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Proposal and Comment Information

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Organization Name: BancFirst

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Docket No. OP-1828 - On behalf of BancFirst, Oklahoma City, Oklahoma, we appreciate the opportunity to provide our comments in connection with the review of regulations to identify outdated or otherwise unnecessary regulatory requirements on insured depository institutions and their holding companies. Please see the uploaded copy of our comment letter. Thank you.

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BancFirst® CORPORATION

DAVID E. RAINBOLT
Chairman

January 9, 2025

Ms. Ann E. Misback
Secretary
Attn: Comments/Legal OES (RIN 3064-AF94)
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. OP-1828 – Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996

Dear Ms. Misback:

On behalf of BancFirst, Oklahoma City, Oklahoma, we appreciate the opportunity to provide our comments in connection with the review by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System (collectively, the "Agencies") of regulations to identify outdated or otherwise unnecessary regulatory requirements on insured depository institutions and their holding companies.

Section 39 of the Federal Deposit Insurance Act requires the Agencies to establish certain safety and soundness standards by regulation or guideline for all insured depository institutions. Under this section, the Agencies have established (a) operational and managerial standards; (b) compensation standards; and (c) such standards relating to asset quality, earnings, and stock valuation as they determined to be appropriate.

In implementing these standards, the Agencies utilize a $10 billion asset threshold (the "$10B Threshold") to determine whether a bank is a large, more complex bank subject to heightened regulatory scrutiny. However, any reliance on asset size alone is not sufficiently risk sensitive and a poor measure of systemic and safety and soundness risk. We have not seen an adequate explanation of the relationship between asset size and safety and soundness risk or any evidence indicating that banks exceeding the $10B Threshold are more likely to fail than those below it.

When we reviewed FDIC data in 2023, there had been 376 bank failures since 2009. The vast majority of these failures involved banks with assets of less than $1 billion. Only 37 or 9.8% of the failed banks had assets that exceeded $1 billion. Only four or 1% of the failed banks had assets that exceeded the $10B Threshold. Of those four banks, three exceeded $100 billion, and two of those three exceeded $200 billion. Even if we include the 165 failures that occurred during the Great Recession of 2008 and 2009, only seven or 4.2% of the banks had assets between $10 billion and $50 billion, and only two of those banks exceeded $13 billion.

We have been unable to determine exactly when and on what basis the $10B Threshold was established by the Agencies as a benchmark in their guidance for heightened regulatory scrutiny. In 2008, the Federal Reserve raised their limit for the definition of a community bank holding company from $5 billion to $10 billion. Then, in 2010, the $10B Threshold was codified in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Consumer Financial Protection Bureau supervisory authority) and the Durbin Amendment (limiting interchange fees) legislation. However, it should be noted that these statutes are completely unrelated to safety and soundness. Even if meaningful when established, the $10B Threshold has remained unchanged since then and is even less relevant today and seemingly arbitrary. The reality is that non-complex, low risk profile community banks, like BancFirst, operate with assets above the $10B Threshold. If simply adjusted for inflation, the $10B Threshold (assuming it was established in 2008) would have increased to more than $14.6 billion today.

BancFirst Operates as a Non-Complex, Low Risk Community Bank

BancFirst has a complexity and risk profile much more similar to a community bank (with assets less than the $10B Threshold) than to a "Regional Banking Organization" with assets of $50-$100 billion or certainly a "Large Complex Banking Organization" with assets in excess of $100 billion. However, once we crossed the $10B Threshold, BancFirst has been subject to the same heightened regulatory scrutiny imposed on banks five to 10 times our size – all without a determination by any of the Agencies of complexity or increased risk aside from the arbitrary asset size threshold.

Our banking organization has total consolidated assets of approximately $13.6 billion. Our organization is subject to regulation by the Oklahoma State Banking Department, the Texas Department of Banking, the Board of Governors of the Federal Reserve System, and, as a result of this same $10B Threshold, the Consumer Financial Protection Bureau. Our parent company, BancFirst Corporation, is under the jurisdiction of the Securities and Exchange Commission (the "SEC") and is subject to the corporate governance and other restrictions and requirements of the SEC under the Securities Exchange Act of 1934, as amended.

We are "well capitalized," "well managed," and highly rated in all respects by our regulators and have robust controls in place to adequately and appropriately manage risk. According to the Federal Reserve, BancFirst Corporation is not considered to be complex. In fact, BancFirst operates as a community bank simply providing commercial banking services to retail customers and small to medium-sized businesses in both the non-metropolitan communities and cities in the metropolitan statistical areas of Oklahoma through full service banking offices with local management. Underwriting, funding, customer service and pricing decisions are made by presidents in each market within our strategic parameters. Our strategy is to focus on the needs of local businesses that seek more responsive services than are available at larger institutions. We maintain a strong community orientation and have developed broad banking relationships with our customers who we know well. Our lending and investing activities are funded entirely by core deposits. We do not use any brokered or even reciprocal deposits but nonetheless maintain liquidity levels well above those of our peers. We maintain centralized control functions such as operations support, bookkeeping, accounting, loan review, compliance and internal auditing to ensure effective risk management. Although slightly over the seemingly arbitrary $10B Threshold, we are still a community bank. It is not accurate to describe us as being complex or to assume that, for us to achieve safe and sound corporate governance and risk management practices, we must be subject to the same or similar safety and soundness standards as those applicable to banks $50 billion and larger.

Enhanced Regulation Regardless of Complexity; Compliance Costs

On May 12, 2015, FDIC Chairman Martin Gruenberg remarked to the American Association of Bank Directors that the FDIC recognizes that "a bank's size, risk profile, and complexity of its activities will determine the most appropriate framework, and therefore we do not expect community bank governance to have the same level of complexity as that found in larger banks." Instead of focusing on the nature, scope and risk of a bank's activities, the Agencies seem content to rely merely on asset size to indicate increased risk. We are subject to enhanced regulation and scrutiny based simply on our asset size. Attached hereto as Exhibit A is a summary description of some of the statutes, regulations, and guidance applicable to us based on exceeding the $10B Threshold. Size alone, however, does not equal complexity. There is nothing in our profile to justify the extra time and expense that we, or any similarly situated banks, must incur simply because our assets exceed the $10B Threshold.

Crossing the $10B Threshold for regulatory supervision was material to us. It necessitated multi-year planning, including significant changes to governance, risk management, and internal audit. Our focus necessarily shifted from performance to satisfying regulatory guidance requiring additional documentation, procedures and processes, and to implementing the Three Lines of Defense Model and the Continuous Supervision Model, all of which was and remains burdensome and costly. Additionally, bank holding companies must also comply with the Regional Banking Organization Supervision Program and supervisory guidance, and the heightened examination process. Complying with these regulations and applicable guidance requires substantially more resources in terms of people, systems, and outside consultants. It is not uncommon for banking organizations like ours to add 50 or more people and millions of dollars of additional overhead burden to satisfy the requirements. The time and cost of compliance disproportionately affects banks at the lowest range of the $10B Threshold. The banks operating with the least complexity or risk must expend a much greater percentage of their annual noninterest expense to comply than the banks that are highly complex and present a much higher risk profile.

Conclusion; Recommendations

In conclusion, size alone, especially at the lower range of the $10B Threshold, is not an indicator of complexity or a heightened risk profile and should not be utilized to justify enhanced safety and soundness or other regulatory scrutiny. We have seen no correlation between size alone (especially at or near the $10B Threshold) and poor corporate governance and risk management practices. There is no evidence that banks above the $10B Threshold are more likely to fail than banks of other asset sizes. In fact, as demonstrated by the FDIC's statistics, asset size alone is not a good predictor of failure. Maintaining a perpetual $10B Threshold without adjustment ignores the reality that non-complex, low risk profile community banks operate with assets above the $10B Threshold. It is important to note that, on a relative basis, a $10 billion bank today is not as significant as it was five to ten years ago due, in part, to changes in the size of the U.S. economy. The Agencies could utilize existing examination measures and other factors to determine which banks are highly complex or otherwise present a heightened risk without unduly relying on a static asset threshold.

As discussed herein, we believe that risk profile and complexity of activities should be analyzed by the Agencies to determine the most appropriate regulatory scrutiny for a particular bank. Past and present performance should also be considered. The Agencies' analysis must focus on the nature, scope, and risk of a bank's activities. If the Agencies believe that an absolute minimum threshold is necessary as part of the analysis, the threshold should be increased to no less than $25 billion. Of course, we are not suggesting that any bank below the increased threshold should be exempt from heightened regulatory scrutiny if specifically warranted. Instead, with respect to any bank below the threshold, the Agencies should bear the burden to determine (subject to rebuttal by the bank) that heightened regulatory scrutiny is actually warranted based on risk profile and complexity of activities of that bank.

Further, a static asset threshold does not recognize the ever-changing industry and disproportionately affects banks at the lowest range of the threshold which might be operating with the least complexity or risk. At a minimum, any threshold used by the Agencies must be inflation adjusted. There is little justification for leaving unadjusted a threshold that was established more than 16 years ago. As already noted, the $10B Threshold would have increased to more $14.6 billion today if simply adjusted for inflation.

We appreciate the opportunity to comment.

Respectfully,

David E. Rainbolt
Chairman

cc: Jeff Schmid, President – Federal Reserve Bank of Kansas City
Mick Thompson, Commissioner – Oklahoma State Banking Department

Supervision and Regulation of
Banking Organizations Over $10 Billion

Crossing the $10 billion threshold for regulatory supervision is a material change to a banking organization. It necessitates multi-year planning, including significant changes to governance, risk management, and internal audit. The organization's focus necessarily shifts from performance to satisfying regulatory guidance requiring burdensome and costly documentation, procedures and processes, the Three Lines of Defense Model, and the Continuous Supervision Model. Bank holding companies must also comply with the Regional Banking Organization Supervision Program, supervisory guidance, and the heightened examination process. Complying with these regulations and applicable guidance requires substantially more resources in terms of people, systems, and outside consultants. It is not uncommon for banking organizations exceeding the $10 billion threshold to add 50 or more people and millions of dollars of additional overhead burden to satisfy the requirements.

Below is a summary of the supervisory requirements applicable to banks over the $10 billion threshold:

Consumer Financial Protection Bureau Supervisory Authority – Pursuant to Section 1025(a)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau has exclusive authority to require reports and conduct examinations on a periodic basis of any "insured depository institution with total assets of more than $10,000,000,000 and any affiliate thereof." Dodd-Frank became law in 2010. There has been no adjustment to the total assets threshold in more than 14 years.

Volcker Rule - Section 13 of the Bank Holding Company Act (12 U.S.C. 1851), also known as the Volcker Rule, generally prohibits any "banking entity" from engaging in proprietary trading or from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a hedge fund or private equity fund.

Pursuant to 12 U.S.C. 1851(h)(1)(B)(i) of the Volcker Rule, a "bank entity" does not include an insured depository institution that "does not have, and is not controlled by a company that has, more than $10,000,000,000 in total consolidated assets."

Federal Reserve Requirements -

Regional Banking Organization ("RBO") Supervision Program

- This supervision program is based primarily on the guidance from SR 08-9: Consolidated Supervision of Bank Holding Companies and the Combined U.S. Operations of Foreign Banking Organizations.
    - Does not appear to be based in law or regulation, other than the broad authority under the Bank Holding Company Act.
    - It states that the Federal Reserve divides Bank Holding Companies ("BHCs") into three portfolios for structuring its supervisory programs:
        - Large complex banking organizations ("LCBO BHCs") – BHCs of $100 billion or more
        - Regional bank holding companies (regional BHCs) – BHCs between $10 billion and $100 billion

        - Community bank holding companies (community BHCs) – BHCs of $10 billion or less
    - SR 08-9 defines regional BHCs as non-LCBO BHCs with $10 billion or more in total consolidated assets. It appears that the $10 billion to $100 billion range comes from SR 19-4: Supervisory Rating System for Holding Companies with Total Consolidated Assets Less Than $100 billion.
    - $10 billion threshold for regional BHCs may have originated in 2008.
    - Prior to 2008, it appears that community BHCs were considered to be up to $5 billion, based on SR 02-1: Revisions to Bank Holding Company Supervision Procedures for Organizations with Total Consolidated Assets of $5 Billion or Less, which is now applied to BHCs up to $10 billion.
- The main components of the RBO program, that are more burdensome on RBOs are:
    - A Continuous Supervision Model – This model consists of:
        - Quarterly continuous monitoring, including quarterly uploads of extensive information for review, and regular meetings with management
        - Periodic targeted reviews of risk areas, functions or specific entities scheduled throughout the year
    - A heightened focus on the risk management program and practices, stressing formalization of governance, policies and procedures
    - A heightened focus on the internal control and internal audit function
    - Application of the Three Lines of Defense Model, for which there is no basis in Federal Reserve guidance

Guidance for Banking Organizations Over $10 Billion

- Other guidance specifically applied to banking organizations over $10 billion seems to be based upon the threshold set under the RBO program. While guidance is supposed to be applied based upon the size, complexity and risk profile of the individual institution, since the range of RBOs extends up to $100 billion, there is a tendency to apply it to the same extent for both smaller and larger organizations. Below is a listing of such other guidance.
    - SR 12-7: Supervisory Guidance on Stress Testing for Banking Organizations with More Than $10 Billion in Total Consolidated Assets
        - This guidance states "For purposes of the guidance, "stress testing" refers to exercises used to conduct a forward-looking assessment of the potential impact of various adverse events and circumstances on a banking organization. An effective stress testing framework provides a comprehensive, integrated, and forward-looking set of activities for a banking organization to employ in order to assist in the identification and measurement of its material risks and vulnerabilities. Material risks and vulnerabilities may manifest themselves during stressful economic or financial environments or arise from firm-specific adverse events. A banking organization should develop and implement its stress testing framework in a manner commensurate with its size, complexity, business activities, and overall risk profile."
        - Common areas for which stress testing is expected are: capital, liquidity, market and interest rate risk, credit losses.

    - The guidance also describes several approaches and applications that banking organizations should consider using, such as scenario analysis, sensitivity analysis, enterprise-wide stress testing, and reverse stress testing.
    - Stress testing is also expected to be performed to support all areas of risk management.
    - The application of this guidance can be very complex, time consuming, and burdensome.
    - This guidance does refer to The Dodd-Frank Wall Street Reform and Consumer Protection Act that originally required financial organizations with more than $10 billion in total consolidated assets to conduct a stress test at least annually, but that threshold was subsequently raised to $100 billion or more.
  - SR 13-1: Supplemental Policy Statement on the Internal Audit Function and Its Outsourcing
    - This guidance applies to supervised institutions with greater than $10 billion in total consolidated assets.
    - The guidance addresses the following:
      - Enhanced Internal Audit Practices – discusses the enhancements that an institution should incorporate into its internal audit function to address lessons learned from the recent financial crisis.
      - Internal Audit Function – addresses the characteristics, governance, and operational effectiveness of an institution's internal audit function.
      - Internal Audit Outsourcing Arrangements – covers the responsibilities of an institution's board of directors and senior management to provide appropriate oversight of internal audit outsourcing arrangements.
      - Independence Guidance for the Independent Public Accountant – addresses certain changes to Section 36 of the FDI Act enacted since the issuance of the 2003 interagency guidance. Further, the supplemental guidance discusses the restrictions on the services of an institution's external auditor.
      - Examination Guidance – discusses the supervisory assessment of an institution's internal audit function and the ability of examiners to rely on work performed by internal audit.
    - The application of this guidance requires much more formalization, documentation, assessment and oversight of the internal audit function, which is very time consuming and burdensome.
  - SR 14-4: Examiner Loan Sampling Requirements for State Member Bank and Credit Extending Nonbank Subsidiaries of Bank Holding Companies in the Regional Banking Organization Supervisory Portfolio
    - This guidance requires Reserve Banks to conducting at least two loan quality reviews during the annual supervisory cycle of state member banks with greater than or equal to $10 billion and less than $100 billion in total consolidated assets.

    - At a minimum, loans selected for review from commercial loan segments should represent 10 percent of the committed dollar amount of credit exposure within the loan segment.
    - There is no minimum coverage expectation for retail portfolios or segments.
    - The additional target loan quality review during the year adds to the burden of regulatory examinations, which require planning, preparation, providing significant amounts of information and files, many discussions, and responses to findings.
- SR 16-11: Supervisory Guidance for Assessing Risk Management at Supervised Institutions with Total Consolidated Assets Less than $100 Billion
    - This supervisory guidance is used by Federal Reserve examiners and supervisory staff in assessing risk management at financial institutions supervised by the Federal Reserve with total consolidated assets of less than $100 billion.
    - While the guidance does not exempt community banking organizations, it describes that:
        - For a small community banking organization engaged solely in traditional banking activities, relatively basic risk management systems may be adequate.
        - The risk management processes of a RBO should typically contain detailed guidelines that set specific prudent limits on the principal types of risks, and more sophisticated information systems to support the management of risks that present a consolidated and integrated view of risks. Also, the information systems at a larger institution will require frequent monitoring and testing by independent control areas and by both internal and external auditors, to ensure the integrity of the information and compliance with policies and limits. Therefore, an institution's risk oversight function needs to be sufficiently independent of the business lines to achieve an adequate separation of duties and the avoidance of conflicts of interest (referring to the Three Lines of Defense Model).
    - The significantly higher expectations for RBOs require a material amount of additional time, resources, and cost for organizations going over the $10 billion threshold. Again, these expectations and requirements are applied somewhat consistently to all organizations within the $10 billion to $100 billion range.
- SR 19-4 / CA 19-3: Supervisory Rating System for Holding Companies with Total Consolidated Assets Less Than $100 billion
    - This guidance requires inspections and ratings of BHCs with total consolidated assets between $10 billion and $100 billion on at least an annual basis and more frequently as warranted.
    - The scope and frequency of inspections of a BHC with total consolidated assets of $10 billion or less is dependent on a number of factors such as the asset size, rating and examination cycle of the holding company's subsidiary depository institution, and the complexity of the holding company.

Application of Other Guidance

- While other guidance may not specifically apply to banking organizations over $10 billion, all guidance is applied at a much more rigorous level for RBOs. Examples of some that we are being required to comply with at a much higher level are:
    - SR 09-4: Applying Supervisory Guidance and Regulations on the Payment of Dividends, Stock Redemptions, and Stock Repurchases at Bank Holding Companies
    - SR 10-1: Interagency Advisory on Interest Rate Risk
    - SR 10-6: Interagency Policy Statement on Funding and Liquidity Risk Management
    - SR 11-7: Guidance on Model Risk Management
    - SR 23-4: Interagency Guidance on Third-Party Relationships: Risk Management