Statement of FDIC Board of Directors on the Development and Communication of Supervisory Recommendations

I. Purpose and Scope

Purpose. The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) is committed to ensuring recommendations made through the supervisory process are meaningful, actionable, fully supported and clearly communicated. This statement of the FDIC Board of Directors (Statement) sets forth basic principles to guide the FDIC's development and communication of supervisory recommendations to financial institutions under its supervision. The principles discussed herein are intended to improve transparency in the supervisory process.

Scope. This Statement applies to all supervisory recommendations made 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

For purposes of this Statement, the term “supervisory recommendation” refers to FDIC communications with a bank that are intended to inform the bank of the FDIC's views about changes needed in its practices, operations or financial condition.[1] A principal purpose of supervisory recommendations is to communicate supervisory concerns to a bank so that it can make appropriate changes in its practices, operations or financial condition and thereby avoid more formal remedies in the future, such as enforcement actions. Supervisory recommendations are distinguished from formal or informal enforcement actions, which are better characterized as requirements than as recommendations. While supervisory recommendations, as discussed in this Statement, are not enforcement actions, they are nonetheless communications of FDIC expectations of banks that are taken seriously by bankers. Accordingly, the FDIC Board of Directors expects staff to be guided by the following principles in the development and communication of supervisory recommendations:

Address Meaningful Concerns. FDIC staff should make supervisory recommendations when practices, operations, or financial condition could have a detrimental effect on the financial institution or could result in customer harm if left unaddressed. Supervisory recommendations may be designed to correct one or more of the following: practices that deviate from sound governance, internal controls, or risk management or consumer protection principles; and noncompliance with laws and regulations, enforcement actions, or conditions imposed in writing. Supervisory recommendations may also be designed to encourage an institution to more fully take into account supervisory guidance in a manner that is commensurate with the institution's nature of business, size, and complexity for safety and soundness or consumer protection purposes.

Communicate Concerns Clearly and in Writing. Supervisory recommendations must be made in writing in either a Report of Examination or other official FDIC communication. Supervisory recommendations may not be solely verbal, but should be discussed with, and explained to, bank management. FDIC personnel should present information in a fact-based, diplomatic, and objective manner that clearly and concisely supports all recommendations. Comments should describe the deficient practices, operations, or financial condition and how it deviates from sound governance, internal controls, or risk management or consumer protection principles, or legal requirements, as well as how the continuation of the deficiency could adversely affect the bank's financial condition or operations, cause consumer harm, or result in further supervisory action in the future.

Discuss Corrective Action. Supervisory recommendations should specify the corrective action needed to address the deficiency. FDIC staff should accurately record management's response. This should include, as applicable, any management commitment for implementing sustainable corrective measures, including the timeframe for reaching key milestones and for completing the corrective action.

III. Appropriate use of Informal Communication

Purpose. The FDIC Board of Directors recognizes that informal communication promotes an ongoing dialogue and remains a vital part of a sound, effective, and efficient supervision program. Informal communication occurs in many forms. For example, examiners may make verbal suggestions to address minor issues identified during an examination. In addition, bankers routinely ask examiners, without attribution, to describe effective practices observed at other institutions. FDIC encourages these types of communication, but does not consider these conversations to be a supervisory recommendation. Accordingly, informal communications should not be used to convey expectations of action by bank management and will not be tracked as part of the FDIC's examination follow-up supervisory activities or at subsequent examinations.

[1] Supervisory recommendations include items highlighted in a report of examination as a Matter Requiring Board Attention or MRBA.