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July 11, 2023

James P. Sheesley
Assistant Executive Secretary
Attention: Comments/RIN 3064-AF93
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Via electronic delivery – comments@fdic.gov

Re: Special Assessments Pursuant to Systemic Risk Determination (RIN 3064-AF93)

Ladies and Gentlemen:

BOK Financial is a $46 billion full-service commercial banking organization with branches serving Oklahoma, Texas, New Mexico, Arizona, Colorado, Kansas, Missouri, and Arkansas. We appreciate the opportunity to provide comments on the Special Assessments Pursuant to Systemic Risk Determination. We believe this assessment can be implemented in a way that aligns with risks and benefits while also considering the non-level playing field generated by present circumstances as it relates to deposit insurance.

NPR Question #1 and Question #4

The assessment methodology within the notice of proposed rulemaking includes essentially one factor, which is represented by uninsured deposits. We agree that liquidity is one of the factors, and that uninsured deposits can be an effective metric to capture that factor, both as a cause of the failure, and as an identifier of which banks benefitted from the systemic risk determination. However, we recommend two additional factors be included in the methodology.

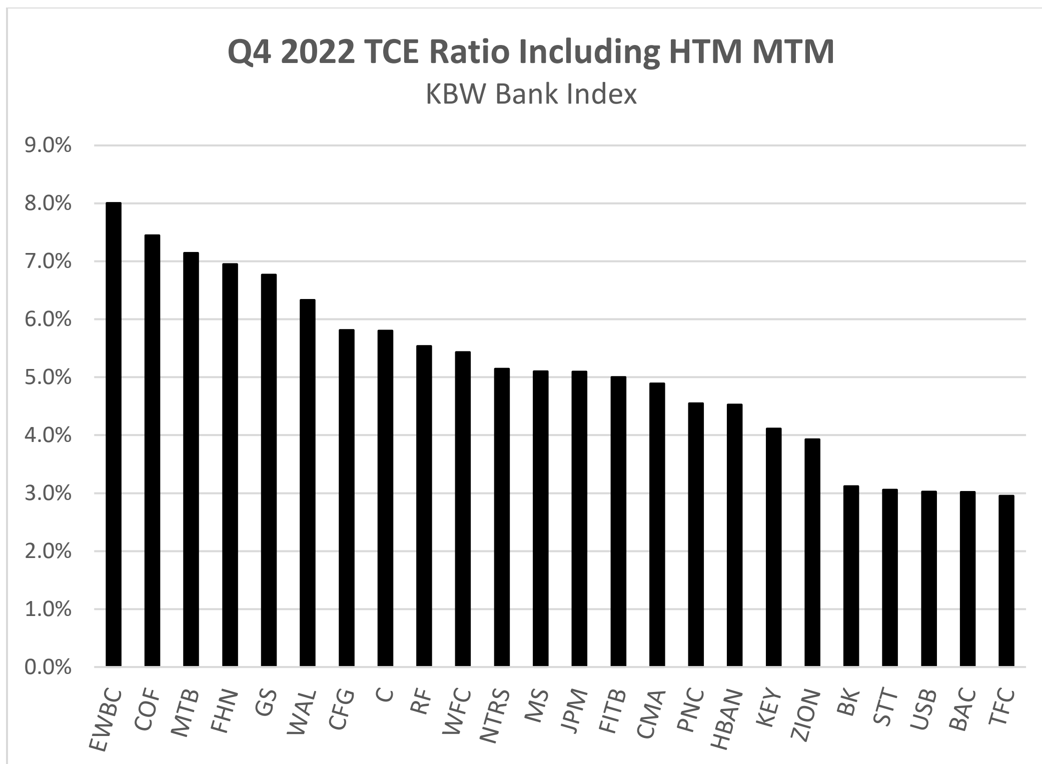
First Additional Factor

First, we recommend that interest rate risk and its impact on capital be included as a factor. There are three reasons.

1. Interest rate risk was a fundamental cause of Silicon Valley Bank's failure. Interest rate risk within the balance sheet and specifically within the securities portfolio caused the capital shortfall, which triggered the need to raise capital as announced on March 8, 2023. On March 9th, depositors and investors focused on Silicon Valley's Adjusted TCE ratio (defined in appendix A) of approximately zero percent because it highlighted the fundamental problem very clearly. High concentrations of very correlated uninsured deposits enabled the speed and scale of the subsequent deposit run. Michael Barr's April 28, 2023 102-page report on the failure of Silicon Valley Bank highlights the importance of this issue in many places of the report. Page three comments "These deposits were largely uninsured, and SVBFG invested them primarily in securities with longer-term maturities. In 2022, as interest rates began to rise, SVBFG saw deposit outflows and a rapid increase in unrealized losses on those securities. *SVBFG's rapid failure can*

be linked directly to its governance, liquidity, and interest rate risk-management deficiencies." (emphasis added) In other words, interest rate risk was the cause of the failure, uninsured deposits were the enabler of the failure. Martin J Gruenberg's June 22, 2023 remarks to the Peterson Institute further underscores the importance of interest rate risk and capital adequacy as fundamental drivers. Gruenberg said: "In this regard, it is worth noting that although Silicon Valley Bank's (SVB) failure was caused by a liquidity run, the loss of market confidence that precipitated the run was prompted by the sale of assets at a substantial loss that raised questions about the capital adequacy of the bank. Had the unrealized losses on available for sale securities on the balance sheet of SVB, that were realized once sold, been required to be recognized in capital, as the Basel III framework would do, it might have averted the loss of market confidence and the liquidity run. That is because there would have been more capital held against these assets. The lesson to take away is that banks in this size category can pose genuine financial stability risks and the federal banking agencies need to review carefully the supervision of these institutions, particularly for *interest rate risk in the current environment, and the prudential requirements that apply to them, including capital, liquidity, and loss absorbing resources for resolution*." (emphasis added)

2. <u>Interest rate risk defined which organizations benefitted from the systemic risk determination.</u> Interest rate risk made visible through the Adjusted TCE ratio is one of the two metrics the market became focused on as it looked for weakness throughout the banking sector beginning on March 10th. Banks with greater exposure to this visible weakness were ones which benefitted the most from the systemic risk determination. In the days following the failure of Silicon Valley Bank, market participants looked first to the interest rate risk metric of Adjusted TCE to determine which banks were subject to the fundamental risk issue of weakness in the capital base driven by interest rate risk. Within that subset, the market focused on banks with uninsured deposits which were greater than their available sources of liquidity. The banks that have benefited from the systemic risk determination are those with relatively lower Adjusted TCE ratios. Nationally Recognized Statistical Rating Organizations cited the combination of interest rate risk and uninsured deposits as joint issues as they assessed banks for downgrades. The following chart shows the Adjusted TCE ratios for banks in the KBW BKX Index using data as of December 31, 2022.



3. Incremental short-term profits were earned over the last couple years by those banks who took additional interest rate risk, compared to those banks who did not take those high levels of risk. This incremental profit was earned by purchasing longer-term fixed-rate assets, generally in the form of investment securities, and earning a higher yield on those assets due to the positively sloped yield curve which existed at the time. We believe it is very important that the banks who took the incremental risk and earned considerable incremental revenue over the last couple years as a result, and now benefit to a greater degree from the systemic risk determination, bear a greater share of the incremental FDIC special assessment. We believe this is actually a better factor to calibrate the assessment, since there is a clear line-of-sight to historical revenue increase from taking the interest rate risk that generated this problem. If interest rate risk is not included in the special assessment, those banks who did not take outsized interest rate risk and did not earn that extra risk related income would be double penalized. The moral to that story would not be desirable. We believe interest rate risk should be a significant factor in calibrating the special assessment, as it would address the externality resulting from the risk-taking behavior of selected institutions on the sector.

Adjusted TCE ratio

The metric used by the market to gain visibility into this issue of interest rate risk was adjusted TCE, measured at the consolidated level, not at the IDI level. This metric at the consolidated level is what depositors, investors, the media, and rating agencies looked at, and that is what defines the benefit at the entity level. Double leverage at the holding company can skew IDI versus consolidated company results. Duration of the combined AFS and HTM securities portfolio would be another way to assess relative benefit among banking organizations, however that data is not publicly available for all institutions, not contained within call reports, more difficult to capture on an apples-to-apples basis and as a result, that is not what was actually used by market participants.

See **Appendix A** for a calculation of the Adjusted TCE ratio, and an approach to apply the Adjusted TCE ratio and a scalar to incorporate this factor into the special assessment.

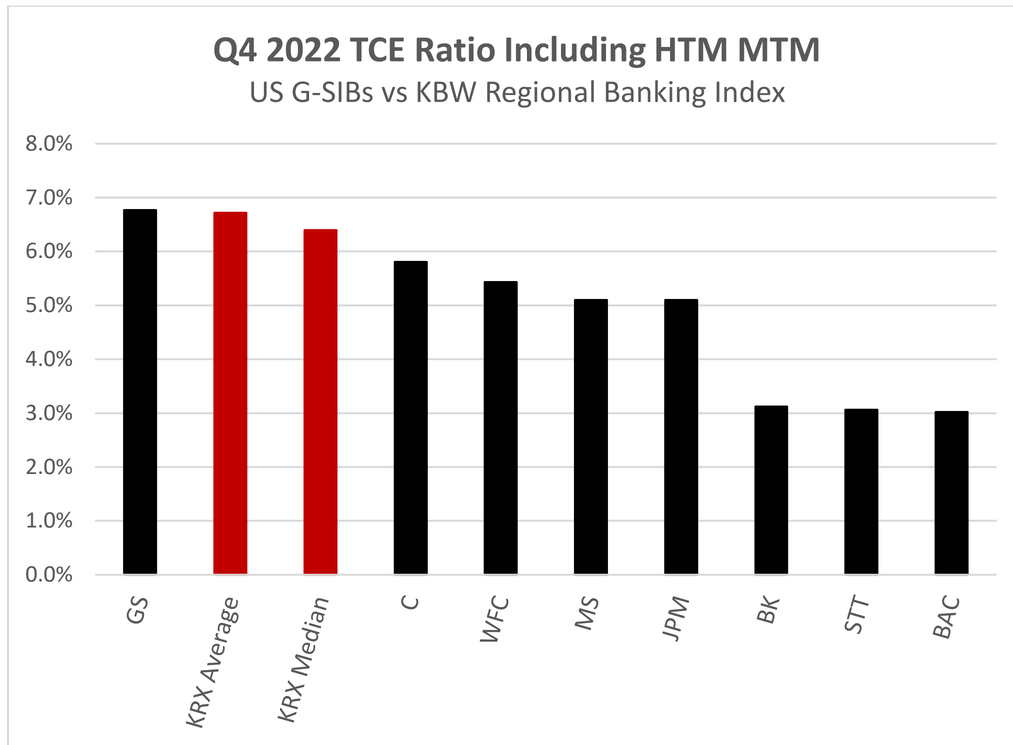
Second Additional Factor

We recommend the incorporation of a factor which relates to banks which are broadly perceived as too-big-to-fail. These banks benefitted from the systemic risk determination to a much greater degree than is reflected in the NPR. A CNBC.com article published March 16, 2023 begins with this key point: "Treasury Secretary Janet Yellen told senators that government refunds of uninsured deposits will not be extended to every bank that fails, only those that pose systemic risk to the financial system." When the formal declaration by Federal Regulatory Agencies, Treasury Secretary and President was made that systemic risks were present, the banks considered too-big-to-fail were the ones which benefitted by deposit inflows, and a reduced need to compete on price. In addition, these banks have been receiving the benefit of perceived unlimited deposit insurance for many years, at no incremental cost in the FDIC assessment formula.

The following highlight this issue very well

1. Depositors and investors became very focused on the Adjusted TCE ratio
2. Bank of America had a low Adjusted TCE ratio versus very large peer banks and low on an absolute basis (see chart below)
3. Despite having a low Adjusted TCE ratio, Bank of America appears to have grown deposits as a result of the events of mid-March, however this was based on their perception as being too-big-to-fail, not based on actually having a strong Adjusted TCE ratio
4. This was made visible in the attached Bloomberg and Marketwatch articles, but could be verified by the FDIC via confidential supervisory information
5. One of the US GSIBs commented on their April quarterly earnings conference that their estimate of Q1 2023 deposit inflow resulting from the SIVB failure was $50 billion.

The following chart shows the US GSIBs, as well as the median and mean of the KRX index of regional and midsized banks, and their Adjusted TCR ratios as of December 31, 2022.



The too-big-to-fail banks have benefitted for years from market perception of full deposit insurance, without actually paying for full deposit insurance, and now even more benefit was gained during this period of systemic risk. We believe this benefit should be factored into the special assessment calculation. This is an issue which has not been well addressed, and these circumstances present a rare opportunity to do so, at least in part.

We recommend using the entire deposit base, or alternatively entire assessment base, in place of the uninsured deposit amount for the GSIBs or for the top 4 banks. For the rest of the banks, continue to use uninsured deposits in the special assessment calculation. This significantly understates the benefit that the too-big-to-fail banks have had over time, however, it is an improvement over the currently proposed methodology.

See **Appendix A** for an example approach which would accomplish the objective of incorporating uninsured deposits, interest rate risk, and better aligns the costs between systemic and non-systemic banks.

NPR Question #3

As of December 31, 2022, all banks provided their estimation of uninsured deposits within their call reports. After March 10, 2023, deposit customers had the opportunity to move uninsured deposits into insured deposit products, such as reciprocal accounts, or into other banks. As a general rule, this occurred at higher levels for banks with perceived weaknesses relating to capital and liquidity. Using a date later than December 31, 2023 would have the impact of reducing the amount of the special assessment for those banks who most needed to benefit from the systemic risk determination. This effect can be somewhat large at the institution level and seems to conflict with the desire to align costs and benefits of the systemic risk determination. The degree to which using a later date increases the cost of the very largest banks versus the mid-sized banks as a whole, due to the

shift in uninsured deposits to the very largest banks, is also a factor, although perhaps not a very large one in the aggregate. The approach we describe above in response to Question #1 would capture the advantage conferred on the very largest banks much more effectively than moving the observation date forward.

NPR Question #5

We recommend that the amount of the deduction be increased to a higher level based on the following:

1. A past or potential future systemic risk determination relates to banks which pose systemic risk. The 2019 EGRRCPA implies that level to be in the $100 billion to $250 billion total assets range. Prior to March 13, 2023, reasonable market participants would certainly not have expected that threshold to be below $100 billion.
2. As of March 13, 2023, investors and depositors received reinforcement that the threshold for systemic is $100 billion in assets, as both failed banks were over $100 billion. Further subsequent commentary from sources such as the White House (the March 30, 2023 document "President Biden Urges Regulators to Reverse Trump Administration Weakening of Common-Sense Safeguards and Supervision for Large Regional Banks" cites $100 billion) and the Federal Reserve have further strengthened perception of a $100 billion systemic threshold.
3. The further below $100 billion a bank is, the less likely the market will perceive it as a bank whose uninsured deposits would be covered by the next usage of the systemic risk determination.
4. That benefit diminishes with size, and the $5 billion deduction is much too low, given the $100 billion total asset size threshold at which the benefit starts to tail off rapidly.

Therefore, we recommend that the FDIC increase the amount of the $5 billion deduction to better capture the reduction in benefit which occurs for banks below $100 billion in total assets.

NPR Question #7

We recommend the FDIC remove collateralized deposits from the uninsured deposit figure. Collateralized deposits are effectively insured due to the high-quality collateral required, and their behavior has little in common with uninsured deposits. Collateralized deposits are not equal to municipal deposits, although many municipal deposits are collateralized. For example, certain trust-related deposits have similar collateralization requirements. Collateralized deposits are not currently a reporting category in call reports or Y9-c reports and would need to be collected directly from the banking organizations.

We also recommend that intercompany deposits be removed from the calculation of uninsured deposits due to the stability of those deposits as a funding source.

I hope these comments prove to be useful. Please contact me if you have any follow-up questions.

Sincerely,

Martin Grunst
Executive Vice President
Chief Financial Officer

Appendix A

Adjusted TCE Ratio:

1. $TCE = Total\ Equity\ Capital - Intangible\ Assets + Mortgage\ Servicing\ Assets$
2. $Tax\ Adjusted\ HTM\ MTM = (HTM\ Fair\ Value - HTM\ Amortized\ Cost) * (1 - Effective\ Tax\ Rate)$
3. $Tangible\ Assets = Total\ Assets - Intangible\ Assets + Mortgage\ Servicing\ Assets$
4. $Adjusted\ TCE\ Ratio = \frac{TCE + Tax\ Adjusted\ HTM\ MTM}{Tangible\ Assets}$

Adjusted TCE Scalar:

$$Adjusted\ TCE\ Scalar_i = 2 - \frac{Adjusted\ TCE\ Ratio_i}{Adjusted\ TCE\ Ratio_m}$$

$Where$: $The\ Adjusted\ TCE\ Scalar\ is\ bounded\ between\ 0.5 - 1.50\ (i.e., it\ is\ floored\ and\ capped)$

$i\ represents\ a\ specific\ organization\ subject\ to\ the\ special\ assessment$

$Adjusted\ TCE\ Ratio_m =\ the\ median\ value\ for\ organizations\ subject\ to\ the\ special\ assessment$

Note: Including a floor and cap on the Adjusted TCE Scalar is necessary to control for outlier values and helps to mitigate "cliff effects."

Adjusted Annual Special Assessment Rate:

Adjusted $Annual\ Special\ Assessment\ Rate_i =\ Adjusted\ TCE\ Scalar_i * Annual\ Special\ Assessment\ Rate_b$

$Where$: $i\ represents\ a\ specific\ organization\ subject\ to\ the\ special\ assessment$

$Annual\ Special\ Assessment\ Rate_b = the\ baseline\ annual\ special\ assessment\ rate$

Estimated Impact:

Based upon our preliminary estimate, using the above formula would generate $15.8 billion by using a baseline annual special assessment rate of approximately 10.0 basis points. If the entire deposit base for the top 4 banks is used, then the baseline annual special assessment rate needed to generate $15.8 billion would be approximately 6.25 basis points.

Bloomberg

Wealth

BofA Gets More Than $15 Billion in Deposits After SVB Fails

- Customers seek safety in biggest banks seen as too big to fail
- US government unleashed measures to restore faith in banks

By
Sridhar Natarajan and Katherine Doherty
March 14, 2023 at 8:07 PM CDT Updated *on March 15, 2023 at 3:38 AM CDT*

Bank of America Corp. mopped up more than $15 billion in new deposits in a matter of days, emerging as one of the big winners after the collapse of three smaller banks dented confidence in the safety of regional lenders.

The inflows offer a first glimpse into the deluge of deposits that made its way to the country's largest banks as customers fearful of a spreading crisis sought refuge in the firms seen as too big to fail. The money flowing into the second-largest US bank was described by people with direct knowledge of the matter, who asked not to be identified as the information isn't public.

Silicon Valley Bank's seizure Friday, the biggest US bank failure since the financial crisis, was precipitated by fleeing depositors and sent shock waves across the global financial system. It also forced the Biden administration to put in place extraordinary new measures to fortify faith in the banking system. In the last week, crypto-focused bank Silvergate Capital Corp. closed shop and authorities shut down New York-based Signature Bank on Sunday.

A spokesperson for Bank of America declined to comment.

Other banks like JPMorgan Chase & Co., Citigroup Inc. and Wells Fargo & Co. also raked in billions in new deposits, though the figures have not been disclosed yet.

Wall Street banks saw a surge in deposits during the pandemic as customers and businesses stashed away cash from stimulus measures. As the pandemic receded, government assistance programs ran off and interest rates rose, the cash started heading out the door. At the end of last year, deposits at Bank of America were down $8 billion compared to the end of the third quarter.

The influx of deposits may, for now, temper a trend that investors have worried about for months: a slowdown in net interest income growth. The going fear was that the biggest US banks, facing a drop in deposits from customers hunting for higher yields, would finally have to pass along some of the benefits it was getting from Fed rate hikes onto savers.

That seems less necessary now as deposit balances once again begin to swell amid the collapse of SVB.

Moody's Move

Moody's Investors Service earlier this week cut its outlook for the US banking system to negative from stable, citing the run on deposits at Silvergate, SVB and Signature Bank. State Street Corp. Chief Executive Officer Ron O'Hanley called the decision a "terrible overreaction" in an interview with Bloomberg TV on Wednesday.
"There were a lot of unique circumstances around the banks in question — both on the asset and liabilities side," State Street Corp. Chief Executive Officer Ron O'Hanley said in an interview with Bloomberg TV on Wednesday. "I don't think it's helpful when rating agencies treat entire sectors the same way."

MarketWatch

It’s raining money on Bank of America. Inflows of over $15 billion reportedly seen amid SVB fallout

By Barbara Kollmeyer
Published: March 15, 2023 at 6:38 a.m. ET

Too-big-to-fail banks are benefiting from deposit outflows from regional banks

The closure of three U.S. banks in the space of a week has led to an influx of fresh cash for Wall Street’s biggest institutions, with Bank of America reportedly raking in over $15 billion in customer deposits recently.

The collapse of Silicon Valley Bank SIVB, Signature Bank and crypto-friendly lender Silvergate Bank has apparently rattled customers of many regional and smaller banks, driving them to seek perceived safety in the bigger banks.

For Bank of America BAC, 1.66%, that tsunami of money so far amounts to $15 billion, according to a Bloomberg report citing sources close to the matter that published Wednesday. A spokesman from the bank declined to comment to Bloomberg, and those shares were down 1.4% in premarket trading.

The report said other big banks such as Citigroup C, 1.08% and Wells Fargo WFC, 0.46% have also seen billions of new customer money, though those institutions have yet to divulge that information.

Separately, State Street Corp. Chief Executive Officer Ron O’Hanley told Bloomberg TV that Tuesday’s move by Moody’s Investors Service’s, which lowered its outlook on the U.S. banking system to negative from stable, was “a terrible overreaction.”

“There were a lot of unique circumstances around the banks in question—both on the asset and liabilities side,” O’Hanley said on Wednesday. “I don’t think it’s helpful when rating agencies treat entire sectors the same way.”

Meanwhile, shares of several regional banks showed signs of continuing Tuesday’s rebound on Wednesday, though most haven’t fully recovered from severe stress seen in recent days.

Shares of First Republic Bank FRC rose 5% in premarket trading on Wednesday, but remain 51% lower for the week as of Tuesday, according to FactSet. Zions Bancorp. ZION, 2.01% shares fell 6% ahead of the open and remain 22% lower this week. Western Alliance Bancorp WAL, 3.04% stock rose 6%, but are down 39% on the week.

Investors have been grappling to keep up with fast-paced events in the financial sector in recent days. Over the weekend, the U.S. government rolled out the new Bank Term Funding Program to shore up unsecured deposits as Signature Bank collapsed over the weekend just days after Silicon Valley Bank, a unit of SVB Financial SIVB, shut down after a rush of withdrawals.

Yellen says not all deposits safe in future bank failures

cnbc.com/2023/03/16/svb-signature-bank-failures-yellen-says-us-banking-system-is-stable-and-deposits-remain-safe.html
PUBLISHED THU, MAR 16 202311:00 AM EDTUPDATED SAT, MAR 18 202312:13 PM EDT

March 16, 2023

Christina Wilkie, Chelsey Cox

Key Points

- Treasury Secretary Janet Yellen told senators that government refunds of uninsured deposits will not be extended to every bank that fails, only those that pose systemic risk to the financial system.
- Yellen has been at the center of an emergency program to refund billions of dollars in uninsured deposits held by clients of the failed Silicon Valley Bank and the shuttered Signature Bank.
- But with markets recovering somewhat, lawmakers were concerned these backstops could become a new norm for big banks, giving “too big to fail” banks an unfair advantage over community lenders.

WASHINGTON — Treasury Secretary Janet Yellen sought to reassure markets and lawmakers on Thursday that the federal government is committed to protecting U.S. bank deposits following the failure of Silicon Valley Bank and Signature Bank over the weekend.

“Our banking system remains sound and Americans can feel confident that their deposits will be there when they need them,” Yellen said in testimony before the Senate Finance Committee.

Under questioning, however, Yellen admitted that not all depositors will be protected over the FDIC insurance limits of $250,000 per account as they did for customers of the two failed banks.

Yellen has been at the center of emergency federal efforts this past week to recover deposits for account holders at two failed banks, the California-based SVB and the crypto-heavy Signature Bank, based in New York.

A majority of SVB’s customers were small tech companies, venture capital firms and entrepreneurs who used the bank for day-to-day cash management to run their businesses. Those customers had $175 billion on deposit with tens of millions in individual accounts. That left SVB with one of the highest shares of uninsured deposits in the country when it collapsed, with 94% of its deposits landing above the FDIC’s $250,000 insurance limit, according to S&P Global Market Intelligence data from 2022.

U.S. bank regulators announced a plan Sunday to fully insure all deposits at the two failed banks, including those above the $250,000 limit covered by traditional FDIC insurance. The

additional protection will be paid for out of a special fund made up of fees levied on all FDIC-insured institutions.

In addition, the Federal Reserve loosened its borrowing guidelines for banks seeking short-term funding through its so-called discount window. It also set up a separate unlimited facility to offer one-year loans under looser terms than usual to shore up troubled banks facing a surge in cash withdrawals. Both programs are being paid for through industry fees, not by taxpayers, the Biden administration has emphasized.

Deposit stability is returning to small and regional banks: Deputy Treasury Secretary Wally Adeyemo

"This will help financial institutions meet the needs of all of their depositors," Yellen said. "This week's actions demonstrate our resolute commitment to ensure that depositors' savings remain safe."

Democrats and Republicans in Congress have largely supported the emergency actions taken in the past week. But with markets recovering somewhat, lawmakers Thursday questioned Yellen about whether backstops for big banks will become a new norm, and what that could mean for community lenders.

"I'm concerned about the precedent of guaranteeing all deposits and the market expectation moving forward," Sen. Mike Crapo, R-Idaho, the committee's ranking member, said in his opening remarks.

Republican Sen. James Lankford of Oklahoma pressed Yellen about how widely the uninsured deposit backstops will apply across the banking industry.

"Will the deposits in every community bank in Oklahoma, regardless of their size, be fully insured now?" asked Lankford. "Will they get the same treatment that SVB just got, or Signature Bank just got?"

Yellen acknowledged they would not.

Uninsured deposits, she said, would only be covered in the event that a "failure to protect uninsured depositors would create systemic risk and significant economic and financial consequences."

Lankford said the impact of this standard would be that small banks would be less appealing to depositors with more than $250,000, the current FDIC insurance threshold.

"I'm concerned you're ... encouraging anyone who has a large deposit at a community bank to say, 'We're not going to make you whole, but if you go to one of our preferred banks, we will make you whole.'"

"That's certainly not something that we're encouraging," Yellen replied.

Members of Congress are currently weighing a number of legislative proposals intended to prevent the next Silicon Valley Bank-type failure.

One of these is an increase in the $250,000 FDIC insurance limit, which several senior Democratic lawmakers have called for in the wake of SVB's collapse.

Following the 2008 financial crisis, Congress raised the FDIC limit from $100,000 to $250,000, and approved a plan under which big banks contribute more to the insurance fund than smaller lenders.