects both its potential impacts on our member institutions and on the consumers and small businesses that our banks serve.

The overwhelming majority of our membership are banks that have less than $1 billion in assets. Smaller banks like our member institutions have a particular sensitivity to major regulatory changes because we have limited resources to commit to compliance without displacing our capacity to provide other core services. Dramatic changes like those anticipated in connection with CECL present substantial transition costs for our banks as it represents the most substantial accounting changes our institutions have ever encountered. New modeling, forecasting, data collection, analysis, and reporting requirements for loan-loss reserves will affect every aspect of our institutions and the economics of our lending decisions. **To**

that end, we would urge FASB and prudential regulators to ensure that smaller institutions like our member banks are provided the technical support and guidance we need to facilitate our transition to CECL.

Compounding our compliance concerns is our concern that CECL could potentially penalize the kind of mission-oriented lending that the communities we serve rely upon. Specifically, we are concerned that CECL may require that our member banks charge higher rates to offset the reserves they will have to record at the time a loan is made. To the extent that CECL increases the costs of lending to borrowers that are perceived by regulators as being "riskier" or of lower credit quality – such as low and moderate-income consumers and small businesses located in low and moderate-income communities – the economics of our lending decisions could be altered dramatically. This would further restrict access to credit for consumers and businesses that already experience limited credit options. **Before our member institutions are expected to comply with CECL, we would urge FASB and prudential regulators to assess the potential impact of CECL specifically on minority entrepreneurs and low and moderate-income consumers and the kind of mission-oriented lending we believe regulators should be encouraging.**

While the NBA understands FASB's rationale for its departure from the Allowance for Loan and Lease Losses standard and the benefits of CECL, we believe that there is always room for regulators to improve how they communicate major regulatory changes to smaller institutions. We have consistently called for prudential regulators to exercise their supervisory authority with an understanding of the unique operating environments of our member institutions, and CECL is no different. **Consistent with the foregoing, we respectfully request that Congress: (i) urge regulators to deepen their commitment to working with community banks regarding CECL implementation; and, (ii) delay CECL implementation until we assess CECL's impact on credit availability to low and moderate-income consumers and minority-owned small businesses.**

We appreciate the Committee's consideration of our requests, and we look forward to continuing to work with the Committee on this important issue on behalf of our member institutions.

Respectfully,

/s/

Kim D. Saunders
President and Chief Executive Officer, National Bankers Association

