American Bankers Association
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January 28, 2020

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20249

Via Electronic Mail to Comments@fdic.gov

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

Dear Mr. Feldman:

The American Bankers Association[1] (ABA) appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC's) Notice and Request for Information (RFI)[2] on a proposed framework that details approaches that the FDIC is considering to analyze the effects of its regulatory actions. The RFI states that FDIC views analysis of the effects of regulatory actions and alternatives as an important part of a transparent rulemaking process.[3]

Summary of framework

The RFI states[4] that the FDIC is considering including the following in its rulemaking actions:

- A statement of the need for the proposed action;
- The identification of a baseline against which the effects of the action are compared;

[1] The American Bankers Association is the voice of the nation's $18.5 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard more than $14 trillion in deposits, and extend more than $10 trillion in loans. Learn more at www.aba.com.
[2] 84 Fed. Reg. 65808, November 29, 2019.
[3] *See RFI Summary at* 84 Fed. Reg. 65808
[4] *See* 84 Fed. Reg. 65808 at 65809.

- The identification of alternative regulatory approaches; and
- An evaluation of the benefits and costs, from all major stakeholder perspectives, that includes qualitative discussion, and quantitative analysis where relevant and practicable, of the proposed action and the main alternatives identified by the analysis. Moreover, the analysis should be transparent about its assumptions and significant uncertainties.

General Comments

ABA appreciates the FDIC's intention to be more transparent in its rulemaking process. This will allow stakeholders to understand better the economic and policy rationales for proposed action and be more targeted in their comments on regulatory initiatives.

With that in mind, ABA offers the following general principles:

1. It is essential that the FDIC undertake a holistic review of all existing regulations, especially those relevant to a particular topic, prior to proposing and finalizing regulations.

    - Specifically, there should be a review of current statutory and regulatory provisions to avoid duplication, together with an analysis as to whether the proposed action is consistent with the current state of affairs.

2. Impact assessments should consider the banking industry, affected customers, financial markets, and the broader economy.

    - For example, any actions that could cause community banks to curtail lending would have negative economic impacts on the communities that they serve.

3. It is important for the FDIC to conduct a careful review to ascertain accurately the costs to banks of implementing new regulatory initiatives.

    - For example, any action that imposes burdensome costs should be avoided unless it can be demonstrated that the benefits far outweigh the costs.

    - The FDIC could consult with core processors and other third-party providers that provide system modifications to ask them about implementation costs. Likewise, the FDIC could conduct interviews with key representative banks about the costs of regulation to understand better the impacts on banks of various sizes and business models.

- It should not be surprising that, by and large, regulatory costs that are imposed on banks also affect customers.

4. Any proposed regulatory initiative should also detail and clarify additions to, or changes to, bank recordkeeping and reporting requirements.

- It is the experience of our members that additions to current recordkeeping and reporting requirements will impose new costs on banks.

5. Prior to finalizing a major regulation, it is imperative that the FDIC and other affected regulatory agencies (Agencies) undertake **voluntary** data collections and impact analyses that cover all affected banks.

- The Agencies have often relied on the Basel Committee on Banking Supervision's quantitative impact study (QIS) process to assess the impact of new rulemakings based on international standards. However, the Basel Committee's QIS process is not an adequate substitute for the Agencies conducting a rigorous U.S. specific empirical study of their proposals. A Basel QIS aggregates data from a relatively small sample of international banks and may not capture the relevant scope of a U.S. rulemaking.

- Moreover, even if the scope of a proposed rulemaking is limited to those institutions that participate in a QIS, the international QIS process has become less relevant to the U.S. banking industry. For example, U.S. legislative requirements require that U.S. bank capital requirements must diverge in critical ways from the Basel framework, which include, but are not limited to, a binding stress testing requirement; the inability to use public credit ratings; and a standardized floor to the advanced methodology for calculating risk-weighted assets (RWAs). The divergences mean that the Agencies can no longer rely on the Basel Committee's QIS process to determine the U.S. bank capital framework.

Thank you for your consideration of our views and recommendations. If you have any questions or require any additional information, please do not hesitate to contact the undersigned at anandar@aba.com, 202-663-5037 or at tmondres@aba.com, 202-663-5353.

Sincerely,

[redacted]

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