



Banking Failures Raise Access and Long-Term Regulatory Questions

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As soon as news broke of the impending closure of Silicon Valley Bank and collapse of Signature Bank, businesses were most concerned whether deposited funds would be safe over the \$250,000 FDIC insurance cap and if they would have access to lines of credit and treasury management services.

The failures had an immediate ripple effect on operations, credit access, and payroll, while raising long-term financial and regulatory questions for the banking sector and federal agencies.

FDIC Steps In

The Federal Deposit Insurance Corporation transferred substantially all assets of Silicon Valley Bank and Signature Bank to newly created banks to protect all depositors of the failed banks.

Unlike a traditional FDIC receivership where only insured deposits below the FDIC cap are transferred to an FDIC interim bank, these specially formed bridge banks will be full-service banks operated by the FDIC with the intention of allowing depositors to continue their businesses as usual for the time being.

The situation is rapidly evolving for other treasury management services, leaving many complex cash flow concerns currently unresolved. The FDIC has signaled its intention to attempt to stabilize as many operations as possible.

The Federal Reserve also announced that funding will be made available to eligible depository institutions through the creation of a new Bank Term Funding Program to avoid potential liquidity issues related to customer demands for their deposits.

While these most recent measures provide some level of comfort, there are still many concerns regarding current business and/or banking operations and relationships.

Access to Deposits, Lines of Credit

Although the FDIC announced that depositors of the failed banks will have full access to their money by ATM, debit cards, and writing checks in the same manner as before the closures, it remains to be seen whether the FDIC will impose any limitations or qualifications on withdrawals of uninsured funds, or take any other measures to curb customer demands and stabilize operations.

No specific instructions or guidelines have been announced with respect to customers' rights to draw on lines of credit and revolving credit facilities previously issued by the failed banks, or with respect to funds being held in escrow by the failed banks.

Cash Flow Disruption

Uncertainty lingers related to access to funds, leaving many customers of the failed banks concerned about their ability to meet short- and long-term employment needs, satisfy payroll obligations, and pay other operating expenses, even though the bridge banks are working to assure there will be limited disruptions to business as usual.

Lender and Agent Credit Facilities

The FDIC announced that loan customers should continue making payments on loans previously issued by the failed banks as usual.

Loan customers are concerned that their existing loans may be transferred, called, or otherwise modified in connection with the ultimate resolution of the failed banks. Customers with loans in process at the time of the closures are unsure about whether prior lending commitments will be honored.

Securities Disclosure Requirements

Customers of the failed banks are concerned about what obligations they have to their stakeholders, including shareholders, investors, and other third parties, in relation to disclosing any current or prior relationships with or transactions involving the

failed banks.

Liquidity and Other Loan Obligations

Customers of the failed banks are worried about defaulting on liquidity requirements and other loan obligations to the extent they are no longer entitled to rely on lines of credit or revolving credit facilities previously issued by the failed banks to satisfy the same.

To the extent the failed banks were acting as the cash management bank and/or clearing bank on other loan transactions, borrowers and lenders are still navigating questions and concerns related to the current secured status of such accounts, where future deposits should be routed, and if they will be able to find replacement banks to serve in such capacity if necessary.

In addition to addressing these issues, many downstream effects are likely to arise as this situation continues to evolve. Businesses should take a proactive approach to minimize operational disruptions and market risks, and in the long term, analyze whether their current bank accounts are maintained to minimize risk of loss.

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