Statement of the FDIC Board of Directors on the Development and Review of Supervisory Guidance

I. Purpose and Scope

Purpose. The Federal Deposit Insurance Corporation (FDIC) is committed to ensuring that its supervisory programs are effective, efficient and transparent. Appropriate and timely supervisory guidance is integral to the supervisory program. This statement of the FDIC Board of Directors (Statement) sets forth basic principles to guide FDIC staff in developing and reviewing supervisory guidance that is communicated to FDIC-supervised financial institutions through a financial institution letter.

Scope. This Statement applies to all supervisory guidance issued by FDIC staff under delegations of authority granted by the Board of Directors of the FDIC.

II. Principles for the Development and Communication of Supervisory Recommendations

The FDIC Board of Directors expects FDIC staff to be guided by the following five principles in the development and review of supervisory guidance:

Supervisory guidance should provide transparency about the factors the agency will consider when exercising its supervisory authority. Supervisory guidance sets forth the FDIC's expectations for FDIC-supervised institutions to operate in a safe and sound manner and comply with applicable laws and regulations, including those designed to protect consumers. Unlike regulations, which prescribe specific requirements or instructions applicable to all institutions or selected categories of institutions, supervisory guidance is intended to set forth general principles that the FDIC will consider in making supervisory assessments. The overarching goal of supervisory guidance is to ensure that risk management and consumer protection standards and supervisory expectations are well understood by bank management and other stakeholders.

Supervisory guidance should detail the rationale for its issuance. Supervisory guidance should be issued to address risks that require mitigation, management or monitoring. The FDIC identifies new or evolving risks that require supervisory guidance through a number of channels, including onsite examinations, offsite monitoring activities, observations of local and national business and economic conditions, interactions with other supervisory agencies, and outreach and general communications with bankers and other stakeholders. Once a new or evolving risk is identified, the adequacy of existing supervisory guidance relative to this risk should be considered.

In those cases in which existing supervisory guidance is sufficient to address a new or evolving risk, the appropriate division should consider explaining how existing guidance applies to a new situation. This could be accomplished through, among other strategies, issuing a formal written reminder or clarification to bankers and other stakeholders, conducting outreach activities and banker teleconferences, and discussing the relevant guidance at banking conferences and other large gatherings of bankers.

In those cases in which existing supervisory guidance is not sufficient to address a new or evolving risk, the appropriate division should consider developing new guidance or identify other options for addressing the risk. In those instances in which new supervisory guidance is issued, the guidance should set forth general principles regarding sound risk management and consumer protection practices for mitigating the risk associated with the issue or trend, since all fact-specific situations associated with a particular issue or trend cannot be anticipated in advance and the need for judgment cannot be eliminated. Supervisory guidance should clearly explain the risk presented by the issue or trend, including the potential financial or operational outcomes of leaving the risk unaddressed, and supervisory expectations regarding risk mitigation. As FDIC guidance often includes statements of FDIC policy, Division and Office Directors should coordinate with other Divisions and Offices as guidance is developed and brief the FDIC

Chairman's Office prior to issuance. The absence of supervisory guidance should not preclude the use of enforcement actions should that become necessary to address emerging and other risks.

Supervisory guidance should be timely, easy to understand, and concisely written. Supervisory guidance will be most effective for risk mitigation when it is issued shortly after a new or evolving risk is identified. Early issuance of supervisory guidance provides supervised institutions more time to adjust risk management or consumer protection practices to mitigate the risk before it adversely affects institutions' financial condition or operations or harms consumers. Supervisory guidance should address the issue or trend in a concise manner and should present the FDIC's supervisory expectations clearly and understandably.

Supervisory guidance should be coordinated when it is common to other federal financial institution regulators, when practicable. *The FDIC strives to coordinate the development and implementation of common or overlapping supervisory guidance with other federal financial institution regulators*. The FDIC is a member of the Federal Financial Institutions Examination Council (FFIEC) and coordinates through the FFIEC to develop uniform examination and supervisory policies where appropriate. While coordination with other agencies is important, it does not outweigh the FDIC's needs to promptly notify its supervised institutions regarding issues or trends warranting their attention and the FDIC's expectations for managing the associated risks.

Supervisory guidance should be readily accessible to FDIC-supervised institutions and others. When issuing new supervisory guidance or reminders about existing guidance, the FDIC sends a financial institution letter (FIL) to affected institutions that summarizes the guidance. FILs also contain an applicability statement that prominently describes whether the information being transmitted by the FIL is applicable to banks with total assets of less than $1 billion. FILs are located on the FDIC website by year of issuance. Additionally, frequently accessed FDIC guidance is arranged in a topical format on the FDIC Directors' Resource page on the FDIC website.[1]

III. Periodic Review of Supervisory Guidance

To ensure that the FDIC's supervisory guidance is current, effective, and efficient, and continues to meet the principles set forth in this Statement, the FDIC will periodically undertake a review of each supervisory guidance. Factors to be considered in determining whether supervisory guidance should be revised or eliminated include: the continued need for the guidance; opportunities to simplify or clarify guidance or to eliminate duplicative and inconsistent guidance; and the extent to which technology, economic conditions, and other factors have changed in the area affected by the guidance.

[1] https://www.fdic.gov/regulations/resources/director/risk.html and https://www.fdic.gov/regulations/resources/director/cc-cra.html.