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INSIGHT

Silicon Valley Bank, Signature Bank, and P.L. 115-174: Part 1 (Background and Policy Options)

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The recent failure of two large banks, Silicon Valley Bank (SVB) and Signature Bank, has raised questions about changes to large bank enhanced prudential regulation (EPR) made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (P.L. 115-174). This Insight provides background on EPR and the changes made in P.L. 115-174. [Part 2] discusses how EPR applied to SVB and Signature. For background on their failures, see CRS Insight IN12125, *Silicon Valley Bank and Signature Bank Failures*.

Enhanced Prudential Regulation

The 2008 financial crisis worsened when a few large financial institutions experienced financial difficulties that led to their failure or government assistance to prevent their failure. Following the crisis, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank; P.L. 111-203) automatically subjected all bank holding companies (BHCs) and foreign banks with more than $50 billion in assets to EPR administered by the Federal Reserve (Fed). (Nonbank financial firms designated by the Financial Stability Oversight Council as systemically important are also subject to EPR. There are currently zero such designated firms.) Dodd-Frank allowed the Fed to tailor EPR requirements based on the riskiness, complexity, or size of the bank.

In addition, Basel III (a nonbinding international agreement that U.S. banking regulators implemented through rulemaking after the financial crisis) included several capital requirements that apply only to large banks.

In 2018, Section 401 of P.L. 115-174 eliminated most EPR requirements for banks with assets between $50 billion and $100 billion. Banks that have been designated as Global-Systemically Important Banks (G-SIBs) by the Financial Stability Board (an international, intergovernmental forum) or have more than $250 billion in assets automatically remained subject to all EPR requirements, as modified. P.L. 115-174 made the tailoring of EPR mandatory to reflect differences among BHCs and gave the Fed discretion to apply most individual EPR provisions to banks with between $100 billion and $250 billion in assets on a case-by-case basis only if it would promote financial stability or the institution's safety and soundness.

P.L. 115-174 also made changes to specific enhanced prudential requirements. Section 401:

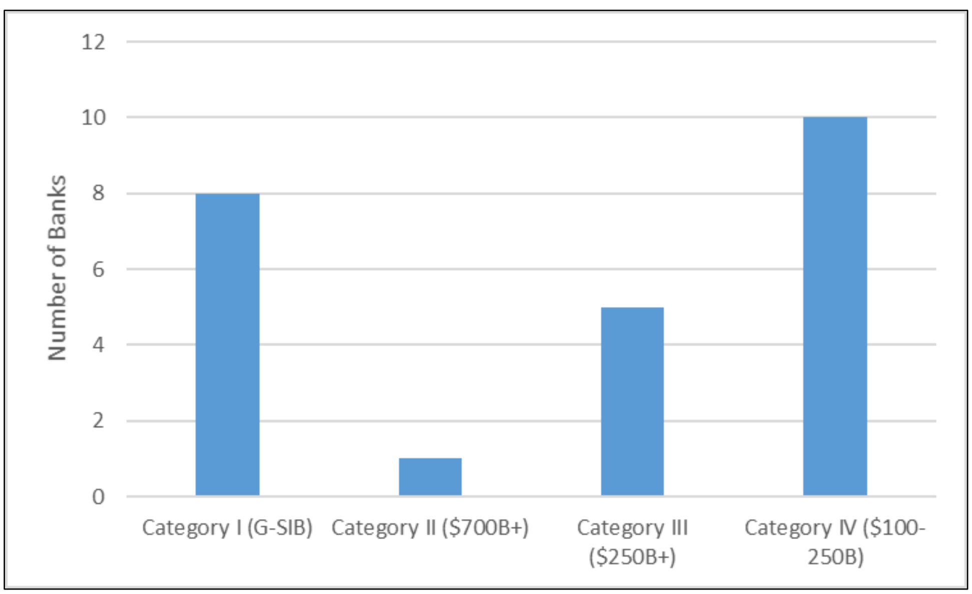
- gave regulators the discretion to reduce the number of scenarios used in stress tests,
- gave regulators the discretion to reduce the frequency of Fed-run stress tests for banks with $100-250 billion and company-run stress tests,
- increased the asset thresholds for mandatory company-run stress tests from $10 billion to $250 billion and for a mandatory risk committee at publicly traded banks from $10 billion to $50 billion, and
- made the implementation of credit exposure report requirements discretionary for the Fed instead of mandatory. (To date, the Fed has not finalized a rule implementing credit exposure reports.)

In 2019, the Fed implemented changes required by P.L. 115-174 through rulemaking that placed large banks in one of four categories based on their size and complexity and imposed progressively more stringent requirements upon them. This rule also subjected thrift holding companies to EPR if they are not substantially engaged in insurance. In addition, some requirements apply at both the holding company level and the depository subsidiary level. The latter were administered in some cases by the primary federal regulator, which might be the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation.

Category I banks are subject to the most stringent requirements, and Category IV banks are subject to the least. Both the Dodd-Frank and Basel III requirements are based on these categories, and some requirements are derived from both. The Fed had already tailored some EPR requirements before the enactment of P.L. 115-174. Pursuant to P.L. 115-174, the Fed chose to exempt Category IV banks from some EPR requirements and subject them to less stringent versions of other requirements. **Figure 1** shows the number of U.S. BHCs subject to EPR by category.

Figure 1. U.S. BHCs Subject to EPR

2022



Source: Federal Reserve.

Note: A bank over a certain asset size is in the category noted in the figure unless it is in a higher category based on other specified measures of complexity.

The Fed has also heightened supervisory standards for Large Banking Organizations (LBOs) with over $100 billion that it regulates, such as SVB. The most stringent supervisory standards are applied only to G-SIBs, however.

A description of which EPR requirements apply to each category of large banks can be found in Table 3 of CRS Report R46779, *Over the Line: Asset Thresholds in Bank Regulation*. For background, see CRS Report R45711, *Enhanced Prudential Regulation of Large Banks*.

Policy Options

In light of recent large bank failures, among the measures Congress could consider changing would be:

- the asset threshold for banks to be subject to automatic or discretionary EPR from $250 billion or $100 billion in assets, respectively;
- which EPR requirements should be mandatory or discretionary; or
- what types of firms should be subject to EPR (e.g., banks without holding companies).

Alternatively, where permitted, the Fed could use its discretion under existing law to increase or relax current EPR requirements or add new ones.

Finally, Congress or the Fed could consider whether supervisory changes are needed to better monitor safety and soundness at large banks or to ensure that concerns are rectified in a timely fashion. The Fed reported that less than half of LBOs had satisfactory supervisory ratings across all three components (capital, liquidity, and governance and controls) in 2022.

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