Fisher Broyles

CLIENT ALERT
March 11, 2022

Client Alert- Silicon Valley Bank Insolvency

For those clients with deposit or loan relationships with Silicon Valley Bank ("**SVB**"), here is a quick summary regarding what to expect in the next few weeks. We expect to follow up on this update next week, as this very fast-moving situation develops.

Status: After the announcement of a special equity raise to shore up its capital base, the freefall in stock value, the mass withdrawals that began immediately afterward, and the fire sale of various fixed assets to pay the departing depositors (which accelerated the downward spiral in a matter of hours), the California banking regulator stepped in to close SVB for regular business. On Friday, the FDIC was appointed receiver for the assets of SVB and to arrange its orderly liquidation.

Impact on Deposit Holders:

Accounts under the FDIC Insurance Limit. All deposit holders with accounts less than the FDIC-guaranteed amount of $250,000 (which covers businesses and individuals; the "**Insured Amount**") will have access to that money beginning Monday. For purposes of calculating the Insured Amount that each depositor is entitled to receive, all uniquely titled accounts are eligible for this FDIC insurance. For example, if X holds one account in its own name, and at the same time X holds a joint account with Y, X will benefit from the FDIC insurance on both accounts. (Of course, X must share with Y the Insured Amount paid in respect of the joint account).

Accounts over the Insured Amount. All deposit holders with account values in excess of the Insured Amount will have three separate categories of restitution. First, they are entitled to the $250,000 limit effective Monday, as stated above. Second, once the FDIC has a chance to do its review of the assets and liabilities of SVB, it may declare a special dividend (the "**Dividend**") consisting of all available liquid assets the FDIC can get access to and distribute. This Dividend amount and the timing of the payment are presently unknown. Third, the FDIC will issue a Receiver's Certificate (a "**Certificate**") with respect to any deposit amounts in excess of the Insured Amount and the Dividend (the "**Certificate Amount**").

The Certificate Amount will be paid in due course as the orderly liquidation of SVB progresses. This will involve the sale of the loan and investment portfolios and the repayment of SVB's liabilities. It is projected to take 6-12 months at this point.

The good news here is that the loan portfolio of SVB exceeds the deposit obligations of SVB. So, even if the loan portfolio is sold at a discount, there should be enough proceeds to eventually satisfy all the Certificate Amounts that will be owing to depositors.

As one might expect, a secondary market for the Certificates may develop soon for those depositors in need of liquidity sooner rather than later. This market is likely to add a healthy discount to these Certificates, so it may not be the best option for a company to raise cash quickly. It may be better to seek alternative working capital lines of credit from third party lenders, as we expect they may well consider taking the Certificates as a form of collateral for secured loans. These lenders may give a loan-to-value on the Certificate amounts that are better than the sale price of the Certificates on the secondary market. Plus, it gives the company a new banking relationship to develop over time.

Impact on Borrowers under Credit Facilities:

The impact on borrowers of SVB with performing term loans in good standing is likely to be less than the impact on depositors. However, borrowers with revolving lines of credit or letters of credit may find that drawdowns may be delayed or otherwise negatively affected. Further, for SVB borrowers who are in the process of arranging new financings or refinancings with SVB, or those with refinancings with other lenders that are underway, as well as any amendments, restructurings or workouts that were in progress, the FDIC receivership of SVB is very likely to freeze those transactions until the FDIC reviews the loan portfolio.

This is an initial summary of where things stand now. Every client's situation is different and deserves its own analysis. The Banking and Financial Services Team at FisherBroyles is available to assist with any SVB-related questions.

For additional information, please contact any of the following: Stephen Di Cioccio at stephen.dicioccio@fisherbroyles.com **with any questions or more specific situations.**
