



**International Bancshares
Corporation**

April 30, 2021

Via the Commission's Internet Comment Form:
www.sec.gov/rules/submitcomments.htm

To: Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

**Re: Release No. 34-91603, File Number S7-24-16, Reopening of Comment Period
for Universal Proxy**

Dear Secretary Countryman:

The following comments are submitted by International Bancshares Corporation ("IBC"), a publicly-traded, multi-bank financial holding company headquartered in Laredo, Texas. IBC maintains 187 facilities and 284 ATMs, serving 88 communities in Texas and Oklahoma through five separately state-chartered banks ("IBC Banks") ranging in size from approximately \$400 million to \$10 billion, with consolidated assets totaling approximately \$14 billion. IBC is one of the largest independent commercial bank holding companies headquartered in Texas.

This letter responds to the request by the Securities and Exchange Commission (the "SEC") for comment on proposed amendments to federal proxy rules and Section 14A of the Securities and Exchange Act of 1984, to require the use of universal proxies in all non-exempt solicitations in connection with contested elections of directors. The proposed rule amendment also seeks to: (1) revise the consent requirement of a bona fide director nominee, (2) eliminate the short slate rule, (3) prescribe certain filing, notice, and solicitation requirements of registrants and dissidents when using universal proxy cards, and (4) prescribe formatting for universal proxy cards.

For decades, the SEC has made decisions to keep the scale of power between public companies and their investors rather balanced, never giving too much power to either party—until now. The proposed amendments serve no long-term benefit to either public companies or their shareholders, employees, or customers, as they simply encourage contested proxies that will strain company resources. The parties who stand to benefit most from the proposed rule changes are the dissident activists, whom often times have

no long-term investment in the longevity of the company. IBC appreciates the work of the SEC and the opportunity to highlight areas of concern.

I. Response to Proposed Rule to Require Universal Proxies.

The requirement of universal proxies will increase—possibly even encourage—proxy fights. Under the current proxy rules, a shareholder voting by proxy has to vote for either the company’s nominees or the dissident’s nominees. The shareholder cannot pick and choose from a combination of the company’s nominees and the dissident’s. However, voting by proxy is not a shareholder’s only voting option. A shareholder who longs to split its vote between the company’s nominees and the dissident’s nominees can do so by attending the shareholder meeting and voting—in person. The current system has successfully supported numerous efficient director elections and proxy contests. Why fix what is not broken?

Further, as it stands today, dissidents already have access to the company’s proxy card by way of proxy access. Proxy access permits qualifying shareholders to nominate a certain number of directors determined by a specified bylaw. Typically, shareholders must meet a certain holding requirement to qualify. The qualifying requirement is a protective mechanism, as it provides access to only those shareholders who have demonstrated a significant investment in the company’s longevity. The proposed amendments do not provide a protective mechanism, and will likely circumvent proxy access. Dissident activists will not have to satisfy a holding requirement and there is no limit on the number of directors they could nominate. This will create more pressure on companies to settle with dissidents to avoid the risk of loss of proxy contests and higher turnover of existing directors, leading to greater board instability. Companies will have to shift focus to a more short term strategy to appease dissidents rather than focusing on the more important task of actually overseeing the company’s long-term growth. The very group the amendments are attempting to empower will likely be the same group that suffers—in the long run.

Boards of directors owe a fiduciary duty to shareholders. They are bound by and are held accountable by the company’s charter, bylaws, and governance policies. Every decision by the board is supposed to be made in the company’s best interest, and, therefore, in the shareholders’ best interests. Nominations must be made that align with the company’s goals and agendas. The universal proxy system empowers dissidents that do not share the same fiduciary duties and who cannot be held accountable by other shareholders to nominate directors who align with their own personal agendas without any regard for the company’s long-term health or the shareholders’ broader interests. They have no reason to act in the company’s or its shareholders’ best interests. Yet, they will have the same access to and opportunity to influence shareholders as management. To prevent this from happening, companies will have to expend greater resources to ensure the election of their nominated directors or to settle with dissidents. This will take resources away from the management and oversight of company business. This is unsustainable.

Intentional thought and planning goes into board nominations. It is more than finding qualified individuals, rather its finding qualified individual who work well together. The election process will likely shift from the fundamental shareholder-oriented judgment about support-for-the-board versus need-for-change, to a more personal kind of judgment about each individual director nominee's qualification for office. With universal proxies, there is an increased risk shareholders will become consumed with comparing one nominee's individual characteristics to the other without considering the more broad needs of the board and company. This risk is decreased significantly when voting in person, because information about the entire board, the company's future plans and current needs, and other decisions is more readily available and provided prior to voting. Shareholders voting in person are likely to be more informed, putting them in a better position to pick-and-choose a combination of directors.

Finally, the proposed amendment seeks to shorten the notice requirement for a dissident to notify the company of its nominees from not later than the close of business on the 90th day prior to the anniversary of the prior year's annual meeting to a mere and unreasonable 60 days. The extended notice is meant to afford the board of directors sufficient time to evaluate the nominees and discover any potential conflicts of interests or concerns. Again, directors owe a fiduciary duty to the shareholders, which includes evaluating the nominees and providing them with accurate information to aid them in their decision. The reduced notification period puts a strain on this ability.

In short, there is no reason to discard a process that has successfully protected and balanced the interests of public companies and shareholders for so long. The Commission should not entertain such a drastic change in policy that would encourage proxy fights, confuse shareholders, empower parties to directly affect shareholders without owing a fiduciary duty to them, and force companies to shift their focus and resources away from company oversight, management, and long-term success and toward annual proxy fights or negotiations for settlements to appease dissidents.

Thank you for this opportunity to share our concerns.

Respectfully,



Dennis E. Nixon
President

International Bancshares Corporation