

Bank Failures: It's a Wonderful Life 2.0

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Last Friday, Silicon Valley Bank in California (SVB), a lender to some of the biggest names in the technology world, became the largest bank to fail since the 2008 financial crisis in the United States. SVB was shut down after depositors rushed to withdraw funds amid concerns about the bank's balance sheet. SVB's collapse alarmed customers at other banks, including clients with deposits exceeding the FDIC's \$250,000 deposit insurance limit, and raised concerns about possible runs at other financial institutions.

All deposit accounts at SVB will be guaranteed, according to a [joint statement](#) released by the Federal Reserve, the Department of the Treasury and the FDIC. Both insured and uninsured customers will be able to access all their deposits under the "systemic risk exception" invoked by regulators.

These recent events raise a critical question: How can customers with funds exceeding the FDIC's \$250,000 insurance limit protect themselves prior to a financial institution's collapse? Our clients have asked many questions regarding these developments. Here are some answers.

I. What is FDIC Deposit Insurance?

FDIC deposit insurance protects bank customers if an FDIC-insured depository institution fails. Bank customers do not need to purchase deposit insurance; it is automatic for any deposit account opened at an FDIC-insured bank.

Deposits are insured up to at least \$250,000 per depositor, per FDIC-insured bank, per ownership category. Deposits held in different ownership categories are separately insured, up to at least \$250,000, even if held at the same bank.

Some examples of FDIC ownership categories include single accounts, certain retirement accounts, employee benefit plan accounts, joint accounts, trust accounts, business accounts as well as government accounts.

On the other hand, all deposits an account holder has in the same ownership category at the same bank are added together and insured up to \$250,000. A common misconception held by many depositors is that using different deposit products increases deposit insurance coverage. That is an incorrect understanding. It is the ownership category in which the funds are held that determines the set of rules that will apply to a particular deposit.

Deposit insurance is calculated dollar-for-dollar, principal plus any interest accrued or due to the depositor, through the date of default. For example, if a customer had a certificate of deposit (CD) account in her name alone with a principal balance of \$195,000 and \$3,000 in accrued interest, the full \$198,000 would be insured. Additionally, the FDIC provides an [Electronic Deposit Insurance Estimator](#) tool to help consumers and banks calculate insurance coverage.

It is important to note that FDIC deposit insurance only covers certain deposit products, such as checking and savings accounts, money market deposit accounts (MMDAs), and CDs. Investment products that are not deposits, such as mutual funds, annuities, life insurance policies and stocks and bonds, are not covered by FDIC deposit insurance.

II. What is considered a Bank Failure?

A bank failure is the closing of a bank by a federal or state banking regulatory agency, generally resulting from a bank's inability to meet its obligations to depositors and others. In the event of a bank failure, the FDIC acts quickly to ensure depositors get prompt access to their insured deposits.

The FDIC acts in two capacities if a bank fails:

1. As the "Insurer" of the bank's deposits, the FDIC pays deposit insurance to the depositors up to the insurance limit.
2. As the "Receiver" of the failed bank, the FDIC assumes the task of collecting and selling the assets of the failed bank and settling its debts, including claims for deposits in excess of the insured limit.

III. How to Maximize FDIC Insurance Coverage

There are two common ways to maximize FDIC insurance. The first is to open accounts at different banks. The FDIC will insure both accounts. It's important to note, though, that different branches of the same bank are considered one bank.

Another way to maximize FDIC insurance is to have accounts at the same bank in different ownership categories. The ownership categories recognized by the FDIC are:

- **Single accounts:** Any account owned by one person only, including checking accounts, savings accounts, money market deposit accounts and CDs. This also includes business accounts in which one person is the sole proprietor.
- **Certain retirement accounts:** Covered retirement accounts include traditional IRAs, Roth IRAs, SIMPLE IRAs, SEP IRAs, self-directed 401(k)s, profit-sharing plans, self-directed Keogh plans and section 457 deferred compensation plans.
- **Joint accounts:** Accounts opened by multiple people, including spouses. The FDIC insures \$250,000 per person in joint accounts (for a total of \$500,000) and divides money equally among owners for this purpose.
- **Revocable trust accounts:** A deposit account that identifies one or more people as beneficiaries who will get the contents of the account when the owner dies.
- **Irrevocable trust accounts:** A deposit account established by a statute or written trust agreement in which the owner cedes power to change or cancel the trust.

- **Employee benefit accounts:** Deposits of a pension plan or other defined benefit plan that is not self-directed.
- **Corporation, partnership, or unincorporated association accounts:** Deposits owned by corporations, partnerships and unincorporated associations. This includes both for-profit and not-for-profit organizations.
- **Government accounts:** Deposits owned by federal, state or local government, or an Indian tribe.

If an individual has deposits exceeding the FDIC's limits, there are ways to close the coverage gap. Knowing all possible options for insuring excess deposits is essential when FDIC protection falls short.

IV. Conclusion

Recent events have prompted new questions about the level of protection for bank deposits that many consumers have not asked since the 2008 financial crisis. As a result, it is important to know which institutions are FDIC-insured and how to maximize coverage.

Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.

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