IBC
International Bancshares Corporation

January 27, 2020

Via email: comments@fdic.gov

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: RIN 3064-ZA13
Request for Information on a Framework for Analyzing the Effects of FDIC Regulatory Actions

Dear Mr. Feldman:

The following comments are submitted by International Bancshares Corporation ("IBC"), a multi-bank financial holding company headquartered in Laredo, Texas. IBC maintains over 189 facilities and more than 286 ATMs, serving 89 communities in Texas and Oklahoma through five separately chartered banks ranging in size from $385 million to $8.7 billion in assets, and totaling approximately $12.0 billion in consolidated assets. IBC is one of the largest independent commercial bank holding companies headquartered in Texas. IBC is a publicly-traded financial holding company.

This letter responds to the FDIC's request for information and comment regarding analysis of the effects of its regulatory actions and alternatives. We applaud the FDIC for seeking to add structure and increased rigor to its assessment and analysis of potential regulatory actions and believe that the Office of Management and Budget's ("OMB") September 17, 2003 Circular A-4 (the "Circular") provides an appropriate framework. As the Circular notes, the goal of regulatory analysis is to learn if the benefits of an action are likely to justify the costs, or to discover which of various possible alternatives would be the most cost-effective. Circular at 2. Importantly, OMB notes that sometimes the analysis will show that the proposed action is misguided. *Id.* We unfortunately have experienced and continue to experience this with regard to regulations imposed on the banking industry. We welcome an approach to regulation that brings greater care, scrutiny, and quality to the process to avoid the adoption of misguided requirements that bring little to no value to the safety, soundness, or compliance of a bank or bank holding company.

We agree with OMB that good regulatory analysis at a minimum includes (1) a statement of the need for the proposed action, (2) an examination of alternative approaches, and (3) an evaluation of the benefits and costs—both quantitative and qualitative—of the proposed action and the main alternatives identified by the analysis. Circular at 2. It is critical for a regulator to demonstrate that a proposed regulation or amendment is necessary and adds value and quality to the regulatory framework within which all banks operate. This will impose appropriate restraint on the exercise of government power and help avoid undue interference with the free-enterprise economy that has made our nation so successful over its history. As OMB noted in the Circular, "Government actions can be unintentionally harmful, and even useful regulations can impede market efficiency." Circular at 6. We have encountered regulatory initiatives that are solutions to problems that either don't exist in reality or have been much exaggerated. Examination and evaluation of alternative approaches and a rigorous, wide-ranging assessment of their respective benefits and impacts on both the public and the industry will help to mitigate negative consequences of the regulatory action. It is important for regulators to justify what they are doing to the public, to industry, and to Congress in order to maintain their credibility with stakeholders and to promote respect for government's role. In short, we believe government should apply the least intrusive means possible to fulfill a legitimate, demonstrated need for regulation. The principle of "do no harm" should be preeminent in the creation of any new rule or regulation.

Good regulatory analysis in today's world must leverage data to the fullest extent possible. Advancements in information technology have led to the adage that "Data is King." Organizations of all sizes increasingly rely upon sophisticated data analysis to make decisions and allocate resources. Government should be no different. The FDIC has vast quantities of data already accessible to it through routine reporting by institutions. It should employ data scientists to help analyze this data and apply findings to the regulatory process, and it should do so transparently. In addition to the data it routinely gathers, the FDIC can and should solicit additional data from stakeholders that will inform its analysis of regulatory actions. Industry groups such as the American Bankers Association can serve as resources for collecting information from institutions, and the FDIC can send surveys directly to banks and customers who are representative of those likely to be affected by the regulatory action under consideration. We also agree with OMB that throughout the process, regulators should seek the opinions of those who will be affected by the regulation as well as the feedback of individuals and organizations who may not be affected by it but have special knowledge or insight to offer. This should be the case with not only the preferred option but the others that have been identified. Everyone involved should also step back at the end of the process and make sure that the regulation or rule is consistent with common sense. The old saying "Figures don't lie, but liars figure" must be recognized, along with the potential for outcome bias by those who present the data.

We cannot overemphasize the importance of extensive analysis of a regulatory action's effect on institutions and a careful weighing of the negative impact on them in comparison to the anticipated benefit. As community bankers, we urge the FDIC not to paint with a broad brush in reviewing and analyzing impact on the industry. Banks of different sizes and with different business models will be affected differently by regulatory actions. The approach historically taken on new regulations is a "one size fits all" approach and assumes that the risk profile of all banks is the same. Viewing the industry as a monolithic presence is likely to result in misleading findings, resulting in unnecessary or burdensome regulation with little value, as well as collateral damage to the public and industry participants. A proposed regulation could be relatively simple for a large national bank to absorb and implement, but it could create onerous and almost overwhelming operational challenges for a community bank. This in turn affects customers of community banks because it can lead to increases in costs, elimination of product offerings, or even insolvency due to enormous regulatory-compliance costs. When community banks cannot support the financial burden of increased regulation, they must make the difficult decision to shut their doors or consolidate in order to survive. These excessive burdens also direct resources away from consumer benefits.

The number of community banks in the U.S. has decreased over 60% since the mid-1980s, and increased regulatory burdens are a key contributor. To take one example, a community bank in Missouri closed in 2012 because it could not support its anticipated compliance costs imposed by Dodd-Frank. The Federal Reserve Bank of Minneapolis found that for the smallest banks, increases in staffing to accommodate increased regulatory burdens has a marked effect on profitability and may lead to institutions becoming unprofitable. As a Harvard Kennedy School paper noted, the consolidation trend that has occurred in community banking since the passage of Dodd-Frank is likely driven by regulatory economies of scale. The FDIC should take special care to identify and mitigate such difficulties for certain segments of the banking industry. In many cases, the regulatory-compliance talent is simply not available in rural America, even if the institution could pay for it.

Further, the regulatory analysis should not end after a regulation is issued. The FDIC should assess the effects of regulatory action and its impact on stakeholders after sufficient time has passed to allow for the development of reliable data. It should compare that information with what it had projected during the pre-action analysis phase, and it should make adjustments where appropriate. Where there is a divergence between what was anticipated and reality, a regulator has an obligation to revisit its decision and adjust course if the situation calls for it.

Finally, banks should have a recourse mechanism to defeat bad regulation. Today, there is no meaningful way to overturn bad regulatory rule-making.

We are encouraged by the FDIC's interest in developing a disciplined, well-structured approach to regulatory analysis. We wholeheartedly support these efforts and urge it to invest the time and resources necessary to make this program a model for other regulators.

Thank you for this opportunity to share our views.

Sincerely,

[redacted]

Dennis E. Nixon
President & CEO