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UPDATE: Impact of Recent Bank Failures on Borrowers, Landlords, and Other Stakeholders

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By Kyle Recker

Additional developments relating to the Silicon Valley Bank and Signature Bank failures have occurred, and the situation continues to evolve. Upon the closure of Silicon Valley Bank the FDIC initially created the Deposit Insurance National Bank of Santa Clara, into which it immediately transferred all insured deposits. The FDIC has subsequently established Silicon Valley Bridge Bank, N.A. (SVBB), a temporary national bank that will continue operations as a full-service bank. This is the same form of bridge bank that the FDIC utilized at the outset for Signature Bank when it formed Signature Bridge Bank N.A. (SBB). The FDIC has now transferred all insured and uninsured deposits at Silicon Valley Bank, as well as substantially all of the bank's other assets and obligations, to SVBB.

Both SVBB and SBB are continuing to perform their obligations under all contracts, which are backed by the FDIC and the full faith and credit of the United States, and all counterparties are likewise expected to continue fulfilling their contractual obligations to each bank.[1] Earlier this week, the FDIC appointed Tim Mayopoulos as CEO of SVBB. Mr. Mayopoulos subsequently released a statement assuring customers that the bank is open for business, opening new accounts, making new loans, and fully honoring existing credit facilities.[2] A statement on the Signature Bank website also states that SBB is still "providing a full suite of loan, deposit, and banking services."[3]

At this time, it seems that the FDIC's strategy is to keep operations at both banks as intact as possible so that the banks can either be recapitalized or sold whole. During a call with Silicon Valley Bank clients on Wednesday, Mr. Mayopoulos reportedly implored them to move deposits to SVBB, and indicated that if they keep their deposits with other institutions then "that clearly limits the range of options."[4] If a recapitalization or sale does not materialize with respect to either bank, liquidation remains a possibility. As covered in our previous alert, the FDIC retains the authority to halt lending operations and repudiate contracts and leases, as it determines to be in the best interests of the receivership, and may dispose of the bank's assets in a piecemeal fashion. Those with ties to either bank should continue to monitor the situation.

Also on the horizon is a potential bankruptcy or other liquidation or restructuring event for Silicon Valley Bank's parent company, SVB Financial Group, in which the parent company's non-bank businesses and assets may be sold or otherwise administered.

For questions regarding any potential claims, or assistance evaluating existing credit facilities, leases, and other contracts to determine whether any actions may be appropriate in connection with recent events, please contact Kyle Recker, krecker@coblentzlaw.com, or another member of the Coblentz team.

[1] See FDIC Financial Institutions Letter FIL-10-2023.
[2] A copy of this statement is available here.
[3] See https://www.signatureny.com/home.
[4] See this article at CNBC.

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