CADWALADER

Cabinet **News and Views**

Informed analysis for the financial services industry

Congressional Hearings Calling Federal Regulators to Task for Recent Bank Failures

By **Daniel Meade**
Partner | Financial Regulation

Both the Senate Banking Committee and House Financial Services Committee held hearings this week on the federal regulatory response to the failures of Silicon Valley Bank ("SVB") and Signature Bank. Witnesses at both hearings were Federal Reserve Board ("FRB") Vice Chair of Supervision Michael Barr, Federal Deposit Insurance Corporation ("FDIC") Chairman Martin Gruenberg, and Treasury Department Under Secretary for Domestic Finance Nellie Liang.

In Vice Chair Barr's testimony, he stated: "SVB's failure is a textbook case of mismanagement," noting poor interest rate risk management. However, he also noted that the Federal Reserve will be conducting a review on how appropriate the supervisory approach to SVB was and what lessons can be learned. In response to questions, Vice Chair Barr noted that he intends to conduct such review "humbly."

One striking thing to note, in both Vice Chair Barr's prepared testimony and during the questions from members of the respective committees, was the highly unusual inclusion of public discussion of confidential supervisory information ("CSI"). In his testimony, Vice Chair Barr noted some of the ratings of SVB and SVB Holdings, along with some supervisory findings, such as matters requiring attention ("MRAs"), and the fact that SVB Holdings was subject to an agreement under section 4(m) of the Bank Holding Company Act due to it being rated as not well managed. Regulators normally strictly guard CSI in similar fashion to how other parts of the government might guard classified information. However, one of the main reasons to keep CSI confidential is to prevent a bank run, and the thinking must have been that the reasons for keeping CSI related to SVB were now moot.

Chair Gruenberg's testimony was similar to Vice Chair Barr's in that he noted bank management failures, and that FDIC would be conducting a review of both banks, but noted FDIC was the primary Federal supervisor for Signature Bank. Chair

Gruenberg also provided some details on the resolutions and ultimate sale of a substantial portion of the assets and deposits of both banks to buyers.

Under Secretary Liang's testimony focused on the Department of Treasury's role in the systemic risk exceptions that enabled the FRB to invoke section 13(3) of the Bank Holding Company Act to provide the Bank Term Funding Program (which we discussed last week) and the FDIC to provide insurance for all deposits and establish bridge banks for SVB and Signature.

There were partisan themes to the questions the regulators received from the members of the respective committees. While there was at least some bipartisan agreement that management at the failed banks bear responsibility, Republicans did seem to want to pin at least equal responsibility on the regulators. Republicans also questioned the FDIC's bid process, and suggested the FDIC was too slow in ultimately reaching purchase and assumption agreements for both banks.

While this is the first Congressional hearing on SVB and Signature, it is unlikely to be the last. The FRB's and FDIC's internal reviews are due out in May, and are very likely to generate another round of hearings.
