



August 16, 2013

## **Executive Summary**

The National Credit Union Administration's (NCUA) Board issued a proposed interpretive ruling and policy statement (IRPS) to establish a Minority Depository Institution Preservation Program (MDI Program) with the goal of preserving and encouraging Minority Depository Institutions (MDI). The NCUA Board envisions a program of proactive steps and outreach efforts to promote and preserve minority ownership in the credit union industry. The IRPS prescribes an MDI Program featuring eligibility criteria, program functionality, initiatives, and benefits. The IRPS and MDI Program do not create any new requirement for credit unions; however, MDIs are eligible for services and benefits from NCUA's Office of Small Credit Unions Initiatives (OSCUI). Comments are due to NCUA by September 30, 2013.

## **Background**

The MDI Program as implemented by NCUA is required by law. In 1989, Congress enacted the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA). Section 308 of FIRREA established goals for preserving and promoting minority depository institutions. When established, Section 308 applied only to the Federal Deposit Insurance Corporation (FDIC) and Office of Thrift Supervision (OTS). Section 367(4)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) amended FIRREA §308 to require NCUA, OCC, and FRB to comply with its goals to preserve and encourage MDIs. In addition, Dodd Frank §367(4)(B) requires these agencies, along with FDIC, to each submit an annual report to Congress describing actions taken to carry out FIRREA §308.

## **Overview**

NCUA stated that the "Board envisions a program of proactive steps and outreach efforts to promote and preserve minority ownership in the credit union industry." The goals of the MDI Program as stated by NCUA are to:

- Preserve the present number of MDIs;
- Preserve the minority character of MDIs in cases involving (involuntary) mergers or acquisitions of an MDI by following the priority of the prescribed "general preference guidelines" in identifying a merger or acquisition partner;
- Provide technical assistance to prevent insolvency of MDIs;
- Promote and encourage the creation of new MDIs;
- Provide for training, technical assistance, and educational programs.

NCUA is proposing to define a Minority Depository Institution as follows:

(a) A federally insured credit union with more than 50 percent of its current or eligible potential members falling within any of the eligible minority groups; **and**

(b) A federally insured credit union with more than 50 percent of the current management officials falling within any of the eligible minority groups.

For a federally insured credit union to meet this MDI definition, the percentage of both (a) minority members and (b) minority management officials must exceed 50 percent.

To identify an eligible minority group, NCUA will rely on FIRREA §308's definition of a minority as any "Black American, Asian American, Hispanic American, or Native American."

NCUA defines a credit union management official as a member of the board of directors, supervisory committee or credit committee, and senior executive staff. Senior executive staff includes the credit union's chief executive officer (typically titled as President or Manager), Assistant Chief Executive Officers (e.g., Vice-President or Assistant Manager), Chief Financial Officer, and branch managers.

NCUA's Office of Minority and Women Inclusion (OMWI) will administer the MDI Program. A federally insured credit union can self-certify that it qualifies as an MDI by affirmatively answering a question on NCUA's website or the CU Profile when submitting a Call Report. The credit union must certify that the eligibility criteria for members and management officials have been met.

### **Benefits of Participating in the MDI Program**

MDI Program participants will receive benefits to assist in preserving the economic viability of their institutions. These benefits include facilitating technical assistance and educational opportunities to MDIs in coordination with NCUA's Office of Small Credit Union Initiatives (OSCU). Such technical assistance may include participating in the agency's Small Credit Union Program, including:

- Participation in Small Credit Union Consulting Program;
- Economic Development Specialist assistance in addressing examination concerns or topics of interest;
- Participation in an NCUA sponsored workshop; or
- Assistance in obtaining a grant or a loan through NCUA's Community Development Revolving Loan Fund (CDRLF).

Participation in the MDI Program is voluntary. An MDI may discontinue its participation at any time by updating its status on NCUA's Credit Union Online system. Upon such action, the credit union would not be eligible to participate in any MDI Program initiatives.

NCUA will monitor the financial condition of MDIs, and will provide an annual report to Congress on the overall financial condition of MDIs. NCUA will attempt to preserve the minority character of failing MDIs that go through the involuntary merger or acquisition process by using the General Preference Guidelines outlined in §308 of FIRREA. In the event of the merger of a troubled MDI, NCUA will invite MDIs that qualify to bid on failing MDIs, along with non-MDI credit unions. Such actions would only occur on involuntary mergers/acquisitions.

### **Questions For Comment**

CUNA generally supports the MDI Program and NCUA's efforts to preserve MDIs, but is seeking information from credit unions on whether there are any unintended consequences from the program or if the requirements can be modified to make the program more successful. Also, please provide feedback on whether NCUA is doing enough to preserve MDIs and whether the requirements to qualify as an MDI are appropriate.

CUNA also welcomes any other feedback on the proposed IRPS.

Please send comments to CUNA Deputy General Counsel and Senior Vice President [Mary Dunn](#) by September 20, 2013. Comments must be provided NCUA by September 30, 2013. Click [here](#) to access the proposed rule in the Federal Register.