IBC
International Bank
of Commerce

DENNIS E. NIXON
President

February 11, 2010

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

Re: RIN 3064-AD56
Advance Notice of Proposed Rulemaking

Dear 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 (the "FDIC") advance notice of proposed rulemaking regarding "Incorporating Employee Compensation Criteria Into The Risk Assessment System". IBC maintains over 280 facilities and more than 440 ATMs, which serve over 104 communities in Texas and Oklahoma. IBC is the largest Hispanic-owned financial holding company in the continental United States with over $11.7 billion in assets.

The FDIC is seeking comment on ways that the FDIC's risk-based deposit insurance assessment system could be changed to account for the risks posed by certain employee compensation programs. The FDIC has stated that it does not seek to limit the amount which employees are compensated, but rather is concerned with adjusting risk-based deposit insurance assessment rates to adequately compensate the DIF for the risks inherent in the design of certain compensation programs.

IBC is opposed to the proposed changes in the risk-based deposit insurance assessment system for a number of reasons. While the FDIC has stated that it believes this initiative is complementary to certain supervisory standards being developed to address the risks posed by poorly designed compensation programs, <u>we believe the FDIC initiative is redundant and may conflict with the initiatives of other agencies</u>. Congress, Treasury and the Federal Reserve are already addressing compensation arrangements, and any action by the FDIC raises the potential for inconsistent legislative and regulatory guidance. The potential for inconsistency is especially strong regarding any action by the FDIC to regulate bank holding company compensation structures, which are primarily examined by the Federal Reserve.

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Further, the proposed changes to the risk-based deposit assessment system are not necessary because the FDIC and the other banking regulators already have the authority to restrict compensation practices that lead to unsafe or unsound behavior or raise safety and soundness concerns. Section 8 of the Federal Deposit Insurance Act authorizes the banking agencies to take action against a banking organization if the organization is engaged, or is about to engage in, any unsafe or unsound practice. Moreover, because the risk associated with employee compensation plans is already factored into a bank's CAMELS ratings, any additional assessment adjustment would effectively double-count this risk. Also, the provisions of the Sarbanes-Oxley Act of 2002 impose significant corporate governance duties related to compensation programs on publicly-traded banking organizations, like IBC, and the "TARP Standards for Compensation and Corporate Governance," provide compensation standards for senior executive officers and certain other employees of TARP recipients, such as IBC.

Any further regulatory initiatives adopted by the FDIC regarding compensation practices should be specific. Rather than changes by the FDIC in the risk-based deposit assessment system coupled with the proposed guidance of the Federal Reserve on compensation programs, the banking agencies should consider jointly issuing regulatory guidance that clearly and directly addresses incentive compensation practices that have actually had an adverse effect on banks' safety and soundness. For example, the guidance could discourage incentive compensation that is tied to the interest rate obtained on a particular loan or group of loans because it may give lenders a personal economic motive for obtaining the highest rate possible regardless of the credit characteristics of the borrower. A better constructed incentive program would tie bonuses to achieving the bank's strategic goals for loan volume in accordance with the bank's lending policies and pricing matrices. Another area where problems have been seen is where income is dependent on the sale of credit insurance products. This is currently appropriately regulated for national banks by 12 C.F.R. Part 2. In Texas, the same rules are applied to state chartered banks, but there is no national standard for such a practice. Specific guidance addressing items such as the above would provide clarity as to the practices to avoid and those to consider appropriate.

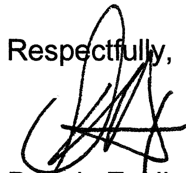
The widely publicized instances where the incentive compensation programs of certain large complex banking organizations have exposed the financial institutions to undue risk should not be used to taint the established incentive compensation programs of thousands of regional and community banks that do not present such undue risk. Rather than presenting undue risk, the compensation programs of community and regional banks are generally straightforward and serve as an important tool to attract and retain banking talent. In any event, the bank regulators are already authorized to prohibit any undue risk presented by the incentive compensation arrangements at regional and community banking organizations. Any further restrictions or guidance should be directed at banks that are exhibiting risky behavior or should guide against the types of compensation programs that are known to present undue risks.

Finally, compensation is a complex matter that should not be constrained by some dogmatic regulatory structure. Compensation structures need to be flexible in order to accommodate the challenges faced by a bank board in managing the compensation program, especially where the bank is located in multiple areas of the country or has special recruiting or retention challenges. The bottom line, there is not a single compensation standard that fits all situations. The compensation programs must be allowed to take into account the value system of the individuals that manage the compensation practices of a particular institution. A "one box fits all" regulatory approach to compensation programs is inappropriate.

For our bank, finding the proper balance between basic compensation and incentive compensation is a highly judgmental process that takes a very experienced group of managers to determine the appropriate levels of compensation to both achieve the short term and long term goals of the institution as well as to inspire and motivate the staff. Compensation is possibly the most difficult task that any organization faces because without a fair and properly designed program, the bank cannot succeed over the long term. Presumably, a regulatory mandated compensation program would also be pro-cyclical, i.e. reducing compensation in difficult times. Yet, often the worst times require the best management talent and compensation that doesn't match with current economic conditions. Further, what if a bank thrives in difficult times? How can a "one size fits all" compensation process adequately reward such success in order to retain the talented management? At the end of the day, if you put in place a compensation system that drives away the best talent, you ultimately destroy the very system you hope to protect.

Thank you for this opportunity to comment.

Respectfully,



Dennis E. Nixon