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TESTIMONY OF
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OFFICE OF THE COMPTROLLER OF THE CURRENCY
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON FINANCIAL SERVICES
OF THE
U.S. HOUSE OF REPRESENTATIVES
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Statement Required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

INTRODUCTION

Chairman Watt, Ranking Member Miller, and members of the Subcommittee, I am John Walsh, Chief of Staff and Public Affairs, at the Office of the Comptroller of the Currency (OCC). I am pleased to appear before you today to discuss the Government Accountability Office's (GAO) October 2006 report entitled *Minority Banks: Regulators Need to Better Assess Effectiveness of Support Efforts* and the actions that the OCC has taken to address the recommendations of that report regarding the preservation and promotion of minority-owned financial institutions.

My testimony begins by discussing the importance of minority banks in the U.S. financial system. It continues with an examination of the OCC's *Policy Statement on Minority-Owned National Banks* (policy statement) and updates the progress the OCC has made since the issuance of the GAO report in supporting minority-owned institutions (MOI), improving minority bank outreach, and establishing training and performance measures to implement and evaluate these efforts. I then highlight other current initiatives to create incentives for minority bank investments and partnerships.

I. Importance of Minority Banks in the U.S. Financial System

The OCC recognizes that minority-owned banks are important community and national assets. Minority banks have long performed a vital role in the American financial system by serving the market needs of their local communities.

Many minority-owned national banks operate in places where larger banks do not have a presence. They also provide credit and personalized service to customers in ways that larger banks often do not. However, like all community banks, minority banks must

ensure that they are able to survive and prosper while focusing on the needs of their communities.

Generally speaking, while minority banks pride themselves on customer service, this focus can lead to higher transaction costs and higher operating costs, which tends to lower their return on average assets (ROAA). And due to their smaller asset size, they are often unable to generate the economies of scale that larger institutions have, or to spread these higher operating costs over a larger asset base.

Because many minority-owned institutions serve a customer base that offers strong potential for growth, prospects for these banks are positive. The minority population in the United States is increasing rapidly. Hispanics accounted for more than half of the growth in the U.S. population in the past decade. Eight U.S. metropolitan areas now have immigrant populations of one million or more, and rural areas are also experiencing more racial and ethnic diversity. The buying power of minority populations is expected to reach \$1.7 trillion by 2010, more than triple its 1990 level of \$454 billion.

The growth in their markets is a good sign for the future of minority banks. Between year-end 2003 and mid-year 2007, the assets of all minority-owned banks increased by approximately 56 percent, and the assets of OCC supervised minority banks increased by nearly 66 percent, paralleling the 66.5 percent increase of all national banks during this period.

II. OCC's Policy Statement on Minority-Owned National Banks

Recognizing their unique operating characteristics, the OCC issued a *Policy Statement on Minority-Owned Banks* in 2001¹. The policy statement acknowledged the OCC's commitment to encourage their success, consistent with the goal of Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

While the OCC is not subject to Section 308, we have voluntarily taken the initiative to support and reach out to minority banks as required by its provisions. We are committed to complying with Section 308 and would have no objection to that being made explicit.

OCC Support for Minority-Owned Institutions

In support of the principles of FIRREA's Section 308, the OCC created a new senior advisor position in 2004 to serve as OCC's focal point for minority banking issues. Since then, it has made additional staff support available for our outreach to minority-owned institutions. In addition to our supervisory field staff, the OCC has nine district community affairs officers (DCAOs) located throughout the country supporting the OCC's minority bank outreach. Our DCAOs are available to provide MOIs with tailored, one-on-one consultations to help identify community development opportunities and resources to support economic development in the markets they serve. The DCAOs report directly to a Washington-based Deputy Comptroller for Community Affairs.

¹ The OCC adopted the *Policy Statement on Minority-Owned National Banks* on March 28, 2001. (http://www.occ.gov/cdd/moi_policy.pdf)

But the agency's most important and frequent contacts with MOIs occur in the course of our normal supervisory activities. The OCC, like other bank regulators, uses prudential supervision of its banks to implement banking law and regulation. Prudential supervision is a process by which the bank supervisor establishes regulations to control risk-taking and observance of the law, and then monitors the bank to ensure its safety and soundness and compliance.

OCC's examiners communicate regularly with minority bankers to identify risks and discuss methods of addressing supervisory issues. With that insight, our examiners are better able to understand both the products being offered and the bank's risk management controls. In keeping with norms for all community banks, MOIs receive an on-site examination once every 12-18 months, at which time a risk-based assessment of their activities and financial condition is undertaken.

A Portfolio Manager is assigned to each bank and has ongoing responsibility for understanding the bank's unique characteristics and circumstances. In addition to coordinating our supervisory activities for the bank, the Portfolio Manager contacts the bank at least quarterly and undertakes a review of bank performance, while also serving as the primary contact for technical assistance targeted to their individual needs. An additional resource is the local Assistant Deputy Comptroller who typically has a well-established ongoing relationship with each bank under his or her supervision.

Recognizing that many minority banks, like other community banks, may benefit from enhanced guidance in complying with the array of regulatory requirements that confront community banks, OCC examiners often provide information as part of our supervisory process that goes beyond the scope of the formal examination. The policy

statement reiterates OCC's longstanding practice of making available experts in each district to provide guidance on subjects such as credit and asset management, consumer compliance, capital markets, bank information systems, legal issues, and economic conditions.

The policy statement also formalizes the OCC's policy of assigning examiners to minority-owned banks with the expertise and background needed to properly evaluate the products and services offered by those institutions and the markets and environments in which they operate. We have found the success of our supervisory relationships with minority-owned banks, as with most community banks, to be highly dependent upon the quality of the relationship between the bank and its examiners.

For this reason, we make every effort to ensure that our examiners are familiar with the minority bank's unique attributes, sometimes assigning staff from more distant offices or making special arrangements to ensure continuity of oversight. And just as we promote cultural diversity and awareness in the OCC's own workforce, our supervisory efforts are most effective when our examiners understand the cultures of the minority-owned banks that they supervise.

The policy statement outlined several initiatives to further the ability of minority banks to prosper and meet the needs of their communities.

- **Formation and Retention of Minority-Owned Banks** – The OCC provides technical assistance to organizing groups interested in entering the national banking system. Our supervisory process also extends resources, to the extent allowable by confidentiality rules, to those existing minority-owned banks facing financial difficulties or involved in a merger or acquisition that challenges their minority character.

Materials geared to minority bank organizers and investors are available to facilitate the development of national bank applications or charter amendments.² Assistance is also provided to organizers of minority institutions through pre-filing meetings and comments on draft applications, and we are actively exploring how to improve our bank chartering processes, including consideration of aspects of the process of significance to organizers of minority banks.

- **Capital for Minority-Owned Banks** – Majority institutions are permitted to provide capital and other resources to minority-owned banks. Banks and their holding companies have the ability to acquire voting and non-voting interests in minority institutions under several different statutory authorities. Many of these investments in MOIs may be eligible for positive consideration by the investing majority bank under the Community Reinvestment Act.

The policy statement also provides for consultation assistance to national banks in structuring public welfare investments authorized under Part 24 of the OCC’s regulations, and participating in the Treasury Department’s CDFI Fund financial and capital assistance programs. The OCC has also issued guidance and broadly distributed a newsletter³ clarifying the circumstances under which national banks may make investments in minority institutions under Part 24 and other legal authorities.

- **Information, Education, and Outreach for Minority-Owned National Banks** – The OCC participates extensively in outreach meetings and conferences throughout the country to discuss supervisory and industry issues for all of its banks. And we have

² For examples, see “A Guide to Tribal Ownership of a National Bank,” September 2002. (<http://www.occ.gov/corpbook/tribal/tribalp.pdf>) and the October 3, 2001 OCC memo on establishing a community development bank. (<http://www.occ.gov/cdd/cdbank.pdf>)

³ *Community Developments* online, Winter 2006-2007. (<http://www.occ.gov/cdd/winter06/cd/index.html>)

expanded these efforts to better reach our minority banks. For example, a member of senior management in our Houston field office recently participated in the World Chinese Banking Amity Conference and delivered a presentation focusing on effective credit risk management systems. Likewise, we recently conducted outreach to organizers of Native American-owned banks at two conferences sponsored by the Bureau of Indian Affairs.

The OCC offers an array of training through our banker education programs, which include training sessions open to all community bankers across the country, including minority-owned institutions. Topics of particular interest to minority banks, such as the Bank Secrecy Act, anti-money laundering, and other compliance regulations are prominent in these programs.

The OCC's public website includes an external outreach and minority affairs page to assist those interested in investing in, or partnering with, minority-owned banks. The OCC will also be adding a minority banking page to National BankNet, OCC's website available only to subscribing national banks.

New National BankNet features will include a minority bank peer group for our Comparative Analysis Reporting system, news of interest to minority bankers, announcements of training and conference opportunities, instructions on how to request technical assistance, discussions of legislative and regulatory issues, and identification of the types of investments that are eligible for Community Reinvestment Act (CRA) consideration.

- **Developing Relationships with Trade Associations** – We also have begun to hold regular meetings with trade associations representing minority bankers. Earlier this year, OCC staff met with a trade association representing Hispanic bankers in Chicago. In

addition, Comptroller Dugan and I have spoken at the National Bankers Association's (NBA) legislative and annual meetings for the past two years. Earlier this summer, our head of community bank supervision and I met with the Board of Directors of the NBA to discuss a range of legislative and regulatory issues on the group's policy agenda. We appreciate the information developed in this process. It has helped to focus our minority bank supervision program on certain issues facing minority banks.

- **Examination Support for Minority-Owned Banks** – The OCC provides extensive oversight and assistance to all community banks through our ongoing supervisory efforts. By understanding each bank's specific characteristics and environment, we develop an individualized supervisory strategy for each bank we examine. Strong relationships between local examiners and national banks are the foundation of this approach, and are particularly critical for minority banks. OCC's examiners communicate regularly with minority bankers to identify risks and discuss methods of addressing supervisory issues. With that insight, our examiners are better able to understand both the products being offered and the bank's risk management controls.

The OCC makes concerted efforts to provide continuity in the staff who examine minority-owned national banks. Further, assignments of examiners to minority-owned banks take into account the expertise and background needed to properly evaluate the products and services offered by those institutions and the markets and environments in which they operate.

III. Government Accountability Office Report on Minority Banks

In October 2006, the GAO issued its report entitled *Minority Banks: Regulators Need to Better Assess Effectiveness of Support Efforts*, which recommended that the regulators consider:

- conducting periodic surveys of such institutions to determine how they view minority support efforts and related activities, and/or
- developing outcome-oriented performance measures to assess the progress of their efforts in relation to program goals.

The report also noted that as part of these regular program assessments, the agencies may wish to focus on the usage and effectiveness of technical assistance services, and level of training provided to their examiners regarding minority banks and their operating environments. In addition, the report noted that increased interagency coordination in the implementation of these recommendations may be appropriate to help ensure consistency.

Comptroller of the Currency John C. Dugan wrote in a September 14, 2006 letter to the GAO that the OCC agreed that an assessment of the effectiveness of our efforts was useful and detailed a number of initiatives that the OCC was pursuing consistent with our *Policy Statement on Minority-Owned National Banks* and the goals of FIRREA. Since the report's issuance, the OCC has taken several additional steps to address the report's findings. I would like to update the Committee today on our progress.

Minority Bank National Bank Initiative

Building on its policy statement, the OCC launched its Minority-Owned National Bank Initiative (also referred to as the MOI Initiative) in FY 2007. The MOI Initiative, led by the OCC's Midsize/Community Bank Supervision, functions to fulfill the OCC's objective of developing, implementing, and operating a Minority-Owned National Bank Program that, through high quality bank supervision and outreach, will enable minority-owned national banks to:

- operate in a safe and sound manner,
- serve the banking needs of their communities, and
- preserve their minority-owned status.

Through the MOI Initiative, the OCC plans to meet this objective by:

- assessing the needs of minority-owned national banks,
- assessing current agency efforts to meet the needs of minority-owned national banks,
- utilizing internally and externally generated information to focus OCC's supervisory training and outreach activities, and
- reassessing activities and performance to adjust to the changing needs of minority-owned national banks.

Immediately after the GAO report was issued, the OCC established a working group to develop an action plan to address the report's key findings. In January 2007, the OCC began a formal internal review to develop strategies for enhancing minority bank supervision, tracking our progress, and assessing the impact of these initiatives.

Our initial step was to conduct an internal survey of the Assistant Deputy Comptrollers and Portfolio Managers who directly supervise minority national banks. These surveys have now been completed, and we are in the process of cataloguing best practices that can be shared with other supervisory offices, as well as determining where refinements to our supervisory process can be made.

Preliminary analysis of the survey results reveals some common themes in our examiners' responses. The first is a confirmation of our historical experience that no two minority-owned institutions are exactly alike. While having many common traits, each minority-owned national bank operates with a unique set of challenges and circumstances.

Examiners believe the OCC's fundamental approach of developing a customized supervisory strategy for every national bank is especially critical for minority-owned national banks. Whether it is by conducting more frequent visits to provide technical guidance to management, or ensuring that there is continuity and a high level of knowledge and expertise in the staff assigned to examinations, our supervisory offices recognize the differences among the minority institutions we supervise and have tailored supervisory strategies to each bank's specific needs.

The second phase of our review began in August 2007, when we distributed a survey directly to our minority-owned national banks, focusing on how we can make our education, outreach, and technical assistance efforts more useful and effective. The survey also provides minority bankers an opportunity to comment on the OCC's

supervisory policies and guidance and allows them to state whether our examiners have the training and guidance necessary to effectively supervise their bank.

We are now in the process of collecting and analyzing the survey responses from all of the minority-owned banks we supervise. We are following up with each bank to ensure that we obtain full participation and accurate results.

I can report that the early returns from the surveys underscore the importance of specialized supervision for minority-owned banks, and encourage even greater emphasis on understanding these banks' specific needs. For example, we have heard from minority-owned banks serving the Native American market that while our examiners have general knowledge of lending issues related to sovereign immunity, more training can be done in this area.

Additionally, we have heard from minority-owned banks serving markets with large immigrant populations regarding how we supervise their Bank Secrecy Act, anti-money laundering, and other compliance activities. They suggest that we offer additional training in order for them to properly meet regulatory requirements.

When the results of both surveys are tallied, we plan to conduct a series of focus groups to further explore and address issues affecting our minority banks, the effectiveness of OCC's supervisory policies and guidance, and the on-going training needs of both our examiners and our minority institutions.

The GAO also recommended that regulators consider developing outcome-oriented performance measures to assess the progress of their efforts in relation to program goals. We recognize the benefit of establishing ways to measure our progress toward accomplishing the goals of our MOI program. It can be difficult to build metrics

around efforts that are not easily quantifiable – such as MOI satisfaction with the assistance they receive from our agency. However, we have attempted to do so by supplementing the open-ended questions that are the foundation of our MOI survey with a series of questions that can be answered on a scale from "strongly agree" to "strongly disagree." The responses to these questions will establish a baseline against which we can, in the future, measure our progress in meeting our objective of supporting MOIs.

IV. Other Initiatives to Create Incentives for Minority Bank Investments and Partnerships

Interagency Outreach

Following the recommendations in the GAO report, the Interagency Minority Institutions Working Group has become more active. The Working Group sponsored national conferences for minority bankers in 2006 and 2007, and is currently planning another conference for 2008.

These conferences were well attended by a broad cross section of minority institutions and involved high level participation by all of the banking agencies. I spoke on a panel of bank regulators at this year's minority institutions conference and was impressed by the level of engagement by bankers and supervisors, which bodes well for future progress on areas of concern identified in the GAO report.

Promoting Majority Bank Partnership Opportunities

Earlier this year, OCC dedicated an edition of its *Community Developments* newsletter that highlights opportunities for investments and other partnerships between majority and minority institutions and the availability of technical assistance from the

OCC to facilitate such activities⁴. The newsletter featured four minority-owned national banks of different ethnic profiles, looked at the different ethnic markets they serve, and highlighted regulatory and capital challenges these institutions face. In addition, the newsletter outlined how the public welfare investment authority under Part 24 of the OCC's regulations and other authorities could be used to make investments in minority institutions, and how such activities would be treated in the majority bank's CRA examination.

- **Community Reinvestment Act Incentives** – Another effort in support of minority-owned institutions taken in response to the GAO report is the issuance of proposed interagency guidance regarding how majority institutions may engage in and receive positive CRA consideration for activities conducted with minority institutions. On July 11, 2007, the four federal banking regulatory agencies requested comments on nine new “Questions and Answers” regarding community reinvestment.

One proposed “Question and Answer” addresses an issue identified in the GAO report regarding the circumstances under which a partnering majority bank will receive positive consideration for investments, loans and other ventures with a minority bank, even if the minority bank is not in the majority institution's CRA assessment area, or broader statewide or regional area. It seeks to clarify how the regulators are to take into account these activities in the context of the general CRA standard of evaluating a bank's performance in its own assessment area (or broader regional area that includes the bank's assessment area) so that positive CRA consideration is afforded to a majority bank that partners with a minority bank anywhere in the country. In addition, we will seek to clarify when CRA consideration will be given for majority banks that donate bank

⁴“Community Developments online, Winter 2006-2007. (<http://www.occ.gov/cdd/winter06/cd/index.html>)

branches in minority communities, or make them available rent free or on favorable terms, to minority-owned institutions.

- **Expanding the Public Welfare Investment Authority** –The OCC has been actively supporting legislation which would facilitate majority bank investments in minority banks as well as the MOIs’ own investments in community development projects. Last year, the OCC proposed legislation which would broaden the public welfare investment authority of national banks under the National Bank Act that allows banks to make investments that support urban revitalization and rural development. As I mentioned earlier, Part 24 of the OCC’s regulations implements this law and is one of several legal authorities that can be used by majority banks to make equity investments in minority-owned institutions under certain conditions. I am pleased to report that last year’s regulatory relief bill adopted our proposed amendment to increase the permitted level of public welfare investments from 10 to 15 percent of an investing bank’s capital and surplus.

However, the amendment also narrowed the range of allowable direct public welfare investments, permitting those in activities that primarily benefit low- and moderate-income individuals or areas but eliminating worthwhile direct investment activities in certain middle income areas that had previously been permissible. These middle income communities include rural underserved or distressed communities, designated disaster areas, and government-targeted revitalization areas.

The House moved quickly to return the public welfare investment authority to the standard that was in effect prior to the passage of the regulatory relief bill, passing H.R. 1066, the “Depository Institution Community Development Investments Enhancement

Act” unanimously. This legislation, which is supported by all the bank regulatory agencies and many trade and community groups, is now pending before the Senate Banking Committee.

V. Conclusion

In conclusion, let me restate the OCC’s commitment to work with minority-owned banks and to provide the technical assistance and supervisory oversight they need to be successful. We will continue our efforts to preserve the number and character of minority banks and promote and encourage the creation of new minority-owned institutions, through our own efforts and in coordination with the other federal banking regulators.

In this regard, the GAO report has proven a useful call to action. We value its purpose and have begun to implement its recommendations as I’ve described. We have reached out to ensure that our minority-owned institutions are aware of the technical assistance available from the OCC, and we will continue to encourage them to request this assistance and provide us with feedback on its effectiveness.

Through all these efforts, the OCC continues to look forward to helping our nation’s minority-owned banking institutions operate in a safe and sound manner, serve the needs of their communities, and preserve their minority-owned status.

Thank you, Mr. Chairman. I would be pleased to answer your questions.