International Bancshares Corporation

December 4, 2018

Via Email: comments@fdic.gov

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

Re: RIN 3064-ZA02; Comments to FDIC's Communication Methods and Related Initiatives to Promote Efficiency and Increase Transparency ("Transparency Proposal")

Ladies and Gentlemen:

The following comments are submitted on behalf of International Bancshares Corporation ("IBC"), a multi-bank financial holding company headquartered in Laredo, Texas. IBC owns five state nonmember banks serving Texas and Oklahoma. With approximately $12 billion in total consolidated assets, IBC is one of the largest independent commercial bank holding companies headquartered in Texas. IBC is a publicly-traded holding company. The Transparency Proposal is very important to IBC as the FDIC is the primary federal regulator of its five state nonmember banks. We appreciate the opportunity to comment on the FDIC's transparency Proposal.

On October 5, 2018, the FDIC published a notice and request for comment seeking input on how to improve the efficacy, efficiency and transparency of the agency's communication with insured depository institutions. The notice outlines current forms of communication, including, regulations, policies, procedures and guidance; news and updates; industry data, educational materials and outreach; general communication; and direct communication. Specifically, the FDIC is seeking input on the various forms of communication it uses to provide information to financial institutions about regulations, policies and guidance, industry data, educational materials and other updates and how these channels could be improved or streamlined.

Our comments to the FDIC Transparency Proposal are as follows

Comments

Regulatory Burden and Uncertainty for Community Banks

Since the passage of the Dodd-Frank Act and the creation of the CFPB, there has been a relentless onslaught of new regulations. These regulations have created great uncertainty among financial institutions, particularly community and regional banks, as financial institutions have struggled to determine what types of computer software and amount of resources (human and financial) to utilize to comply with the myriad of new regulations. Much of this uncertainty could have been alleviated if the federal bank agencies would have simply consulted and better communicated with its stakeholders —financial institutions— early in the rulemaking process, then shared that feedback in Washington, and tailored the "one-size, fits all" regulations to alleviate confusion and uncertainly and, critically, unnecessary regulatory burden.

The federal bank agencies do not appear to be cognizant of the limited compliance resources that most smaller financial institutions have compared with the large, national financial institutions that control the vast majority of this country's deposits and were largely responsible for the 2008 financial crisis. With few exceptions and until very recently, the federal bank agencies' regulations have been "broad-brush," and "one-size fits all" as opposed to tailored-made for the asset size (and risk level) of financial institutions. In their rule promulgations, the federal bank agencies have not endeavored enough to learn about the day-to-day operations of community and regional banks, which differ significantly from the large, national financial institutions. The federal bank agencies must improve their knowledge of how these smaller financial institutions operate AND take this information into consideration in their rule-making process, particularly *early* in its rule-making process. The FDIC and other federal bank agencies need to do a better job of engaging with all types of financial institutions, not just the large national financial institutions that control the vast majority of this country's deposits, and seriously and thoughtfully consider this input in its rule-making process.

On the positive side, we note there appears to be a recent acknowledgement and trend from the U.S. Congress with its May 24, 2018 passage of the of the Economic Growth, Regulatory Relief, and Consumer Protection Act ("EGRRCPA"), which provides some much-needed reform of the Dodd-Frank Act. Additionally, federal bank agencies also appear more willing to tailor some of their regulations to the particular size and risk profile of financial institutions and we strongly support these recent moves.

Rebuilding Trust Between the FDIC and Banks

According to the FDIC, an important part of the Transparency Proposal initiative is rebuilding trust in the FDIC as a supervisor through an examination process that is well communicated and consistent so that it satisfies fundamental principles of due process and accountability of the government to the governed. It is worth quoting the FDIC Chairman's own words from an October 3, 2018 community banking research conference in St. Louis as they appear to mark an intent to change the supervisory culture from one of secrecy and discretion to one of accountability and consistency, as follows:

> "At times the amount of information disseminated can create burdensome challenges for insured depository institutions, especially community banks," said McWilliams. "To that end, we are seeking input on how the FDIC can improve the way it communicates."[1]

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[1] Remarks by Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation: "Trust through Transparency" at the Federal Reserve System, Conference of State Bank Supervisors, and Federal Deposit Insurance Corporation 2018 Community Banking in the 21st Century Research and Policy Conference; St.

At the same conference, McWilliams emphasized the importance of transparency in building trust with the banks the FDIC regulates. As such, FDIC Chairman McWilliams stated:

> "Trust in the FDIC as a supervisor means that banks are confident that our examination process is fair and free of outside influence. The trust between bank and examiner is unlikely to survive a process that is opaque, poorly communicated, and riddled with inconsistencies. On the other hand, open and responsive communication with supervised institutions helps them understand what is expected so they can decide how best to comply given their unique circumstances. This is especially important in the case of smaller, community banks. If the chief compliance officer is also the CFO, the chief loan officer, and a bank teller in her spare time, she needs to be able to allocate her limited time effectively. Understanding clearly what the institution's supervisory obligations are makes this possible."[2]

We strongly endorse this view as community and regional banks in particular have been hit hard by examiners unilaterally applying "best practices" as if they were laws and regulations. Additionally, regulations and best practices applied to large national financial institutions have trickled-down to community and regional banks that do *not* share the same risk profile.

Planned FDIC Chairman's Meetings With Stakeholders Outside of Washington D.C.

In connection with the Transparency Proposal, FDIC Chairman McWilliams has recently launched a nationwide listening tour where she intends to meet with stakeholders, including many of the banks the FDIC regulates, their customers, and consumers in each of the 50 states. Her stated goal is to, "... reverse the long-standing trend of having those affected by our regulations come to Washington to be heard." It is long overdue that we come to them instead."[3] This is in keeping with the recent Interagency Statement on Supervisory Guidance, in which the prudential banking agencies also attempted to change supervisory culture by reminding supervisory and examination staff that guidance is not binding and cannot be "violated." In the Interagency Statement on Supervisory Guidance, the FDIC, Federal Reserve, OCC, and NCUA, at long last, issued a thoughtful statement meant to clarify the role of supervisory guidance and clarifying that it "does not have the force and effect of law."[4] We trust, and hope, that the agencies' supervisory and examination staffs will take this to heart and act accordingly when conducting bank examinations. The Interagency Statement on Supervisory Guidance was certainly a step in the right direction.

We fervently embrace the idea of the FDIC Chairman meeting with stakeholders, particularly community and regional banks. There needs to be more direct access to the FDIC

Louis, MO (October 3, 2018), at: https://www.fdic.gov/news/news/speeches/spoct0318.html.

[2]. *Id.*

[3] *Id.*

[4] "Interagency Statement Clarifying the Role of Supervisory Guidance," FIL-49-2018, September 17, 2018.

Chairman outside of Washington D.C. because virtually *all* communication with the FDIC seems to occur there. It is very difficult to get a one-on-one meeting with the FDIC Chairman. As such, no real access is currently available.

Additionally, we strongly urge the FDIC to ensure that these meetings are not backward-looking such that it has a new report, policy guidance, or proposed regulation already in mind and does not fully utilize the meetings to receive thoughtful input from its stakeholders, particularly community and regional banks. These and other FDIC outreach meetings and forums need to be fair and balanced with an opportunity for financial institutions, and their trade groups, to provide meaningful and constructive input that will be duly considered by the FDIC. It is the FDIC's burden to ensure that all of its meetings are fair and balanced. The FDIC should ensure that a wide-range of attendees, including community and regional banks, are invited to meetings and that their input is seriously considered and applied in agency issuances and rule promulgations. Additionally, we strongly encourage the FDIC to not only have pertinent and high-level FDIC personnel attend these and other outreach meetings, but that these officials be candid and responsive to questions from industry participants. We do not believe this has always been the case with some federal bank agencies as, too often, it appears the bank agency's personnel are inclined to validate something they have already decided to do with charts and various skewed studies before seeking input from stakeholders. Frankly, we do not believe the federal bank agencies have previously done enough in the past to hear and consider the concerns of community and regional banks. Finally, we note that during various FDIC webinars, FDIC officials seldom answer participant's questions clearly. As such, the FDIC misses key opportunities to disseminate useful information to participants to ensure increased and better compliance with the regulations it enforces.

More Transparency

An additional and quite important point is to limit the tendency of agencies to do too much behind closed doors because that undermines public confidence and allows the government to escape accountability for its actions and omissions. To reverse the tendency of agencies to do too much in secret, Chairman McWilliams stated that the FDIC has begun a systematic review of the information it has deemed confidential supervisory information, a long overdue process at the FDIC and the other banking agencies. The review will include a fresh look at the Freedom of Information Act ("FOIA") process, including how exemptions are applied, in order to strike the right balance between "protecting confidential information and providing public access." We believe the questions that ought to guide such a fresh look include:

•Why is this topic being treated confidentially?

•Who or what is being protected by the confidentiality?

•Why is this policy choice or regulatory interpretation being made under the rule of discretion rather than the rule of law?

More Delegated Responsibility to FDIC Regional Offices

With the new directive of the FDIC to improve the efficacy, efficiency and transparency of the agency's communication with insured depository institutions. more responsibility should be returned to the FDIC regional offices. Most regulatory decisions are currently concentrated in Washington D.C. which causes long delays on regulatory applications and other matters, and there is little, to no, communication with the FDIC's insured depository institutions. There is also an urgent need to force more outreach between the FDIC's regional offices and banks. We basically never see our region's FDIC Regional Director. The FDIC needs to make certain its Regional Directors and other high-level regional officials are fully on board with the FDIC's new communication and transparency directive. We note that in many cases, banks can never learn which FDIC officials are working on bank applications, examination issues, and other regulatory matters.

Other FDIC Communication Comments and Concerns

We do not like the FDIC's and other federal bank regulators' over-dependence on communication with only with the participant bank trade associations such as ABA, ICBA, etc. because, unfortunately, those organizations tend to be dominated by a "good ol'boy" club and many banks, particularly community and regional banks, never have a voice in these organizations. Accordingly, the FDIC should endeavor to obtain input directly from individual banks.

Also, The FDIC's website is not easily searchable. Financial Institution Letters, guidance, FAQ's, and other FDIC issuances are voluminous and it is difficult to find relevant information on a particular topic easily and quickly as all of these documents are *not* organized by topic or by keyword. It would be greatly beneficial for FDIC stakeholders if the FDIC would make the necessary investment of resources to revamp and improve its website search engine to be more user-friendly and useful for stakeholders seeking to find important documents on the FDIC's website.

Additionally, the secure Internet channel for FDIC-insured institutions to conduct business and exchange information with the FDIC, the FDICconnect Business Center system, is very important to financial institutions as it is utilized to exchange documents with the FDIC during bank examinations. Unfortunately, the system is very slow and unstable. FDICconnect crashes multiple times during each session and makes uploading documentation for the FDIC extremely cumbersome and time-consuming. It would be very helpful for stakeholders if the FDIC would make the necessary financial investment to upgrade and revamp the FDICconnect Business Center system to be more stable and reliable, particularly since it plays such an important role in the exchange of information between FDIC-insured institutions and the FDIC.

We also have comments and serious concerns regarding the FDIC's handling of consumer complaints filed against FDIC-insured institutions. More specifically, when banks respond to consumer complaints, it takes a very long period of time for the FDIC to close-out the complaint. It has been our experience that after the bank responds to the consumer complaint, it takes weeks, sometimes even months, for the bank to receive the "complaint closed" notification from the FDIC. This delay is unacceptable and we strongly urge the FDIC to increase its efficiency and decrease the amount of time it takes to address, process, and resolve consumer complaints.

Conclusion

Finally, we note the Transparency Proposal relating to communication, transparency and public accountability are very important goals that the FDIC and other federal bank agencies should seriously pursue. We support these worthy goals.

Thank you for your consideration.

Respectfully,

[redacted]

Dennis E. Nixon
President
International Bancshares Corporation