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Legal Sidebar

The Role of Bridge Banks in FDIC Receiverships

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The collapses of Silicon Valley Bank (SVB) and Signature Bank (Signature) bring to the fore the function of the Federal Deposit Insurance Corporation (FDIC) in winding down a failed financial institution. As part of the process of taking over SVB and Signature, the FDIC created bridge banks for both entities. A bridge bank is a chartered national bank, supervised by the FDIC, which serves customers while the FDIC either obtains buyers for the failed banks or proceeds to liquidate them.

This Legal Sidebar summarizes the legal history of FDIC bridge banks. It also describes how bridge banks operate under current law and discusses considerations facing Congress if it seeks to amend the laws underlying the bridge brank process.

Legal Authority for Bridge Banks

A bridge bank is a temporary national bank chartered by the Office of the Comptroller of the Currency, the same entity that charters traditional national banks. A charter is a business license for banks and similar entities. This CRS Report explains charters in greater detail.

Congress authorized the FDIC to create bridge banks when it passed the Competitive Equality Banking Act of 1987. That statute allowed the FDIC to create bridge banks as a matter of the agency's discretion, a provision that remains in effect today. Congress later extended the applicability of bridge banks to savings institutions with the Housing and Economic Recovery Act of 2008.

The FDIC's governing statute, Federal Deposit Insurance Act (FDI Act), contains the relevant provisions for bridge banks. While the FDI Act mainly refers to bridge banks as "bridge depository institutions," this Sidebar adopts the more colloquial and widely used "bridge bank."

Bridge Banks Today

A primary feature of a bridge bank is that it allows the FDIC to take over a failed bank and maintain operations. For instance, the FDIC transferred nearly all of SVB's assets to bridge bank Silicon Valley Bridge Bank, N.A. It did the same for Signature when it created Signature Bridge Bank, N.A. As announced by the FDIC, these bridge banks are performing under their respective failed banks' contracts,

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and the banks' vendors and counterparties must continue to perform under their contracts with the banks. The banks' customers have been informed that the bridge banks are open and operating.

Another feature of a bridge bank is its temporary nature. A bridge bank's charter terminates on the earlier of two events. The first event is the passage of two years after the formation of the bridge bank. The second event is the sale of the stock of a bridge bank to another entity, or the assumption of substantially all the deposits and other liabilities of the bridge bank by another, non-bridge bank. Alternatively, the FDI Act authorizes the FDIC to extend a bridge bank's status for three additional one-year periods.

When deciding whether to organize a bridge bank, the FDIC must consider costs to the deposit insurance fund (DIF), the entity through which it guarantees repayment of deposits. By the FDI Act, the FDIC must evaluate all bank resolution alternatives and choose the one that is least costly to the DIF.

From the FDIC's perspective, the creation of a bridge bank results in the agency's taking on two functions, one as the receiver of a failed bank, and another as the supervisor of the bridge bank. This "duality of roles" theoretically places the FDIC into conflict with itself; for example, the FDIC in supervising a bridge bank lacks the flexibility that it has as a receiver to prevent a party from exercising its contractual rights. In any event, the receivership and the bridge bank must maintain a separate-but-close-working relationship.

Considerations for Congress

Should Congress desire to alter the way the government creates and administers bridge banks, it would have to amend the FDI Act, codified at 12 U.S.C. § 1821. That statute sets forth the law governing the FDIC's authority to administer bridge banks as well as the agency's ability to promulgate rules and regulations concerning its conduct as a conservator or receiver. Also of note to Congress, the FDI Act contains a provision expressly declaring congressional intent that the FDIC continue to honor commitments made by failed depository institutions and to maintain adequately secured loans. Should legislative intent change in this regard, Congress could consider changing that language.

Another potential option for Congress is amending 12 U.S.C. § 1823, which imposes the least-cost-resolution requirement on the FDIC. Congress could either change that statute or direct the FDIC to alter its own its own regulation concerning least-cost resolutions. The FDIC could also act on its own accord, pursuant to its authority to promulgate rules.

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