



FDIC Issues Guidance Regarding Minority Depository Institution Investment

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Organizations looking for opportunities to serve America's disadvantaged minority communities more fully should familiarize themselves with important guidance the Federal Deposit Insurance Corporation (FDIC) recently promulgated. The FDIC published the Investing in the Future of Mission-Driven Banks: A Guide to Facilitating New Partnerships (the "Guide") on October 16, 2020. Unlike the majority of FDIC resources and guidelines, this particular document is addressed to corporations, banks and philanthropic organizations and discusses investment into a Minority Depository Institution (MDI) or a Community Development Financial Institution (CDFI), collectively labeled by the FDIC as a Mission Driven Bank.

The Guide is an interesting resource at a time when many of us are contemplating the issue of economic inequality or a lack of economic inclusion. The Guide is not an overnight fix. Rather, it provides a high-level discussion of opportunities existing in today's environment that may increase capital or lending opportunities for a Mission Driven Bank.

Mission Driven Banks

A MDI is defined under the FDIC's Policy Statement Regarding Minority Depository Institutions as one where 51% or more of the voting stock is owned by minority individuals, or collectively owned by a minority group, such as a Native American tribe. A minority individual is defined as "Black American, Asian American, Hispanic American, or Native American." U.S. citizens or permanent legal U.S. residents must be the owner. An institution may also meet the ownership test if a majority of the Board of Directors are minority individuals and the community served is predominantly minority.

A CDFI is an organization certified by the U.S. Treasury and granted access to the CDFI Fund, a pool of money established for the

purpose of expanding economic opportunities in distressed communities. CDFIs share a common goal of expanding economic opportunity via access to financial products in low-income communities. A CDFI can be a bank, credit union, loan fund, microloan fund or venture capital provider.

Strategic Opportunities

The FDIC broadly discusses opportunities to invest in Mission Driven Banks. These opportunities include grants, non-voting equity investment, participation in loan funds, purchasing troubled assets, placing deposits with an MDI, or creating a partnership to provide expertise or assistance.

It is common for banks, corporations, and philanthropic organizations to have a pool of funds available for purposes of grants, and a standard grant application process. Does your institution's mission statement or grant program's stated purpose contemplate investments for economic growth or economic opportunity? For instance, if your grant program's stated purpose was for education, your program may require an update or modification to provide a grant to a MDI or CDFI.

If your organization does not currently have a process to determine an applicant's grant eligibility, you may want to consider formalizing a grant program. What are your giving goals and what do you perceive as worthy recipients and worthy causes? If you were to work with a MDI or CDFI on a grant proposal outside a formal program, what would the desired outcome be?

Mission Driven Banks may offer loan pools. A loan pool may generally require a minimum investment with a specified term. Contributors to the pool may be allowed to participate in loan decisions. As opposed to the grant, the investment is returned at the end of the term with a small return but does carry risk. If your organization has not previously participated in a loan fund, ensure you understand the legal and financial commitments involved.

MDIs that have foreclosed on property must carry the asset on their balance sheet until it is disposed. Until such time the asset is disposed, the funds are unavailable and not otherwise lendable. The

FDIC discusses the benefits to the MDI when an investor purchases the troubled asset, including the disposal of the asset and reduced costs of maintenance and taxes. The practice of purchasing foreclosed property is typically problematic, including possible issues of uncertain title, and never should be undertaken without due study.

The FDIC's Guide also outlines additional alternatives to directly investing in or participating with an MDI or CDFI, some of which may be a strategic fit for your organization. But your investment options should also fit with the goals and capacity of the MDI or CDFI. As the FDIC mentions, making a deposit with an MDI is easy enough, but may not fit the present capacity of the MDI regarding deposit taking. If you would like to participate with a Mission Driven Bank, but have questions about the next steps, reach out to an MDI or CDFI, schedule time, and come up with a cooperatively conceived and mutually beneficial plan. The FDIC Mission Driven Bank Finder is available on [FDIC.gov](https://www.fdic.gov).

For more information, contact the authors or any attorney with Frost Brown Todd's [Consumer Financial Services and Consumer Protection](#) team.

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