IBC
International Bank
of Commerce

DENNIS E. NIXON
President

July 2, 2010

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington D.C. 20429

Delivery via E-mail to comments@FDIC.gov
and submitted via FDIC Website at
http://www.fdic.gov/regulations/laws/federal/propose.html

Re: RIN 3064-AD57; 12 CFR Part 327; 75 Federal Register 23516
Assessments – Notice of Proposed Rulemaking and Request for Comment

Dr. Mr. Feldman:

As President of both International Bank of Commerce, Laredo, Texas, a Texas state-chartered bank, and International Bancshares Corporation ("IBC"), a multi-bank financial holding company headquartered in Laredo, Texas, I would like to take this opportunity to comment on the Federal Deposit Insurance Corporation's (the "FDIC") notice of proposed rulemaking and request for comment regarding deposit insurance assessments. IBC maintains over 279 facilities and more than 430 ATMs, which provide banking services for commercial, consumer and international customers of South, Central and Southeast Texas and the State of Oklahoma. IBC is the largest Hispanic-owned financial holding company in the continental United States with over $10.7 billion in assets.

While IBC recognizes that bank failures have affected the deposit insurance fund, IBC is opposed to the proposed changes in the risk-based deposit insurance assessment system for large institutions for a number of reasons. First, the financial impact from assessments in the past year has already been significant. The special assessment and prepaid assessment in 2009 negatively affected many banks' liquidity positions. If bank examiners criticize banks' liquidity positions as a result, banks will unfairly be subject to higher quarterly premium costs under the proposed rules. Examiners should not penalize banks for this prepayment, just as they were asked not to penalize bank earnings in the second quarter of 2009 as a result of the large special assessment. Instead, examiners should consider pre-assessment earnings to prevent any double penalty. Higher assessments under the proposed rules will also reduce pre-tax income and strain profitability. As a result, the proposed changes for large institutions would do more harm than good as bank income would be directly reduced, capital growth hindered, and the already difficult lending environment would be further jeopardized – especially considering the economy is only beginning to show signs of recovery.

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Higher assessments also make the cost of raising new deposits much higher, which in turn acts as a disincentive for banks to seek out new deposits. Fewer deposits will further hinder lending at a time when banks are being encouraged to increase lending. Also, the proposed rules would not only represent a significant increase in the complexity of calculating and managing deposit insurance assessments, but also an increase in the cost of compliance, which again, damages banks' ability to lend.

Moreover, the methodology of the proposed system is flawed because it assumes that problems seen in certain regions of the country are problems at all institutions in all areas of the country. However, each bank operates under many nuances depending on its regional economy and applicable state law. For example, the proposed Performance Scorecard takes into consideration "higher risk" assets. Understandably, investment in certain of these assets, such as construction and development loans or nontraditional mortgages, has had negative implications on many financial institutions. However, where an institution has found a successful business model in investing in these "higher risk" assets and has not experienced negative repercussions from the economy, the institution should not be penalized. The Performance Scorecard should formulaically take into account an institution's loss history with respect to such assets rather than to simply categorize certain assets as "higher risk" without offsetting such a classification with the institution's history of loss. The proposed methodology should be revised to provide an adjustment for a particular institution's performance, and the institutions underwriting history. One size does not fit all.

Just as Comptroller of the Currency John Dugan has noted, the FDIC's ability to adjust the assessment rate up or down up to fifteen basis points, rather than one basis point under the current rules, leaves too much discretion and subjectivity in the hands of the FDIC. The FDIC has the ability to act as "judge" by setting the assessment methodology and to act as "prosecutor" by making subjective adjustments to an institution's scorecards. Since an institution's assessment rate rises at an accelerating rate with the total score, these subjective adjustments could significantly raise the rate. Additionally, as proposed, the assessment system is not sufficiently transparent to be credible to outsiders in validating the reliability of the model. Because there is no explanation as to the weights given in the proposed model to CAMELS ratings, asset-related stress, and funding-related stress, they also appear to be based on the FDIC's discretion. Because the performance measures used in the proposed model, as well as the explanatory variables, are derived from information available only to the FDIC, outside validation cannot be performed. Rather than leaving the adjustments to examiners, who may apply the criteria differently across the country, the methodology should be revised to take some of these factors into account in a non-subjective, formulaic manner.

Although it is true that the failure of a large bank may have a greater impact on the deposit insurance fund ("DIF") than a smaller bank, the methodology for calculating insurance assessments should be the same for all banks. If a small or midsize bank chooses to engage in subprime lending with lax underwriting standards, then it should pay a higher assessment to adjust for its high-risk behavior. In our current economic environment, most of the failures have been small and mid-size banks. Although the cost to the DIF is higher for one large bank, when several small or mid-size banks fail, the overall cost to the DIF is the same. The savings and loan crisis is the perfect example to demonstrate that many small bank failures can add up. Many of the large banks that failed, such as Washington Mutual, were purchased by other large banks, and the acquisition of those entities greatly limited the impact on the DIF.

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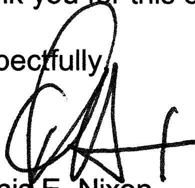
Encouraging all banks to stay away from aggressive behavior, not just large banks, would be a more effective solution. Risky behavior warrants higher assessments, but not simply because one bank is larger than another.

Banks are doing their best to prevent the recession from deepening, all while dealing with accounting changes that reduce capital, regulatory pressure to classify assets – even when they are performing, significant regulatory change and pending regulatory reform, and significant increases to deposit premiums over the past year. Adding another significant change increases this burden and damages banks' ability to contribute to an economic recovery. If the DIF is significantly impacted due to unexpected levels of future bank failures, it makes more sense to use the FDIC's Treasury line of credit option or to apply excess revenues from the Temporary Liquidly Guaranty Program rather than impose further costs through higher quarterly assessments on institutions that were not and are not the problem.

Finally, this proposal is premature as the pending regulatory reform addresses deposit insurance assessments. The FDIC should maintain the current assessment system until the pending regulatory reform is finalized and signed into law.

Thank you for this opportunity to comment.

Respectfully,



Dennis E. Nixon

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