

FDIC Office of Inspector General

# Material Loss Review of Republic First Bank

Evaluation Report - Final - Audits, Evaluations, and Cyber  
November 2024 | No. EVAL-25-01



Integrity • Independence • Accuracy • Objectivity • Accountability



---

## NOTICE

Pursuant to Pub. L. 117-263, section 5274, non-governmental organizations and business entities identified in this report have the opportunity to submit a written response for the purpose of clarifying or providing additional context to any specific reference. Comments must be submitted to [comments@fdicoig.gov](mailto:comments@fdicoig.gov) within 30 days of the report publication date as reflected on our public website. Any comments will be appended to this report and posted on our public website. We request that submissions be Section 508 compliant and free from any proprietary or otherwise sensitive information.

---



# Executive Summary

Material Loss Review of Republic First Bank (EVAL-25-01)

November 12, 2024

## What We Did

We engaged with Sikich to conduct a material loss review of Republic First Bank of Philadelphia. The objectives of the engagement were to determine why Republic First Bank's problems resulted in a material loss to the DIF, evaluate the FDIC's supervision, and make recommendations for preventing future losses. To address this objective, Sikich relied primarily on supervisory records, bank documents, interviews, and other information provided by the FDIC. This review fulfills a statutory mandate and does not serve any investigatory purposes.

## Impact on the FDIC

The FDIC conducts bank examinations to ensure public confidence in the banking system and to protect the DIF. Maintaining adequate documentation to support supervisory conclusions and actions is critical to maintaining the integrity of the FDIC's supervisory responsibilities. Further, establishing robust criteria used to assess brokered deposit waivers can help protect the DIF.

## Results

### Causes of Failure and Material Loss to the Deposit Insurance Fund

Sikich CPA LLC (Sikich) found that the direct cause of Republic First Bank's failure was its determination that it could no longer hold its "held-to-maturity" debt securities to maturity, requiring the Bank to reclassify them as "available-for-sale" securities. Because of insufficient liquidity, the Bank then further determined it was "more-likely-than-not" that it would have to sell these securities before the recovery of the amortized cost, thereby requiring the Bank to recognize significant fair value losses in its net income. Once this occurred, the Bank became critically undercapitalized for prompt corrective action (PCA) purposes and was closed by the Pennsylvania Department of Banking and Securities on April 26, 2024. Sikich also determined that the dysfunctional Board and management team was a significant contributing factor to the Bank's troubled condition, its inability to adjust strategies and address increasing risk, and its eventual failure.

### The FDIC's Supervision of Republic First Bank of Philadelphia

With the exception of one visitation, Sikich found that FDIC supervision and enforcement activities associated with Republic First Bank were generally timely, adequate, and well-coordinated with other regulators. Sikich determined that the FDIC's November 2023 visitation lacked documented support for its conclusions related to changes to the Management rating and a proposed FDIC enforcement action. Further, the FDIC's approval of the Bank's use of brokered deposits contributed to an increase in insured deposits of approximately \$300 million. Since brokered deposits directly result in an increase in insured deposits, they have the potential to increase the loss to the Deposit Insurance Fund (DIF) in the event of an insured depository institution's failure and liquidation. However, such risks are not assessed as part of the brokered deposit waiver process.

## Recommendations

Sikich made 4 recommendations to improve the FDIC's supervisory practices and help prevent future losses to the DIF. The FDIC concurred with 3 recommendations and partially concurred with the remaining recommendation. The FDIC plans to complete all corrective actions by June 30, 2025.



**Date:** November 12, 2024

**Memorandum To:** Doreen R. Eberley  
Director, Division of Risk Management Supervision

/s/

**From:** Terry L. Gibson  
Assistant Inspector General for Audits, Evaluations, and Cyber

**Subject** | Material Loss Review of Republic First Bank |  
No. EVAL-25-01

Enclosed is the Federal Deposit Insurance Corporation (FDIC) Office of Inspector General (OIG) report on the *Material Loss Review of Republic First Bank*.

The FDIC OIG contracted with the independent certified public accounting firm, Sikich CPA LLC (Sikich), to conduct an evaluation of the failure of Republic First Bank and the resulting material loss to the Deposit Insurance Fund (DIF). The contract required Sikich's work to be conducted in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The objectives of the engagement were to determine why Republic First Bank's problems resulted in a material loss to the DIF, evaluate the FDIC's supervision, and make recommendations for preventing future losses.

Sikich is responsible for the enclosed report. The OIG reviewed Sikich's report and related documentation and inquired of its representatives. Our review was not intended to enable the OIG to express, and we do not express, an opinion on the matters contained in the report. Our review found no instances where Sikich did not comply with the Quality Standards for Inspection and Evaluation issued by CIGIE. This review fulfills a statutory mandate and does not serve any investigatory purposes.

We appreciate the cooperation and courtesies that Division of Risk Management Supervision management and personnel extended to the OIG and Sikich during this evaluation. If you have any questions, please contact me at (703) 562-2529.



# Material Loss Review of Republic First Bank

---

## Part I

<b>Report by Sikich</b> <i>Material Loss Review of Republic First Bank</i>	I-1
---	-----

## Part II

<b>FDIC Comments and OIG Evaluation</b>	II-1
<b>APPENDIX 1: FDIC Comments</b>	II-3
<b>APPENDIX 2: Summary of the FDIC's Corrective Actions</b>	II-11



# Material Loss Review of Republic First Bank

---

---

---

## Part I

\*\*\*\*\*

Report by Sikich

---

---



**MATERIAL LOSS REVIEW OF REPUBLIC FIRST BANK**

**SUBMITTED TO  
FEDERAL DEPOSIT INSURANCE CORPORATION  
OFFICE OF INSPECTOR GENERAL**

**MATERIAL LOSS REVIEW OF REPUBLIC FIRST BANK**

**NOVEMBER 12, 2024**



333 John Carlyle Street, Suite 500  
Alexandria, VA 22314  
703.836.6701

**SIKICH.COM**

November 12, 2024

Terry L. Gibson  
Assistant Inspector General for Audits, Evaluations, and Cyber  
Office of Inspector General  
Federal Deposit Insurance Corporation

Subject: Material Loss Review of Republic First Bank

Sikich CPA, LLC (Sikich)<sup>1</sup> is pleased to submit the attached report detailing the results of our Material Loss Review of Republic First Bank of Philadelphia, PA, to the Federal Deposit Insurance Corporation's (FDIC's) Office of Inspector General (OIG).

We conducted this MLR in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (commonly referred to as the Blue Book). In addition, we conducted this engagement in accordance with the American Institute of Certified Public Accountants' *Statement on Standards for Consulting Services*.

We performed our work from May 2024 through November 2024 at the Sikich office in Alexandria, Virginia and remotely.

Sincerely,

*Sikich CPA LLC*

Sikich CPA, LLC  
November 12, 2024

---

<sup>1</sup> Effective December 14, 2023, we amended our legal name from "Cotton & Company Assurance and Advisory, LLC" to "Sikich CPA LLC" (herein referred to as "Sikich").



**TABLE OF CONTENTS**

<b>I. INTRODUCTION.....</b>	<b>1</b>
FDI ACT REQUIREMENTS.....	1
ENGAGEMENT OBJECTIVES.....	1
<b>II. BACKGROUND.....</b>	<b>2</b>
SUPERVISION OF REPUBLIC BANK AND SUMMARY OF EVENTS.....	2
BANKING PRACTICES EMPLOYED BY REPUBLIC BANK.....	3
OVERVIEW OF THE FDIC’S SUPERVISORY ACTIVITIES.....	5
CAMELS RATINGS.....	6
SUPERVISORY ACTIONS.....	7
PROMPT CORRECTIVE ACTION.....	8
<b>III. CAUSES OF FAILURE AND MATERIAL LOSS TO THE DEPOSIT INSURANCE FUND ..</b>	<b>9</b>
REPUBLIC BANK FAILED AFTER RECOGNIZING LOSSES ASSOCIATED WITH SECURITIES .....	9
<i>Accounting Overview.....</i>	<i>10</i>
<i>Limited Access to Credit.....</i>	<i>11</i>
<i>Several Unsuccessful Capital Raise Efforts Occurred Prior to the Bank’s Failure.....</i>	<i>11</i>
BOARD AND MANAGEMENT DYSFUNCTION IMPEDED TIMELY RESPONSE TO REPUBLIC BANK’S DECLINING PERFORMANCE.....	13
<i>Early Indications of Board and Management Challenges.....</i>	<i>14</i>
<i>The Board and Management Dysfunction Through 2022 Had Lasting Impact on Republic Bank’s Strategic         Planning and Financial Reporting.....</i>	<i>15</i>
Republic Bank’s Board Operated Without a Sufficient Strategic or Capital Plan from October 2022 Through the Bank’s Failure in April 2024.....	15
Management Deficiencies Created Delays in Required Financial Reporting, Exacerbating Republic Bank’s Declining Performance.....	16
<b>IV. THE FDIC’S SUPERVISION OF REPUBLIC BANK.....</b>	<b>17</b>
RECENT SUPERVISORY HISTORY AND ENFORCEMENT ACTIONS, 2019-2024 .....	17
FDIC SUPERVISION AND ENFORCEMENT ACTIVITIES ASSOCIATED WITH REPUBLIC BANK WERE GENERALLY TIMELY, ADEQUATE, AND WELL-COORDINATED WITH OTHER REGULATORS .....	19
<i>Full-Scope Examinations.....</i>	<i>19</i>
<i>Off-site Review and Visitations.....</i>	<i>21</i>
THE NOVEMBER 2023 VISITATION LACKED DOCUMENTED SUPPORT FOR CHANGES TO THE MANAGEMENT RATING AND ENFORCEMENT ACTION .....	22
<i>The FDIC’s November 2023 Visitation Conclusions Focused on Potential Improvements from Ongoing         Management Actions Rather Than Known Challenges to the Bank’s Safety and Soundness.....</i>	<i>23</i>
Documented Support for Visitation Results Emphasized Ongoing Management Actions .....	23
Information Documented Immediately Preceding the November 2023 Visitation Identified Critical Challenges to the Bank’s Safety and Soundness.....	26
<i>The FDIC Lacked Documented Support in Replacing the Recommended Consent Order.....</i>	<i>29</i>
THE FDIC APPROVED BROKERED DEPOSIT WAIVERS FOR REPUBLIC BANK, RESULTING IN AN INCREASE OF INSURED DEPOSITS .....	32
<b>V. COMPLIANCE WITH PROMPT CORRECTIVE ACTION (PCA).....</b>	<b>36</b>
PURPOSE OF CAPITAL AND THE FDIC’S ASSESSMENT OF CAPITAL .....	36
LIMITATIONS OF PCA.....	37
<b>VI. CONCLUDING OBSERVATIONS.....</b>	<b>39</b>

<b>APPENDIX I: OBJECTIVES, SCOPE, AND METHODOLOGY .....</b>	<b>40</b>
OBJECTIVES .....	40
SCOPE AND METHODOLOGY .....	40
<b>APPENDIX II: MATTERS REQUIRING BOARD ATTENTION 2022-2024 .....</b>	<b>42</b>
SEPTEMBER 26, 2022 JOINT EXAMINATION .....	42
<i>Capital</i> .....	42
<i>Board/Management</i> .....	42
APRIL 6, 2023, OFF-SITE REVIEW .....	42
<i>Liquidity</i> .....	42
JUNE 5, 2023, JOINT EXAMINATION .....	43
<i>Liquidity</i> .....	43
<i>Risk Management</i> .....	43
<b>APPENDIX III: FEDERAL RESERVE HOLDING COMPANY INSPECTION FINDINGS 2022-2024 .....</b>	<b>44</b>
REPORT OF HOLDING COMPANY INSPECTION JUNE 3, 2022.....	44
<i>Board Oversight and Reporting</i> .....	44
<i>Parent Company Contingency Planning</i> .....	44
REPORT OF HOLDING COMPANY INSPECTION MAY 26, 2023.....	44
<i>Management Information Systems (MIS)</i> .....	44
<i>Compliance with Regulation W</i> .....	44
<i>Succession Planning</i> .....	44
<b>APPENDIX IV: ACRONYMS AND ABBREVIATIONS.....</b>	<b>46</b>

**TABLE OF FIGURES**

Figure 1: Republic Bank’s Increase in Real Estate Loans and Net Loans & Leases.....	3
Figure 2: Key Financial Metrics for Republic Bank, June-December 2023 .....	26
Figure 3: Republic Bank’s Deposit Mix, May 2023 – April 2024.....	32

**TABLE OF TABLES**

Table 1: Summary of Tier 1 and 2 Capital .....	8
Table 2: PCA Capital Requirements.....	9
Table 3: Unrealized Losses on Securities .....	10
Table 4: Republic Bank’s Calculated Capital Ratios After Securities Impairment .....	10
Table 5: Timeline of Board and Management Changes and Key Events 2021-2024 .....	13
Table 6: Timeline of Key Supervisory Events 2021-2024 .....	18
Table 7: Republic Bank’s Historical CAMELS Ratings.....	18
Table 8: Republic Bank Off-Site Review and Visitations.....	21
Table 9: Timeline of Key Events March 2023-April 2024 .....	22
Table 10: Essential Functions of Bank Capital .....	36
Table 11: Republic Bank’s Year-End Capital Ratios 2019-2023.....	36
Table 12: Republic Bank’s Capital Ratios March 2023-December 2023.....	37

## MATERIAL LOSS REVIEW OF REPUBLIC FIRST BANK

### I. INTRODUCTION

The following sections present Federal Deposit Insurance (FDI) Act, 12 U.S.C. § 1831o, requirements and our objectives for this material loss review (MLR) of Republic First Bank of Philadelphia (i.e., “Republic Bank” or “the Bank”)

#### FDI Act Requirements

Section 38, *Prompt Corrective Action*, of the FDI Act requires the Inspector General (IG) of the appropriate federal banking agency to conduct a review and issue a written report when there is a material loss<sup>2</sup> to the Deposit Insurance Fund (DIF) related to an insured depository institution (IDI) for which the Federal Deposit Insurance Corporation (FDIC) is appointed receiver.

#### Engagement Objectives

On April 26, 2024, the Pennsylvania Department of Banking and Securities (PA DoBS) closed Republic Bank and appointed the FDIC as receiver. The FDIC recorded a final estimated loss to the DIF of \$667.1 million on May 21, 2024. According to the December 31, 2023, *Consolidated Reports of Condition and Income* (Call Report), Republic Bank reported about \$5.9 billion in total assets and \$4.4 billion in total deposits.

The FDIC Office of Inspector General (OIG) engaged Sikich CPA LLC (i.e., “Sikich”, “we”, “us”, or “our”) to conduct the Republic Bank MLR in accordance with the Council of the Inspectors General on Integrity and Efficiency’s *Quality Standards for Inspection and Evaluation* (commonly referred to as the Blue Book). In addition, we conducted this engagement in accordance with the American Institute of Certified Public Accountants’ (AICPA) *Statement on Standards for Consulting Services*. The objectives of our engagement were to (1) determine why Republic Bank’s problems resulted in a material loss to the DIF and (2) evaluate the FDIC’s supervision of Republic Bank, including the FDIC’s implementation of the Prompt Corrective Action (PCA) requirements of Section 38 of the FDI Act, and make recommendations for preventing any such loss in the future.

The information in this report was obtained during the period May through November 2024. In conducting our work and preparing the report, we relied primarily on supervisory records, bank documents, and other information provided by the FDIC’s Division of Risk Management Supervision (RMS). This review fulfills a statutory mandate and does not serve any investigatory purposes. Our Objectives, Scope, and Methodology are presented in **Appendix I**. Acronyms and abbreviations are presented in **Appendix IV**.

---

<sup>2</sup> FDI Act, Section 38(k), *Reviews Required When Deposit Insurance Fund Incurs Losses*, defines the term “material loss” as any estimated loss in excess of “\$50,000,000, if the loss occurs on or after January 1, 2014, provided that if the inspector general of a Federal banking agency certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that the number of projected failures of depository institutions that would require material loss reviews for the following 12 months will be greater than 30 and would hinder the effectiveness of its oversight functions, then the definition of ‘material loss’ shall be \$75,000,000 for a duration of 1 year from the date of the certification.” 12 U.S.C. § 1831o(k).

## II. BACKGROUND

This section presents information on the supervision of Republic Bank, an overview of banking practices used by the Bank, and a summary of events, including an overview of the FDIC's supervisory activities pertinent to the Bank.

### Supervision of Republic Bank and Summary of Events

The FDIC supervises insured state-chartered banks that are not members of the Federal Reserve System, state-chartered savings associations, and insured state-chartered branches of foreign banks. Republic Bank was a state-chartered nonmember bank<sup>3</sup> headquartered in Philadelphia, Pennsylvania. Republic Bank was regulated jointly by the FDIC and the PA DoBS. Republic Bank was a wholly owned subsidiary of Republic First Bancorp, Inc., a bank holding company supervised by the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Philadelphia (together, the "Federal Reserve").

Republic Bank was originally formed in 1988 as a Fed-member institution. By 1999, the Bank's total assets were \$553 million. In December 2003, the Bank withdrew from the Federal Reserve System, and was then subject to FDIC supervision. FDIC and PA DoBS's examinations generally found that Republic Bank was well-rated<sup>4</sup> until examiners identified asset quality problems in 2009 and 2010. The Bank subsequently recovered, however, returning to its previous well-rated status following a November 2013 examination. At this point, the Bank had grown to have more than \$967 million of assets, with 14 branches.

In 2014, the Bank initiated a growth plan and shifted its strategy to focus on retail<sup>5</sup> and branch expansion in Pennsylvania, New Jersey, and New York. From 2013 through 2021, the number of Republic Bank branches more than doubled, from 14 to 33. To attract depositors to these new locations, Republic Bank often offered higher-than-market interest rates on deposit accounts. From 2014 through 2021, Republic Bank was generally a well-rated institution, though the Bank's strategy prioritized growth and expansion over earnings.

By 2022, Republic Bank's total assets were \$6 billion, an increase of more than 500 percent during the 8 years that the growth strategy had been in place. As shown in Figure 1, from 2019 through 2022, Republic Bank also significantly increased its net loans & leases, the majority of which were long-term real estate loans<sup>6</sup> offered at low interest rates.

---

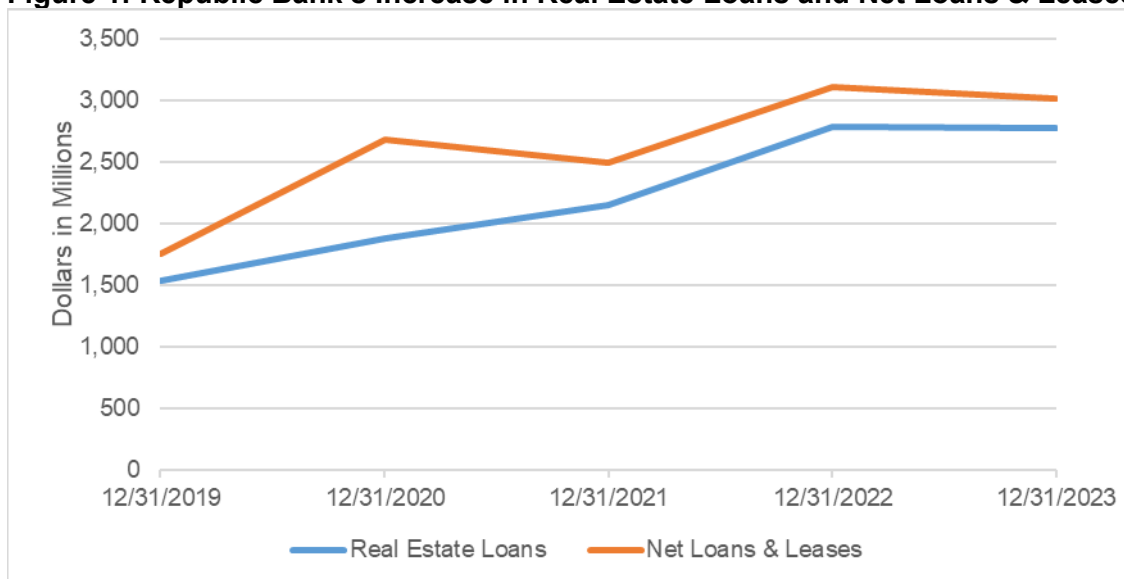
<sup>3</sup> Nonmember banks are those that are not members of the U.S. Federal Reserve System.

<sup>4</sup> As described later in this report, the FDIC applies uniform performance ratings to banks as part of its supervisory activities. These ratings range from a "1" for the strongest performing banks to a "5" for the weakest performing banks.

<sup>5</sup> Retail banking, also known as consumer banking or personal banking, is banking that provides financial services to individual consumers rather than businesses.

<sup>6</sup> These include residential mortgages with 15- and 30-year terms.

**Figure 1: Republic Bank’s Increase in Real Estate Loans and Net Loans & Leases**



Source: Sikich analysis of *Consolidated Reports of Condition and Income* (Call Report) data.

From 2019 to 2023, real estate loans increased from \$1.54 billion to \$2.78 billion (81 percent) and net loans & leases increased from \$1.75 billion to \$3.02 billion (73 percent). However, beginning in late 2021, the Bank’s Board of Directors (Board) and its management could no longer agree on the Bank’s business strategy, and ultimately, the Bank had difficulty responding to the increasing interest rate environment. On April 26, 2024, the PA DoBS closed Republic Bank and appointed the FDIC as receiver.

### Banking Practices Employed by Republic Bank

Republic Bank used a variety of banking practices typical of a bank of its size. The list below describes selected practices that were relevant to the Bank’s business model and failure.

- **Debt Securities:** Debt securities are any security representing a creditor relationship with an entity. These may include U.S. Treasury Securities, U.S. government agency securities, or municipal securities, among other items. Republic Bank purchased several types of debt securities. U.S. Generally Accepted Accounting Principles (GAAP), as promulgated by the Financial Accounting Standards Board (FASB),<sup>7</sup> require, for financial reporting purposes, the categorization of debt securities as held-to-maturity (HTM), available-for-sale (AFS), or trading. Different accounting treatment applies to each category.
  - **HTM Debt Securities:** Debt securities that management has the positive intent and ability to hold to maturity may be designated as HTM and carried at amortized cost.
  - **AFS Debt Securities:** AFS debt securities are those which management has not designated for trading or as HTM. AFS debt securities are reported at fair value,

<sup>7</sup> FASB is an independent, private-sector, not-for-profit organization that establishes financial accounting and reporting standards for public and private companies and not-for-profit organizations that follow GAAP. It is recognized by both the U.S. Securities and Exchange Commission (SEC) and the AICPA.

with unrealized holding gains and losses<sup>8</sup> generally excluded from net income and reported in accumulated other comprehensive income (AOCI), a separate component of equity capital.

- Trading Securities: Securities acquired with the intent of selling them within hours or days. Unrealized holding gains and losses are generally included in net income given the short-term nature of these assets.
- *Core Deposits*: Republic Bank's retail philosophy relied heavily on growing core deposits with consumers. Core deposits include those deposits that are stable and lower cost and reprice more slowly than other deposits when interest rates rise. The Uniform Bank Performance Report identifies core deposits as the sum of demand deposits, all Negotiable Order Withdrawal and Automatic Transfer Service accounts, Money Market Deposit Accounts,<sup>9</sup> other savings deposits and time deposits under \$250,000, minus all brokered deposits under \$250,000. These deposits are typically funds of local customers who also have a borrowing or other relationship with the bank.
- *Public Deposits*. Republic Bank's growth strategy also relied on public deposits. Public deposits are funds of government entities such as states, counties, or local municipalities. In many cases, public deposits are large and exceed the FDIC's deposit insurance coverage limit. Although public deposit accounts often exhibit volatility, the accounts can be reasonably stable over time, or their fluctuations can be predictable, for instance, as a result of seasonal variation.
- *Brokered Deposits, Sweep Accounts, and Reciprocal Deposits*: These are common funding sources for many banks, used to increase liquidity. Republic Bank's use of these funding sources is discussed later in this report.
  - Brokered Deposits: Any deposits obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.<sup>10</sup>
  - Sweep Accounts: A "sweep account" is an account held pursuant to a contract between an IDI and its customer involving the prearranged, automated transfer of funds from a deposit account to either another account or investment vehicle located within the IDI (internal sweep account), or an investment vehicle located outside the IDI (external sweep account).

---

<sup>8</sup> An unrealized gain or loss is the change in value of a stock, bond or other asset, such as a debt securities, that an entity has purchased but not yet sold. The gain or loss is "unrealized" as of a given financial reporting date because the entity is still holding the investment. The gain or loss is determined or "realized" when the entity sells the asset.

<sup>9</sup> A Negotiable Order Withdrawal (NOW) Account is an interest-earning account on which checks may be drawn. Withdrawals from NOW accounts may be offered by commercial banks, mutual savings banks, and savings and loan associations and may be owned only by individuals and certain nonprofit organizations and governmental units. An Automatic Transfer Service account is depositor's saving account from which funds may be transferred automatically to the same depositor's checking account to cover a check written or to maintain a minimum balance. A money market account is a type of account offered by banks and credit unions. Like other deposit accounts, money market accounts are insured by the FDIC or the National Credit Union Administration (NCUA), up to \$250,000 held by the same owner or owners.

<sup>10</sup> The term deposit broker means: A) Any person engaged in the business of placing deposits of third parties with insured depository institutions; B) Any person engaged in the business of facilitating the placement of deposits of third parties with insured depository institutions; C) Any person engaged in the business of placing deposits with insured depository institutions for the purpose of selling those deposits or interests in those deposits to third parties; and D) An agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

- Reciprocal Deposits: Any deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as insured deposits placed by the agent institution in other network member banks.
- Federal Reserve Liquidity Facilities: Republic Bank obtained funds from the following liquidity facilities:
  - Bank Term Funding Program (BTFP): In response to the 2023 failures of other IDIs, the Federal Reserve Board, with the approval of the Secretary of the Treasury, authorized all twelve Reserve Banks to establish the BTFP under section 13(3) of the Federal Reserve Act.<sup>11</sup> The BTFP made additional funding available to eligible depository institutions to help ensure they had the ability to meet the needs of all their depositors. The BTFP was intended to be an additional source of liquidity against high-quality securities, eliminating an institution's need to quickly sell those securities in times of stress.
  - Federal Reserve Discount Window: The Federal Reserve Banks provide short-term collateralized credit to eligible depository institutions through the Federal Reserve's Discount Window. The Primary Credit program is available to eligible institutions that are in generally sound financial condition. The Secondary Credit program is available to institutions that do not qualify for the Primary Credit program, based on the judgement of the Reserve Bank that use of the credit would be consistent with a timely return to reliance on market funding sources. Secondary Credit is extended on a very short-term basis at a rate above the Primary Credit rate. The Secondary Credit program entails a higher level of Reserve Bank administration and oversight than the Primary Credit program.
- Federal Home Loan Bank (FHLB) Advances: The primary purpose of the FHLBs is to provide member IDIs with liquidity. FHLBs are government-sponsored enterprises that offer a variety of credit products known as "advances" to meet members' short- and long-term liquidity needs. FHLB advances serve as a funding source for a variety of mortgage products and help members originate mortgages that they want to hold in portfolio or sell later. Members must have sufficient collateral to cover the credit risk on all advances provided by the FHLB. Further, members may not exceed maximum credit limits for advances (typically calculated by dividing the member's total credit obligations to the FHLB by its total assets).

## Overview of the FDIC's Supervisory Activities

The FDIC's Regional Offices<sup>12</sup> are responsible for supervising and overseeing state nonmember banks. The FDIC's *Risk Management Manual of Examination Policies* (the *Manual*) explains that the FDIC "conducts bank examinations to ensure public confidence in the banking system and to protect the Deposit Insurance Fund" and that Sections 10(b) and (c) of the FDI Act "empower examiners to make a thorough examination of a bank's affairs."

The FDIC established safety and soundness standards in accordance with Section 39, *Standards for Safety and Soundness*, of the FDI Act. Under these standards, the FDIC

---

<sup>11</sup> 12 U.S.C. § 343

<sup>12</sup> The FDIC's Regional Offices are located in Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Kansas City, Missouri; New York, New York; and San Francisco, California.

assesses institutions' risk management practices primarily considering the guidelines for the safe and sound operation of banks in Section II of Part 364 of the FDIC Rules and Regulations, Appendix A.<sup>13</sup> These guidelines set safety and soundness standards that the FDIC uses to identify and address problems at institutions before capital becomes impaired.

At banks like Republic Bank, full-scope examinations are performed at a point in time, and may be carried out by either the FDIC, state regulators, or both.<sup>14</sup> For such institutions, examiners plan the examination, conduct examination procedures, assign supervisory ratings, and communicate findings. At the conclusion of this process, a Report of Examination (ROE) is issued to the institution. The FDIC and state regulators may carry out joint examinations, or under certain circumstances, may alternate examination responsibilities. In addition, the FDIC may conduct limited-scope examinations, visitations, off-site reviews or monitoring, or other interim communication with the bank. These additional supervisory activities are conducted as needed based on the risk factors at an institution at a given time, and the FDIC coordinates with the state regulator when making any necessary supervisory decisions, such as ratings changes or enforcement actions, based on these other activities.

As part of the examination process, the FDIC rates the institutions it supervises using Uniform Financial Institutions Rating System (UFIRS) ratings. According to the *Manual*,

*The UFIRS takes into consideration certain financial, managerial, and compliance factors that are common to all institutions. Under this system, the supervisory agencies endeavor to ensure all financial institutions are evaluated in a comprehensive and uniform manner, and that supervisory attention is appropriately focused on institutions exhibiting financial and operational weaknesses or adverse trends.*

UFIRS contains six component ratings, described in detail below. Those component ratings are referred to by the acronym CAMELS, which is a commonly used term when referring to UFIRS ratings.

### **CAMELS Ratings**

The FDIC is part of the Federal Financial Institutions Examination Council (FFIEC),<sup>15</sup> which has adopted the CAMELS rating system for those IDIs whose primary federal supervisory agency is represented on the FFIEC.<sup>16</sup> Under CAMELS, the supervisory agency, such as the FDIC, assigns each IDI an overall composite rating based on the FDIC's evaluation of six component areas, which also are rated individually.

The component ratings reflect an institution's **C**apital adequacy, **A**sset quality, **M**anagement capabilities, **E**arnings sufficiency, **L**iquidity position, and **S**ensitivity to market risk (and are referred to as **CAMELS** ratings). As explained in UFIRS:

---

<sup>13</sup> <https://www.fdic.gov/regulations/laws/rules/2000-8630.html#fdic2000appendixatopart364>.

<sup>14</sup> For larger, more complex, or higher-risk banks, the FDIC performs the full-scope examination over the course of a year, as part of its Continuous Examination Process.

<sup>15</sup> The FFIEC is a formal interagency body empowered, among other things, to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System, the FDIC, the NCUA, the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB).

<sup>16</sup> The FDIC Board approved the updated Uniform Financial Institutions Rating System developed through the FFIEC as a policy statement of the FDIC on December 20, 1996, and it became effective on January 1, 1997.



*The composite and component ratings are assigned on a 1 to 5 numerical scale. A 1 indicates the strongest performance and management practices and the lowest degree of supervisory concern. A 5 indicates the weakest performance and management practices and the highest degree of supervisory concern.*

Each component rating is based on a qualitative analysis of certain related factors. A bank's composite rating generally has a close relationship to the individual component ratings. Examiners do not, however, simply assign composite ratings by averaging the individual component ratings. In addition, examiners may give more weight to some components than to others, depending on the perceived risk at a given institution. For example, the *Manual*, Section 4.1, *Management*, explains:

*A bank's performance with respect to asset quality and diversification, capital adequacy, earnings performance and trends, liquidity and funds management, and sensitivity to fluctuations in market interest rates is, to a very significant extent, a result of decisions made by the bank's directors and officers. Consequently, findings and conclusions in regard to the other five elements of the CAMELS rating system are often major determinants of the management rating.*

## Supervisory Actions

The FDIC employs various supervisory actions with respect to an institution under its supervision, including supervisory recommendations (SRs) and Matters Requiring Board Attention (MRBAs), a subset of SRs.<sup>17</sup> According to a 2016 Statement of FDIC Board of Directors:

*The term "supervisory recommendations," including an MRBA, refers to FDIC communications with a bank that are intended to inform the bank of the FDIC's views about changes needed in its practices, operations or financial condition. A principal purpose of supervisory recommendations is to communicate supervisory concerns to a bank so that it can make appropriate changes in its practices, operations or financial condition and thereby avoid more formal remedies in the future, such as enforcement actions.<sup>18</sup>*

When an SR involves an issue or risk of significant importance that would typically require efforts outside the normal course of business to correct, the FDIC brings the issue to the attention of the board and senior management using MRBA, which are considered a subset of SRs. MRBA are intended to help an IDI's board prioritize efforts to address examiner concerns, identify emerging problems, and correct deficiencies before the bank's condition deteriorates.

The FDIC can escalate supervisory concerns by using both formal and informal enforcement actions. According to the FDIC's *Formal and Informal Enforcement Actions Manual*, informal actions are voluntary commitments that are not legally enforceable and are not publicly disclosed or published. Informal actions should be used when discussions with management or findings and recommendations in the ROE will not, by themselves, accomplish the FDIC's goal of attaining timely corrective action from management.

The FDIC's informal actions include Bank Board Resolutions (BBRs) and Memoranda of Understanding (MOUs). BBRs are informal commitments adopted by an institution's board (usually at the FDIC's request) directing the institution's personnel to take corrective action

---

<sup>17</sup> Although MRBAs are considered to be a subset of SRs, within this report, we discuss MRBAs and SRs separately.

<sup>18</sup> According to the *Manual*, "It is FDIC policy to make supervisory recommendations in writing in the ROE, in a transmittal letter, or in other correspondence under official FDIC letterhead. Supervisory recommendations may not be solely verbal, but should be discussed with, and explained to bank management."

regarding specific deficiencies. When the board’s proposed BBR does not effectively address concerns, the FDIC may elect to pursue an MOU, which the *Formal and Informal Enforcement Actions Manual* explains is an informal agreement between the institution and the FDIC and is signed by both parties. The state regulatory agency, such as PA DoBS, may also be party to the MOU. In addition, the FDIC may request that an IDI submit a plan to conform to safety and soundness standards under Section 39 of the FDI Act as an informal action.

The FDIC’s use of an informal enforcement action does not preclude it from subsequently pursuing formal enforcement action if such formal action is legally required or if the FDIC believes the institution’s management is unwilling or unable to take necessary corrective action. Further, according to the *Formal and Informal Enforcement Actions Manual* informal actions generally are not appropriate when an institution’s problems present serious concerns and risks, in which case a formal action should be pursued. Formal enforcement actions are legally enforceable notices or orders issued by the FDIC such as the termination of federal deposit insurance, cease-and-desist orders, and civil monetary penalties. As noted by the *Formal and Informal Enforcement Actions Manual*, cease-and-desist orders issued by the FDIC are titled “Consent Orders” when the respondent waives the right to an administrative hearing related to the order. In addition to the FDIC’s informal and formal enforcement actions, IDIs may be subject to enforcement actions from other applicable regulators, including the PA DoBS.<sup>19</sup>

### Prompt Corrective Action

In addition to CAMELS ratings and the FDIC’s associated supervisory actions, the FDI Act Section 38, *Prompt Corrective Action*,<sup>20</sup> establishes a framework of mandatory and discretionary supervisory actions for IDIs that are not “Adequately Capitalized.” Regulators are required to take certain supervisory actions known as “prompt corrective actions,” if an institution’s capital level deteriorates. The implementation of a PCA is intended to ensure early intervention at institutions experiencing problems and the timely closure of failing institutions. The purpose of Section 38 is to resolve problems of IDIs at the least possible long-term loss to the DIF.

The FDIC evaluates capital adequacy in accordance with 12 CFR § 324 FDIC, *Capital Adequacy of FDIC-Supervised Institutions*. Part 324 establishes two broad components of capital, which are known as Tier 1 Capital and Tier 2 Capital. Components of Tier 1 and Tier 2 Capital are used to calculate minimum regulatory capital ratios defined in Part 324, as shown below. Table 1 below summarizes Tier 1 and 2 Capital from the *Manual*.

**Table 1: Summary of Tier 1 and 2 Capital**

<b>Tier 1 Capital</b>	Common equity tier 1 capital is the most loss-absorbing form of capital. It includes qualifying common stock and related surplus net of treasury stock; retained earnings; certain accumulated other comprehensive income (AOCI) elements if institution management does not make an AOCI opt-out election, plus or minus regulatory deductions or adjustments as appropriate; and qualifying common equity tier 1 minority interests. The federal banking agencies expect the majority of common equity tier 1 capital to be in the form of common voting shares and retained earnings.
<b>Tier 2 Capital</b>	Tier 2 capital includes the adjusted allowances for credit losses (AACL) up to 1.25 percent of risk-weighted assets, qualifying preferred stock, subordinated debt, and qualifying tier 2 minority interests, less any deductions in the tier 2 instruments of an unconsolidated financial institution.

<sup>19</sup> Regulatory bodies and other organizations oversee financial markets and the firms that engage in financial activity. Financial regulators in addition to the FDIC and the Federal Reserve Banks include the OCC and the SEC, among others.

<sup>20</sup> 12 U.S.C. § 1831o(a).

Source: The FDIC's *Risk Management Manual of Examination Policies* (the *Manual*).

Under the PCA framework, there are four capital ratios that outline minimum regulatory capital requirements for insured depository institutions. The table below summarizes the thresholds for each capital ratio in order for an institution to be considered well-capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized. Banks must meet all four ratios within a category to qualify for that category.

**Table 2: PCA Capital Requirements**

Capital Ratio	Well-Capitalized	Adequately Capitalized	Undercapitalized	Significantly Undercapitalized	Critically Undercapitalized
Tier 1 leverage ratio	5% or greater	4% or greater	Less than 4%	Less than 3%	Tangible Equity/Total Assets ≤ 2%
Common Equity Tier 1 (CET1) ratio	6.5% or greater	4.5% or greater	Less than 4.5%	Less than 3%	
Tier 1 risk-based capital ratio	8% or greater	6% or greater	Less than 6%	Less than 4%	
Total risk-based capital ratio	10% or greater	8% or greater	Less than 8%	Less than 6%	

Source: The FDIC's *Risk Management Manual of Examination Policies* (the *Manual*).

### III. CAUSES OF FAILURE AND MATERIAL LOSS TO THE DEPOSIT INSURANCE FUND

The direct cause of failure was Republic Bank's assertion on April 25, 2024, that as of March 31, 2024, it no longer had the ability to hold its HTM debt securities to maturity, requiring the securities to be reclassified as AFS securities. The Bank further determined that it was "more-likely-than-not" that it would be required to sell impaired AFS securities to repay maturing advances in August 2024 due to insufficient liquidity requiring the Bank to recognize unrealized losses in net income. Further, the Bank's long-standing growth strategy had eroded capital, and efforts to raise capital from 2021 forward were unsuccessful. Because Republic Bank experienced significant declines in the fair value of its securities, when it was required to recognize these losses in net income, the Bank became critically undercapitalized for PCA purposes and was closed by PA DoBS. A significant factor contributing to Republic Bank's troubled condition and ultimate failure was a dysfunctional Board and management team (which ultimately was replaced) that was unable to adjust the Bank's strategy to accommodate the rising interest rate environment. In part due to management's inability to implement a realistic and effective strategic and capital plan, Republic Bank relied heavily on government lending facilities and FHLB advances to manage liquidity and continue daily operations, which proved unsustainable when access to liquidity sources became constrained.

#### Republic Bank Failed After Recognizing Losses Associated with Securities

The direct cause of failure was Republic Bank's assertion on April 25, 2024, that as of March 31, 2024, it no longer had the ability to hold its HTM debt securities to maturity requiring the Bank to reclassify them as AFS debt securities and recognize unrealized losses in net income. These unrealized, but recognized losses resulted in a decrease to retained earnings, causing critical undercapitalization of the Bank. The assertion occurred because Bank management had projected insufficient liquidity and determined that it was "more-likely-than-not" that the Bank would be required to sell impaired AFS securities in order to repay BTFP and FHLB advances maturing in August 2024. As a result, Republic Bank was required to recognize fair value<sup>21</sup>

<sup>21</sup> Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

losses of approximately \$500 million dollars, resulting in its inability to continue as a going concern. Table 3 shows the Bank's unrealized losses beginning in September 2023.

**Table 3: Unrealized Losses on Securities**

Asset Type		9/29/23	10/30/23	11/30/23	12/29/23	1/26/24
AFS Securities	Amortized Cost <sup>a</sup>	1,020,748,214	1,009,712,375	1,004,522,150	1,000,357,147	980,697,224
	Fair Value	830,284,443	814,479,135	786,067,079	800,317,785	817,697,765
	<b>Total</b>	<b>\$(190,463,771)</b>	<b>\$(195,233,240)</b>	<b>\$(218,455,071)</b>	<b>\$(200,039,362)</b>	<b>\$(162,999,459)</b>
HTM Securities	Amortized Cost	1,619,127,224	1,609,054,944	1,601,547,377	1,593,999,442	1,586,302,263
	Fair Value	1,279,279,820	1,248,686,462	1,203,399,250	1,237,681,934	1,296,088,130
	<b>Total</b>	<b>\$(339,847,404)</b>	<b>\$(360,368,482)</b>	<b>\$(398,148,127)</b>	<b>\$(356,317,508)</b>	<b>\$(290,214,133)</b>
<b>Total Unrealized Losses (HTM and AFS)</b>		<b>(\$530,311,175)</b>	<b>(\$555,601,722)</b>	<b>(\$616,603,198)</b>	<b>(\$556,356,870)</b>	<b>(\$453,213,592)</b>

Source: Republic Bank's Daily Liquidity Monitoring Reports Provided to the FDIC.

<sup>a</sup> The amortized cost basis is the amount at which an investment is originated or acquired, adjusted for applicable accrued interest, accretion, or amortization of premium, discount, and net deferred fees or costs, collection of cash, write-offs, foreign exchange, and fair value hedge accounting adjustments.

### **Accounting Overview**

Republic Bank's HTM debt securities were accounted for under Accounting Standards Codification (ASC) 320, *Investments—Debt Securities* (ASC 320).<sup>22</sup> Under ASC 320, the Bank was required to assess, among other things, that it had the positive intent and ability to hold its HTM securities to maturity. When the Bank determined that it could not hold these securities until maturity, it was required to reclassify these securities as AFS within its consolidated balance sheet. Because the fair value of the AFS securities was less than the amortized cost, the Bank was also required to perform an impairment analysis under ASC 326, *Financial Instruments—Credit Losses* (ASC 326-30).

Under ASC 326-30, Republic Bank was required to assess, among other things, its ability to hold these impaired investment securities (inclusive of HTM securities reclassified to AFS) to forecasted recovery of its amortized cost basis as of each quarterly reporting date, including March 31, 2024. In doing so, the Bank assessed whether it was "more-likely-than-not" that it would be required to sell an impaired security before its forecasted recovery. For example, the Bank assessed whether its cash or working capital requirements or contractual or regulatory obligations indicated that the security would be required to be sold before a forecasted recovery would occur. Based on this quarterly assessment, as of March 31, 2024, Republic Bank management found that it was "more-likely-than-not" that the Bank would be required to sell its AFS investment securities. This required Republic Bank to write down the entire AFS portfolio (inclusive of the HTM securities reclassified to AFS) to fair value. As a result, Republic Bank had to recognize the entire decrease in the fair value of these securities in its net income, decreasing earnings. After recording the losses, all of Republic Bank's capital ratios fell to less than zero percent, as shown in Table 4, causing it to immediately become "critically undercapitalized" for PCA purposes.

**Table 4: Republic Bank's Calculated Capital Ratios After Securities Impairment**

Capital Ratios <sup>a</sup>	Bancorp	Bank
Leverage Ratio	-3.93%	-3.97%

<sup>22</sup> The ASCs are a codification of GAAP, established by FASB.

Common Equity Tier 1 Capital Ratio	-8.42%	-7.65%
Tier 1 Capital Ratio	-7.56%	-7.65%
Total Risk Based Capital Ratio	-6.80%	-6.88%
Tangible Common Equity Ratio	-4.32%	-3.92%

Source: Republic Bank's Impairment Memorandum, April 26, 2024

<sup>a</sup> Reflects estimates as of March 31, 2024

### **Limited Access to Credit**

A significant factor considered in Republic Bank's assessment of whether it would be required to sell its AFS investment securities was the operating and cash flow projections at the Bank. As discussed in greater detail later in this report, the FDIC consistently issued SRs and enforcement actions related to Republic Bank's strategic and capital planning processes, in large part because of inadequate forecasts and projections. Of note is that in the months leading up to the Bank's failure, the Bank's liquidity projections relied heavily on access to the Federal Reserve's Secondary Credit program and FHLB advances. Specifically, without access to these facilities, the Bank projected that it would be unable to ensure adequate liquidity in the face of maturing BTFP and FHLB advances of \$660 million, both of which were scheduled to mature in August 2024.

According to Republic Bank's Investment Securities Impairment Analysis dated April 25, 2024, on April 2, 2024, the Federal Reserve verbally notified the Bank's Board that Republic Bank could not rely upon the Secondary Credit program as a source of liquidity for refinancing any or all of the Bank's \$660 million of advances maturing in August 2024, as was presented in the Bank's February 27, 2024, Strategic Plan. As a result, the Bank concluded that without the use of the Secondary Credit program, it was "more-likely-than-not" it would be required to sell securities prior to the recovery of the securities' amortized cost basis due to insufficient liquidity to repay the maturing BTFP and FHLB advances. According to Federal Reserve officials, they informed the Bank that its reliance on the Secondary Credit program for future funding needs, including repayment of the BTFP loan, was highly unlikely to be consistent with the purpose of the program under the circumstances, because the Bank holding company's efforts to raise capital had been terminated and management had presented no additional viable options to do so. As noted in the Federal Reserve's regulations, Secondary Credit is extended to support "a timely return to a reliance on market funding sources" or to "facilitate the orderly resolution of serious financial difficulties."<sup>23</sup>

### **Several Unsuccessful Capital Raise Efforts Occurred Prior to the Bank's Failure**

Republic Bank was unable to withstand the fair value losses associated with its securities in part because its long-standing business strategy prioritized growth (via branch expansion) over earnings, which strained liquidity and depleted capital. To successfully carry out this strategy from 2014 through 2020, the Bank had required external infusions of capital. Between 2018 and

<sup>23</sup> 12 CFR 201.4(b). "A Federal Reserve Bank may extend Secondary Credit on a very short-term basis, usually overnight, as a backup source of funding to a depository institution that is not eligible for Primary Credit, if, in the judgment of the Reserve Bank, such a credit extension would be consistent with a timely return to a reliance on market funding sources. A Federal Reserve Bank also may extend longer-term secondary credit if the Reserve Bank determines that such credit would facilitate the orderly resolution of serious financial difficulties of a depository institution. Credit extended under the Secondary Credit program is granted at a rate above the Primary Credit rate." See also, <https://www.frbdiscountwindow.org/Pages/General-Information/Primary-and-Secondary-Lending-Programs>.

2021, a dominant official<sup>24</sup> at Republic Bank with high levels of influence over the Bank's expansion strategy was noted by examiners as being instrumental in the Bank's success at raising external capital. However, when this official, who was then Chief Executive Officer (CEO) and Board Chairman, proposed a common stock offering in October 2021 in an effort to raise additional capital, it resulted in a proxy challenge<sup>25</sup> that was the first in a series of contentious Board and management issues which are discussed later in this report. Following the proposed, yet unaccomplished, common stock offering, there were three additional attempts to raise capital, none of which successfully provided the Bank with the capital needed to continue operating:

1. On March 14, 2022, a shareholder group representing 6.6% of outstanding shares, filed a term sheet with the SEC for making a substantial, long-term equity investment in Republic Bank.<sup>26</sup> The demands associated with this investment included appointing one of the group members as the CEO of the Bank's holding company, and requiring the existing CEO's resignation.<sup>27</sup> This capital raise was not completed, likely as a result of the Board and management dysfunction discussed later in this report.
2. On March 10, 2023, the Bank, operating under a new Board and management, announced a \$125 million capital raise campaign. The same day, Silicon Valley Bank (Santa Clara, CA) failed, followed shortly thereafter by Signature Bank of New York (New York, NY) on March 12, 2023, and First Republic Bank (San Francisco, CA)<sup>28</sup> on May 1, 2023. These were three of the four largest bank failures in U.S. history, and the market conditions resulting from these failures caused Republic Bank to cancel its capital campaign on July 17, 2023.
3. On September 27, 2023, the aforementioned shareholder group signed a letter of intent to invest at least \$35 million in Republic Bank. This capital raise was subject to certain closing conditions, such as the filing of the Bank's holding company's delinquent Form 10-K for the year ended December 31, 2022. Contingent upon completion of the \$35 million capital raise, another \$65 million in capital from additional investors had been identified by the Board. This potential capital raise was instrumental in the Bank's September 30, 2023, assertion that it could hold its securities to maturity. On October 27, 2023, the group then signed a Securities Purchase Agreement. As discussed later in this report, this potential capital raise was also a significant consideration in the FDIC's supervisory decisions. FDIC officials told us that they viewed this effort to be indicative of the progress the new management team was making in resolving Republic Bank's challenges. However, on February 28, 2024, the shareholder group elected to terminate the agreement.

---

<sup>24</sup> The *Manual* defines a "dominant official" as "an official that has material influence over virtually all decisions involving the bank's policies and operations."

<sup>25</sup> A proxy challenge is defined as a battle for the control of a firm in which a dissident group seeks, from the firm's other shareholders, the right to vote those shareholders' shares in favor of the dissident group's slate of directors. On November 23, 2021, a minority shareholder nominated three independent Director candidates and stated via proxy statement to SEC that the Offering would be highly dilutive to shareholders.

<sup>26</sup> This represented the largest group of non-institutional, non-insider shareholders.

<sup>27</sup> As discussed later in this report, this CEO resigned in July 2022.

<sup>28</sup> There is no affiliation between First Republic Bank of San Francisco, CA and Republic Bank of Philadelphia, PA.

## Board and Management Dysfunction Impeded Timely Response to Republic Bank's Declining Performance

As Republic Bank's performance began to decline in late 2021, Board and management dysfunction started to become apparent. From 2021 through December 2022, the eight-member Board<sup>29</sup> found itself deadlocked between two distinct factions on various issues. Specifically, the Board faced a public shareholder campaign, a proxy battle, and several lawsuits. During this time period, the Bank began to present signs of concern for examiners. For example, in December 2021, the FDIC first flagged Republic Bank for Offsite Monitoring due to its Interest Rate Risk (IRR),<sup>30</sup> which continued to grow until the Bank's failure in April 2024. Similarly, the Bank experienced ongoing compression of its Net Interest Margin (NIM),<sup>31</sup> in part due to its high volume of long-term, low-interest rate loans and debt securities. Following significant disruption and turnover on the Board and management team in the fourth quarter of 2022, the new team continued to face challenges in addressing the Bank's strategic and capital planning needs and its financial reporting requirements.

**Table 5: Timeline of Board and Management Changes and Key Events 2021-2024**

Date	Event
4/1/2021	Individual named CEO/Chairman
3/4/2022	Director group releases public statement against CEO/Chairman
4/1/2022	Bank fails to file 2021 10-K
5/13/2022	Bank fails to file Q1 2022 10-Q
5/13/2022	CEO/Chairman removed as Chairman (CEO/former Chairman)
5/13/2022	New individual named Chairman (second Chairman)
7/1/2022	CEO/former Chairman-aligned directors resign
7/7/2022	CEO/former Chairman tenders resignation letter
9/26/2022	2022 full scope examination begins
10/24/2022	EVP and CFO, aligned with former CEO/Chairman, resign
10/24/2022	Bank abandons strategic plan
12/1/2022	New CEO named, and new CFO named
1/19/2023	September 2022 ROE issued; Management rated "3"
4/6/2023	Interim Liquidity downgrade to "3"
5/2023	CEO hires Treasurer and Chief Investment Officer
5/5/2023	Bank exits mortgage business
5/30/2023	New Chairman appointed, replacing second Chairman
6/2023	CEO hires Controller
8/21/2023	June 2023 ROE issued; Management rated "4"
9/27/2023	Bank signs agreement to raise \$35 million

<sup>29</sup> The Board of Directors for the bank's holding company, Republic First Bancorp, were the same as the Board of Directors for Republic Bank. Therefore, in this report, we simply refer to the group as the Bank's Board.

<sup>30</sup> IRR is the exposure of a bank's current or future earnings and capital to adverse changes in market rates. This risk is a normal part of banking and can be an important source of profitability and shareholder value; however, excessive interest rate risk can threaten banks' earnings, capital, liquidity, and solvency.

<sup>31</sup> NIM is a measure of profitability for banks and financial institutions. It is a measure of the difference between interest and dividends earned on interest bearing assets and interest paid to depositors and other creditors, expressed as a percentage of average earning assets. As of June 30, 2024, the average NIM for FDIC-insured institutions was 3.16 percent.

Date	Event
10/30/2023	Bank issues 9/30 call report and asserts it can hold securities
11/14/2023	Bank does not adequately respond to FDIC request for information about 9/30 assertion
11/20/2023	FDIC and PA DoBS begin visitation; upgrade of Bank Management rating of "3" and less severe enforcement action pursued
4/26/2024	PA DoBS closes Republic Bank

Source: Sikich analysis of FDIC information.

### **Early Indications of Board and Management Challenges**

As discussed earlier in this report, in 2014, Republic Bank initiated a growth plan, focused on retail and branch expansion. One of the Bank's largest individual shareholders was highly influential in the adoption and design of this plan, serving as a consultant to the Board before going on to become Board Chairman in 2016 and CEO in 2021. In further support of this growth plan, the Bank engaged a company owned by this shareholder's wife, for bank marketing, graphic design, and architectural project management services.

This arrangement was the focus of Board and regulator interest because this shareholder was subject to a 2008 personal Consent Order from the Office of the Comptroller of the Currency (OCC), due to problems associated with related-party transactions from his time with Commerce Bank.<sup>32</sup> The 2008 OCC Consent Order noted specific requirements that had to be followed when this individual and his related parties conducted real estate-related business with any financial institution. These requirements included reporting the transactions to the institution's Board and Audit Committee, obtaining an independent evaluation confirming that service fees were fair prior to engaging in the transaction, and obtaining the approval from the Board and the Audit Committee prior to engaging in any transaction.

The FDIC included a detailed review of the shareholder's related-party transactions in the 2018, 2019, and 2020 examinations, as required following his appointment as the holding company's Board Chairman in 2016 and subsequently as Republic Bank's Chairman and CEO. An FDIC Legal Opinion provided upon request of the FDIC Examiner-in-Charge (EIC) and dated August, 27, 2019, stated that based upon the available information, the Chairman's wife's company would not be subject to the requirements of the Consent Order, as no evidence had been presented that he controlled any of the entity. This legal opinion, however, also notes that a key document was not available for the FDIC's review.<sup>33</sup> All examinations concluded the related-party transactions and Republic Bank's efforts to monitor them were sufficient and in accordance with the requirements of the Consent Order. However, an independent investigation subsequently required by the Bank's external financial statement auditors found that four of the six independent reviews that Republic Bank obtained between 2009 and 2022 of the related-party transactions did not meet the requirements of the OCC Consent Order.

<sup>32</sup> See <https://www.occ.gov/news-issuances/news-releases/2008/nr-occ-2008-135.html> for the Consent Order.

<sup>33</sup> Specifically, the legal opinion stated, "As the FDIC does not have a copy of the November 13, 2008 letter... to the OCC in which... the individuals who would be considered to be *Respondent Related Parties* [are identified], no determination can be made regarding whether these entities are in fact *Respondent Related Parties* for purposes of the [Consent Order.] However, the New York Regional Office (NYRO) advised the Bank on July 8, 2019, that its insider fee tracking forms and branch application documents should address whether any entities or individuals engaging in *Real Estate Related Activities* with the Bank in connection with the proposed branch are *Respondent Controlled Entities* or *Respondent Related Parties*." The FDIC attempted to obtain a copy of the letter, but at the time of issuing the legal opinion had not yet received a response.



These issues would ultimately form the basis of significant dysfunction within the Board and management. Specifically, the related-party transactions and concerns about the CEO/Chairman's management were described in public statements made by Board members in March 2022.<sup>34</sup> These concerns also led to a lawsuit filed the same month by the aforementioned shareholder group against the Bank's holding company, the CEO/Chairman, and other Directors aligned with him. Ultimately, during a special meeting of the Board in May 2022 following the death of one of the Board Directors, a majority of Directors voted to remove the CEO/Chairman as Chairman of the Board, though he and his aligned Directors were not present. In response, the CEO/former Chairman filed a lawsuit in May 2022, and a custodian was appointed to oversee the election of a new Director to fill the vacancy. In July 2022, this individual resigned as CEO, and within four days, the Board canceled all related-party contracts. During this time period, the Board struggled to conduct normal business and effectively oversee the bank. Specifically, a quorum of Board members was not present for either the June or July 2022 Board meetings, and the Bank did not hold its required Annual Shareholder meeting in 2022, causing the FDIC to issue a related provision in the 2023 MOU.

Finally, the Board and management faced significant turnover in late 2022, as shown in Table 5. Subsequent to the CEO/former Chairman's resignation, the two Directors aligned with him resigned from the Board, followed by the resignation of the Bank's Executive Vice President (EVP) and Chief Financial Officer (CFO) in October 2022. In December 2022, another Director was added and appointed CEO and President of the Bank. In addition, the Board appointed a new CFO. As discussed further below, however, the new Board and management team continued to face significant challenges that they were ultimately unable to overcome.

### ***The Board and Management Dysfunction Through 2022 Had Lasting Impact on Republic Bank's Strategic Planning and Financial Reporting***

#### **Republic Bank's Board Operated Without a Sufficient Strategic or Capital Plan from October 2022 Through the Bank's Failure in April 2024**

Significant concerns related to Republic Bank's strategic direction became apparent after the former CEO/Chairman's efforts to raise capital through a common stock offering in October 2021. In response to that effort, in November 2021, a minority shareholder filed a proxy challenge with the SEC,<sup>35</sup> arguing that the business model would fail to deliver adequate returns on shareholders' capital, be unable to internally generate capital sufficient to fund expected growth and likely need to raise additional capital during 2022 that would further dilute shareholders. Similarly, as part of their capital investment offer in early 2022, the aforementioned shareholder group publicly outlined strategic initiatives they felt the Board should consider and subsequently argued in June 2022 that the Bank's "current faulty business model of growth at all costs also needs to be immediately abandoned." In October 2022, Republic Bank's Board formally abandoned the Strategic and Capital Plan covering 2022 through 2024.

With the Board and management distracted by the proxy battle, lawsuits, and significant leadership turnover, FDIC and PA DoBS examiners struggled to obtain information related to

---

<sup>34</sup> <https://www.prnewswire.com/news-releases/concerned-republic-first-bancorp-directors-oppose-potential-harmful-actions-by-other-company-board-members-301495756.html>. Accessed September 23, 2024.

<sup>35</sup> On November 23, 2021, a minority shareholder nominated three independent Director candidates and stated via proxy statement to SEC that the Offering would be highly dilutive to shareholders.

the Bank's strategic and capital planning efforts. Specifically, in May 2022, FDIC and PA DoBS examiners sent a joint request for information regarding strategic and capital planning, but the Board and management did not respond to the letter. In June 2022, the regulators held a joint call with Republic Bank, requesting the information by June 28, 2022, but management did not meet the deadline. Following an additional letter from examiners in July 2022, the Bank ultimately provided capital planning responses and a Strategic Plan that examiners found to be insufficient.

As a result, Republic Bank's strategic and capital planning were a significant focus of the Joint 2022 examination, carried out in September 2022. This examination found that the dysfunction within the Board negatively affected strategic and capital planning, resulting in three related MRBAs that were eventually incorporated into a February 2023 MOU. Overall, the 2022 examination resulted in component ratings downgrades for Capital, Management, and Liquidity, as well as an overall composite downgrade to "3". See Table 7 for details related to Republic Bank's CAMELS ratings over time. As the new Board and management team assumed responsibility for the Bank, significant market stresses challenged its ability to respond to the existing weaknesses at the bank, and strategic and capital planning remained a primary focus for examiners throughout 2023 and early 2024, resulting in additional MRBAs and enforcement actions.

In the June 2023 examination, examiners noted that the Bank's condition "left the new management team with few options to make material changes to the balance sheet." However, the new management team also faced challenges in responding to rapidly changing market situations. For example, as discussed previously, following the March 2023 bank failures of Silicon Valley Bank and Signature Bank, the new Board and management team was required to cancel its large capital raise campaign. The lack of additional capital further stressed the Bank's liquidity position, but new management did not initiate the Bank's Contingency Funding Plan in its Liquidity Policy, contributing to an interim ratings downgrade to the Liquidity component in April 2023. While examiners in 2023 noted increased responsiveness of the new Board and management team, supervisory findings related to strategic and capital planning persisted. Ultimately, the new Board and management team were unable to produce a viable Strategic and Capital Plan before the Bank's failure in April 2024. According to FDIC supervisory materials, this was largely a result of inadequate projections and assumptions about future capital and liquidity. Despite this, however, FDIC officials told us that in their view, following the June 2023 examination, the new management team was less than satisfactory, but was taking meaningful steps to stabilize the Bank's condition, such as increasing fee income, reducing overhead costs, restricting new lending, and evaluating the closure of branches.

### **Management Deficiencies Created Delays in Required Financial Reporting, Exacerbating Republic Bank's Declining Performance**

Republic Bank faced significant delays in meeting required financial reporting beginning in 2021 and through its failure in 2024. Specifically, the 2021 Form 10-K filing and financial statement audit that were due on March 16, 2022, were not issued until October 26, 2022. This delay occurred because the Bank's external auditors required the Audit Committee to engage independent legal counsel to conduct an investigation concerning related-party transactions and other matters that were the subject of litigation surrounding the Bank. During 2022, the National Association of Securities Dealers Automatic Quotation (NASDAQ) informed the Bank on a quarterly basis that it was not in compliance with listing rules, because it had failed to file the required Form 10-Qs. The financial statement auditors ultimately identified three material

weaknesses for Republic Bank, two of which were specific to Board oversight of related-party transactions and failure to provide effective oversight of branch expenditures.

Throughout 2023, the Bank continued to face delays in meeting required financial reporting deadlines, due to unresolved material weaknesses, particularly related to financial account reconciliations. The Joint 2023 Examination in June 2023 reflected these issues, including an MRBA which specifically noted that the Bank’s “lack of effective financial controls contributed to delays in the financial statement audit and resulted in apparent violations and inaccurate [Call Reports.]” As a result of the 2023 examination, the FDIC downgraded every CAMELS component, along with a composite downgrade to “4”. Following the issuance of the ROE in August 2023, the Bank announced that it would no longer be listed on the NASDAQ exchange due to the delayed filings. The same day, the Federal Reserve informed the Bank that it would no longer qualify for the Primary Credit program, and instead any Discount Window loans would be made under the Secondary Credit program. As previously noted, Secondary Credit program Discount Window loans are extended on a very short-term basis, typically overnight, at a rate above the Primary Credit rate. This further compressed the Bank’s NIM.

Further, during subsequent work completed by the Bank’s external auditors, an issue was identified related to a valuation allowance on deferred tax assets, and in September 2023, the Bank amended its previously submitted quarterly Call Reports for periods ending December 31, 2022; March 31, 2023; and June 30, 2023. These amended Call Reports caused the Bank to fall to “Adequately Capitalized” for PCA purposes. In response to the Bank becoming “Adequately Capitalized,” the FHLB informed the Bank that a \$100 million advance would not be renewed, further constraining its liquidity. At this time, the Bank’s external auditors became concerned with the assumptions underlying management’s assertion that it could hold its securities to maturity and continue as a going concern and continued to request additional information and clarification regarding the assumptions presented by bank leadership. As a result, the Bank was never able to file its 2022 Form 10-K or obtain an audit opinion on its financial statements for 2023 prior to its failure in April 2024.

#### **IV. THE FDIC’S SUPERVISION OF REPUBLIC BANK**

As discussed previously, the FDIC conducts bank examinations to ensure public confidence in the banking system and to protect the DIF. Between 2019 and 2024, Republic Bank was subject to annual point-in-time examinations, limited scope examinations, and informal enforcement actions. With the exception of the FDIC’s November 20, 2023, visitation, we found that FDIC supervision and enforcement activities associated with Republic Bank were timely, adequate, and well-coordinated with other regulators. However, we found that the November 2023 visitation lacked support for its conclusions related to changes to the Management rating and an FDIC enforcement action. Further, the FDIC approved Republic Bank’s use of brokered deposits, which contributed to an increase in insured deposits from September 2023 to April 2024 of approximately \$300 million.

##### **Recent Supervisory History and Enforcement Actions, 2019-2024**

Between 2019 and 2024, Republic Bank was subject to annual point-in-time examinations which were supplemented by quarterly off-site reviews beginning in 2021 as a result of the Bank’s high level of IRR. In the year prior to the Bank’s failure, FDIC examiners also conducted an off-site review focused on Liquidity, two visitations, and daily liquidity monitoring.

**Table 6: Timeline of Key Supervisory Events 2021-2024**

Date	Event
12/31/2021	Bank first flagged for offsite monitoring due to IRR
9/26/2022	FDIC and PA DoBS begin 2022 full scope examination
1/19/2023	FDIC and PA DoBS issue September 2022 ROE
2/28/2023	FDIC issues MOU
4/6/2023	FDIC issues interim Liquidity downgrade of Bank from "2" to "3"
6/5/2023	FDIC and PA DoBS begin 2023 full scope examination
7/18/2023	FDIC EIC recommends consent order
8/17/2023	New York Regional Director approves proposed consent order
8/21/2023	FDIC and PA DoBS issue June 2023 ROE
9/22/2023	Bank amends call reports - becomes "Adequately Capitalized" under PCA
10/17/2023	FDIC provides draft consent order to Bank
11/20/2023	FDIC and PA DoBS begin visitation; results in an upgrade to Management rating of "3" and less severe enforcement action
2/22/2024	FDIC issues second MOU
3/11/2024	FDIC and PA DoBS begin visitation, resulting in CAMELS downgrades
4/26/2024	PA DoBS closes Republic Bank

Source: Sikich analysis of FDIC information.

Based on the results of its supervision, the FDIC and the PA DoBS assessed Republic Bank's composite and component CAMELS ratings as shown in the table below:

**Table 7: Republic Bank's Historical CAMELS Ratings**

Rating Type	7/29/2019 Joint ROE	8/24/2020 FDIC ROE	9/20/2021 State ROE	9/26/2022 Joint ROE	4/6/2023 Off-site Review	6/5/2023 Joint ROE	11/20/2023 Visitation	3/11/2024 Visitation
Capital Adequacy	2	2	2	3	-	4	4	4
Asset Quality	2	2	1	1	-	2	2	2
Management	2	2	2	3	-	4	3	3
Earnings	3	3	3	3	-	4	4	5
Liquidity	2	2	1	2	3	4	4	5
Sensitivity to Market Risk	2	2	2	2	-	4	4	5
<b>Composite</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>-</b>	<b>4</b>	<b>4</b>	<b>4</b>

Source: The FDIC's examination documentation for Republic Bank.

From 2019 through 2021, Republic Bank was a well-rated IDI, and examinations did not result in any SRs, MRBAs, or enforcement actions significant to the Bank's failure.<sup>36</sup> From 2022 until the Bank's failure in April 2024, the FDIC issued seven MRBAs and two MOUs.<sup>37</sup> In 2022, the MRBAs focused on increasing capital levels and addressing the effects that dysfunctional management had on the strategic direction of the Bank by requiring an updated strategic plan. Following issuance of the 2022 ROE, the FDIC issued an MOU on February 28, 2023, which reiterated the need for Republic Bank to develop a comprehensive 3-year Strategic and Capital

<sup>36</sup> The FDIC issued nine SRs in 2019 and 2020, but they were not related to the issues that caused Republic Bank's failure. The FDIC did not issue any MRBAs or enforcement actions to Republic Bank from 2019 through 2021.

<sup>37</sup> See **Appendix II** for an overview of the MRBAs issued to Republic Bank from 2022 through 2024.

Plan. The 2023 MOU also restricted the Bank's ability to issue dividends and required the Bank to address a violation associated with not holding an Annual Shareholders Meeting in 2022.

The April 6, 2023, off-site review on Republic Bank's liquidity included another MRBA related to the Bank's Contingency Funding Plan (CFP). Specifically, it required the Bank to conduct a lessons learned exercise related to market events, management's actions, and the CFP. Following the exercise, the MRBA directed management to update policies and procedures as needed. In the June 5, 2023, ROE, the FDIC issued three MRBAs related to the following areas: (1) the CFP, (2) Liquidity Stress Testing, and (3) Internal Financial Controls. Examiners recommended a Consent Order, which was approved by the NYRO on August 17, 2023. However, as discussed later in this report, FDIC officials decided not to issue the Consent Order, and instead replaced it with a new MOU in February 2024.

This MOU covered five functional areas:

1. Funds Management
2. Strategic/Profit Plan
3. Capital
4. Interest Rate Risk
5. Dividends

In addition to the MRBAs and MOUs issued by the FDIC, the Bank's holding company was subject to a Supervisory Letter and was expected to remediate multiple inspection findings issued by the Federal Reserve. These supervisory concerns were related to similar issues at the Bank, such as Board oversight and reporting, contingency planning, and remedying regulatory violations. See **Appendix III** for additional information.

### **FDIC Supervision and Enforcement Activities Associated with Republic Bank Were Generally Timely, Adequate, and Well-Coordinated with Other Regulators**

With one exception discussed later in this report, we found that FDIC supervision and enforcement activities associated with Republic Bank were timely, adequate, and well-coordinated with other regulators.

#### ***Full-Scope Examinations***

According to the FDIC's *Rules and Regulations* (Section 337.12), insured state nonmember banks must have a full-scope, onsite examination at least once during each 12-month period. The *Rules and Regulations* further state:

*Annual examination intervals may be extended to 18 months under the following conditions:*

- *The bank has total assets of less than \$3 billion;*
- *The bank is well capitalized as defined in Section 324.403(b)(1) of the FDIC Rules and Regulations;*
- *The bank was assigned a management component rating of 1 or 2 at the most recent FDIC or applicable state examination;*
- *The bank was assigned a composite rating of 1 or 2 at the most recent FDIC or applicable state examination;*
- *The bank currently is not subject to a formal enforcement proceeding or order by the FDIC, OCC, or Federal Reserve System;*

*Further, examinations may be conducted in alternate 12- or 18- month periods if the FDIC determines that a full-scope, onsite examination completed by the appropriate state supervisory authority during the interim period is acceptable for composite 1- or 2-rated institutions.*

As shown in Table 7 above, all full-scope examinations of Republic Bank were conducted timely, within the appropriate 12- or 18-month period. Additionally, in alignment with the FDIC's forward-looking, risk-focused supervisory approach, the FDIC accelerated the full-scope examination in 2023 as Republic Bank's risk profile began to change. According to the *Manual*:

*The objective of a risk-focused examination process is to identify problems early and devise solutions in the quickest, most efficient manner possible. In some instances, evidence of objectionable practices or conditions may indicate the need for an accelerated examination or visitation.*

Following the downgrade of the Liquidity component rating to "3" as a result of the April 6, 2023, off-site review, FDIC examiners planned a joint visitation beginning May 1, 2023, with PA DoBS. Initially, the scope of that visitation was to establish liquidity monitoring; conduct a review of financial performance; assess ratings for the Capital, Earnings, Liquidity, and Sensitivity to Market Risk components; assess Call Report amendments; and follow up on MOU responses and outstanding MRBAs. The FDIC's documentation indicates that, on May 22, 2023, the scope of the visitation was expanded to include the Asset Quality component. Within three days of that scope expansion, examiners recommended expanding the visitation to a full-scope examination given the deterioration in the Bank's condition that they observed.

We also found that the conclusions of the full-scope examinations in the ROEs were adequately supported. For the 2020, 2022, and 2023 examinations,<sup>38</sup> we also found that the ROEs aligned with examination planning documentation, and that examiners created and maintained thorough workpaper files within the FDIC's system of record, the Regional Automated Document Distribution and Imaging System (RADD), as required by the *Manual*. The *Manual* also states:

*Examiners should document their findings through a combination of brief summaries, source documents, report comments, and other workpapers that clearly describe financial conditions, management practices, and examination conclusions.*

and

*Documentation should include summary statements. Summary statements can take many forms, including notations on copies of source documents, separate hand-written notes, and electronic or hard-copy memorandums. At a minimum, summary comments should:*

- *Detail examination findings and recommendations,*
- *Describe supporting facts and logic, and*
- *Record management responses and completion dates for promised corrective actions.*

Finally, we found that the FDIC regularly coordinated with the PA DoBS and the Federal Reserve.<sup>39</sup> In particular, in the eight months leading up to Republic Bank's failure, the FDIC's documentation demonstrates that all three regulators met together with Bank management on an almost daily basis in addition to supervisory coordination meetings without Bank management present. Officials from all three regulatory organizations highlighted in discussions with us the successful collaboration among regulators as a positive lesson learned.

---

<sup>38</sup> We could not assess the workpapers for the 2019 Joint examination due to document retention policies, and we did not assess the workpapers for the 2021 State examination because the scope of our review was limited to the FDIC's supervisory activities.

<sup>39</sup> The Federal Reserve was the primary supervisor for Republic First Bancorp, Inc., the Bank's holding company.

### Off-site Review and Visitations

In addition to these full-scope examinations, FDIC examiners also completed an off-site review and two visitations in 2023 and 2024. Per the Manual:

*The terms limited-scope examination and visitation are interchangeable and may be defined as any review that does not meet the minimum requirements of a full-scope examination. Examiners may conduct the reviews for a variety of reasons, such as to assess changes in an institution's risk profile or to monitor compliance with corrective programs. Examiners may also conduct the reviews to investigate adverse or unusual situations, to determine progress in correcting deficiencies, or to assess compliance with supervisory requirements established through an order.*

*Limited-scope reviews may address the overall condition of the institution, material changes since the previous examination, or areas that exhibit more than normal risk. Depending on the scope, purpose, and sufficiency of the reviews, examiners can assign composite ratings and component ratings. Component ratings for areas that were not sufficiently reviewed should be brought forward from the previous examination.*

The focus of each of these reviews and a summary of their outcomes are presented in Table 8.

**Table 8: Republic Bank Off-Site Review and Visitations**

Review Start Date	Purpose	Summary of Findings	Outcome
April 6, 2023	Conduct an off-site review of the Bank's liquidity and capital position.	Examiners found that despite the combination of significant market stress, the bank's funding profile, and overall weakened condition, management did not initiate its CFP contained in the Liquidity Policy to promptly bolster liquidity.	The FDIC issued a Supervisory Letter including an MRBA related to the Bank's CFP, and an interim downgrade of the Liquidity component rating to "3".
November 20, 2023	Review Board and management actions to address (1) severe liquidity stress; (2) the February 2023, MOU; and (3) the findings from the June 5, 2023, ROE.	Examiners stated that the Board and management had taken numerous steps that had begun to stabilize the institution.	The FDIC upgraded the Management component rating to "3", and issued a new MOU, rather than the previously approved Consent Order.
March 11, 2024	Evaluate earnings, capital, sensitivity to market risk, and liquidity and assess the March 4, 2024, progress report required by the February 2023 MOU.	Examiners found liquidity, earnings, and sensitivity to market risk were "critically deficient", while capital remained deficient.	The FDIC downgraded the Liquidity, Earnings, and Sensitivity to Market Risk ratings to "5", as well as downgrading the Bank's composite rating to "5".

Source: Sikich analysis of FDIC information.

We found that the FDIC documented the support for Republic Bank's March 2024 visitation in a stand-alone RADD workpaper file in accordance with the *Manual*, and that the conclusions adequately reflected available information related to the Bank's status at the time. We also found that the conclusions in the April 6, 2023, off-site review were reasonably supported by the information contained in the report itself.

Of note, the April 6, 2023, off-site review did not have a stand-alone RADD workpaper file, and the documentation specific to this review was captured in the Bank's general "Correspondence" folder within RADD. The documentation associated with this review included an internal memorandum to the file and Problem Bank Memorandum,<sup>40</sup> the

<sup>40</sup> According to the FDIC's *Case Manager Procedures*, Problem Bank Memoranda are completed to effect the rating change on the FDIC's systems. They are typically shortened summaries of the internal memoranda filed by examiners following completion of an examination or visitation.

Supervisory Letter notifying the Bank about the interim downgrade to the Liquidity component and associated MRBA, and the daily liquidity reports reviewed as part of the off-site review. However, the April 6, 2023, off-site review was limited strictly to a 3-week review of the Liquidity and Capital components following the March 2023 failures of other IDIs discussed earlier. We found that the report contained sufficient detail to support the examiner’s conclusions. Further, this review was finalized immediately with an interim component rating downgrade so that it could be used as part of a broader visitation which commenced May 1, 2023, and was then converted to a full-scope examination shortly thereafter.

In contrast, as discussed in the following section, we identified several opportunities for improvement related to the November 20, 2023, visitation.

### The November 2023 Visitation Lacked Documented Support for Changes to the Management Rating and Enforcement Action

As shown in Table 8 above, on November 20, 2023, the FDIC began a visitation<sup>41</sup> of Republic Bank evaluating the appropriateness of CAMELS ratings considering Board and management actions taken to address (1) severe liquidity stress; (2) the February 2023 MOU; and (3) the findings from the June 5, 2023, ROE. The results of this visitation concluded that the Management component rating for Republic Bank should be upgraded to “3”. However, our overall assessment of the available evidence found that it did not support the conclusions reached in the November 2023 visitation or the subsequent actions taken. Specifically, and in contrast with the documentation for other visits, FDIC examiners did not use the FDIC’s system of record, RADD, to maintain thorough records associated with the visitation. Further, the justification the FDIC provided for issuing a new MOU rather the Consent Order that was previously approved by the New York Regional Director was limited.

**Table 9: Timeline of Key Events March 2023-April 2024**

Date	Event
3/10/2023	Silicon Valley Bank fails
3/12/2023	Signature Bank of New York fails
3/13/2023	Daily liquidity monitoring of the Bank begins; RMS prepares initial supervisory history information for DRR
4/6/2023	Interim Liquidity downgrade of Republic Bank from “2” to “3”
5/1/2023	First Republic Bank fails
6/5/2023	2023 full-scope examination begins
7/18/2023	FDIC EIC recommends consent order
8/21/2023	June 2023 ROE issued
9/13/2023	Failing bank case approved by the FDIC Board
9/27/2023	Investment Group signs letter of intent to invest \$35 Million
10/10/2023	EIC recommends significant CAMELS downgrades
10/13/2023	DRR begins marketing the Bank
10/27/2023	DRR suspends marketing the Bank in anticipation of Call Report filing
10/30/2023	Bank files 9/30 Call Report and asserts it can hold securities

<sup>41</sup> According to FDIC officials, they considered the November 20, 2023 visitation to be a “continuous monitoring event” carried out throughout the latter part of 2023 rather than a traditional point-in-time visitation. However, because the available documentation related to this supervisory activity refers to it as a “visitation,” we refer to it as such in this report.



Date	Event
11/14/2023	Bank does not adequately respond to FDIC request for information about 9/30 assertion
11/20/2023	FDIC and PA DoBS begin visitation; results in upgrade to Management rating of "3" and less severe enforcement action
1/24/2024	November 2023 visitation letter sent to the Bank; 2023 MOU remains open
2/22/2024	FDIC issues second MOU
3/11/2024	FDIC and PA DoBS begin visitation, resulting in CAMELS downgrades
4/2/2024	Federal Reserve notifies Bank it cannot rely on Secondary Credit program
4/25/2024	Bank asserts it cannot hold securities
4/26/2024	PA DoBS closes Republic Bank

Source: Sikich analysis of FDIC information.

### ***The FDIC's November 2023 Visitation Conclusions Focused on Potential Improvements from Ongoing Management Actions Rather Than Known Challenges to the Bank's Safety and Soundness***

We found that the FDIC's documented evidence in support of the November 20, 2023, visitation conclusions was insufficient. According to FDIC officials, all support justifying the conclusions of the visitation was included in the visitation memorandum itself, with additional supporting information found in meeting notes retained in RADD. The limited information documented did not provide a clear trail of decisions and supporting logic. In contrast, other documented evidence demonstrated that the Bank faced critical challenges at that time, most notably with regards to its financial reporting. The available evidence we reviewed suggested that downgrades of other component ratings and sustainment of the Management rating may have been warranted at the time the FDIC upgraded Republic Bank's Management component rating.

#### **Documented Support for Visitation Results Emphasized Ongoing Management Actions**

As a result of the November 20, 2023, visitation, the FDIC upgraded the Management component rating from "4" to "3", and maintained all other CAMELS component ratings and the composite rating from the June 5, 2023, examination. According to the *Manual*:

*A rating of 3 indicates management and board performance that need improvement or risk management practices that are less than satisfactory given the nature of the institution's activities. The capabilities of management or the board of directors may be insufficient for the type, size, or condition of the institution. Problems and significant risks may be inadequately identified, measured, monitored, or controlled.*

*A rating of 4 indicates deficient management and board performance or risk management practices that are inadequate considering the nature of an institution's activities. The level of problems and risk exposure is excessive. Problems and significant risks are inadequately identified, measured, monitored, or controlled and require immediate action by the board and management to preserve the soundness of the institution. Replacing or strengthening management or the board may be necessary.*

According to FDIC officials, all support justifying the conclusions of the visitation was included in the visitation memorandum itself, with additional supporting information found in meeting notes retained in RADD. The visitation memorandum stated:

*The Bank's management team took considerable actions to navigate a challenging and dynamic liquidity stress event and made concerted efforts to address legacy weaknesses. Management responded to liquidity stress while taking steps to address the Memorandum [of Understanding], the 2023 Report recommendations, and other strategic priorities. Although additional efforts are needed to return the institution to an overall satisfactory condition, positive developments are noted.*

Based on the visitation memorandum and the related Supervisory Letter transmitted to the Bank, management addressed the “challenging and dynamic liquidity stress event” by (1) maintaining open and frequent communication with creditors and regulators;<sup>42</sup> (2) optimizing collateral placement;<sup>43</sup> (3) reducing risk posed by uninsured depositors;<sup>44</sup> and (4) improving monitoring while pursuing strategic options to strengthen capital and address the MOU and 2023 ROE.<sup>45</sup> Although it was not clearly documented in the visitation materials, FDIC officials explained to us that the “liquidity stress event” referenced in the visitation materials referred to the overall market stresses created by the March 2023 bank failures.

More detailed support was included in the November 2023 visitation materials related to management's actions in response to the February 2023 MOU and the June 2023 MRBAs. Specifically, the visitation memorandum and Supervisory Letter noted the efforts that management had made toward addressing the outstanding issues related to strategic and capital planning, contingency planning, liquidity stress testing, and financial controls. However, with the exception of resolving the Bank's June 2023 findings associated with regulatory violations, based on the visitation memorandum none of the open issues were addressed sufficiently to resolve them and the associated MOU and MRBAs remained outstanding. Further, with regard to two issues – contingency planning and liquidity stress testing – the March 11, 2024, visitation report stated that, “Management is in the process of addressing the June 5, 2023, MRBAs for liquidity stress testing and the CFP, **but has yet to provide documentation to evidence any progress**” (emphasis added).

The November 2023 visitation memorandum also stated that all other ratings remained appropriate, providing a brief overview of how the financial condition of the Bank had not improved since the June 5, 2023, ROE, with the exception of a potential capital raise. According to the *Manual*:

*A bank's performance with respect to asset quality and diversification, capital adequacy, earnings performance and trends, liquidity and funds management, and sensitivity to fluctuations in market interest rates is, to a very significant extent, a result of decisions made by the bank's directors and officers. Consequently, findings and conclusions in regard to the other five elements of the CAMELS rating system are often major determinants of the management rating.*

---

<sup>42</sup> Beginning in August 2023, the FDIC's documentation demonstrates that the Bank met daily with the FDIC, PA DoBS, and the Federal Reserve, as evidenced in the extensive meeting notes in RADD.

<sup>43</sup> No further information is provided about this action taken by management in the visitation documentation. However, FDIC officials told us that this referred to management's efforts to free up securities so they could be repledged to borrowing facilities.

<sup>44</sup> The FDIC's documentation demonstrates that this was accomplished through the use of reciprocal deposits, which Republic Bank was approved to use through an FDIC-granted waiver, as discussed later in this report.

<sup>45</sup> Except for the updates on the MRBAs and MOU discussed later in this report, no further information is provided about this action taken by management in the visitation documentation. However, FDIC officials told us that this referred to improvements management made to the required daily liquidity reports, efforts to raise capital, and communication with depositors.

The *Manual* further states that when assessing compliance with informal enforcement actions, “examiners should reflect the adequacy of an institution’s response to an MOU in the Management rating.” Given that the available visitation documentation clearly stated that issues related to capital planning, contingency planning, liquidity stress testing, and financial controls all remained outstanding, it is unclear to us how an upgrade to the Management component rating was warranted at the time.

Similar to the April 2023 off-site review, the November 2023 visitation did not have a stand-alone workpaper file in RADD supporting the analysis performed or conclusions reached by supervisory personnel.<sup>46</sup> The absence of a stand-alone workpaper file does not preclude the inclusion of more thorough supporting materials within RADD that could have demonstrated an appropriate decision process and rationale for the ratings change. However, such documentation for the November 2023 visitation was not documented elsewhere in RADD, and the available evidence does not provide a clear trail of the decisions and supporting logic of supervisory personnel. As mentioned earlier, the *Manual* requires supervisory personnel to:

*Document their findings through a combination of brief summaries, source documents, report comments, and other workpapers that clearly describe financial conditions, management practices, and examination conclusions.*

Expectations related to documentation are further detailed in *RMS Operating Procedures for Examination Workpapers*, which state:

*Examination workpapers should demonstrate a clear trail of decisions and supporting logic within a given examination area. Documentation should provide a written record of the examiner’s decisions and analysis, and provide support for assertions of fact or opinion in the Report of Examination (ROE) or other supervisory work product, such as a supervisory letter or visitation memorandum. A well-constructed examination documentation file will provide sufficient data to support the examiner’s decision process. This documentation file includes support for the examiner’s decisions regarding the examination scope, as well as providing documentation of significant findings.*

FDIC policy, procedures, and guidance offer flexibility with regard to supervisory activities that do not meet the minimum requirements of a full-scope examination. As these activities are used to accomplish a wide range of goals, we find that such flexibility is warranted as it relates to the scope, timing, and format of these activities. However, inadequate documentation creates the risk that decisions arising from visitations, off-site reviews, or other limited-scope supervisory activities are not well-supported, particularly when those decisions involve supervisory ratings or enforcement actions.

We recommend that the Director, Division of Risk Management Supervision:

- **Recommendation 1:** Clarify the *Manual* to ensure that supervisory activities that do not meet the minimum requirements for a full-scope examination, including visitations and limited-scope examinations, provide adequate documentation in support of conclusions and retain this documentation in the FDIC system of record.

---

<sup>46</sup> Per the *Manual*, “supervisory personnel” refers to Risk Management Supervision staff such as examiners, field managers, case managers, and regional office management and is used when a responsibility may be handled by varying parties based on regional management discretion.

### Information Documented Immediately Preceding the November 2023 Visitation Identified Critical Challenges to the Bank’s Safety and Soundness

In our assessment, the documented evidence associated with the November 2023 visitation did not support upgrading the Management component rating to “3”. Further, other available evidence demonstrated that the Bank faced critical challenges at that time, which suggested that downgrades to or sustainment of other component ratings may have been warranted. Most significantly, as late as October 13, 2023—approximately 1-month before the November 2023 visitation—and based on the recommendations from the EIC and the Case Manager, the FDIC was considering significant downgrades to Republic Bank’s CAMELS ratings, from the June 5, 2023, ROE ratings of 4-2-4-4-4-4/4 to 4-3-4-5-5-5/5. In fact, the FDIC had drafted, but never issued to Bank Management, a downgrade notification letter, which stated:

*Due to the bank’s weakened condition marked by large operating losses stemming from high interest rate risk and inadequate asset diversification, funding providers have reduced their lending exposures and/or restricted borrowing terms and conditions, which has exacerbated an already tightened liquidity position underscored by material outflows of uninsured deposits. Future earnings prospects are critically deficient largely because of rapidly increasing funding costs resulting from the bank’s balance sheet structure and unacceptable sensitivity to market risk.*



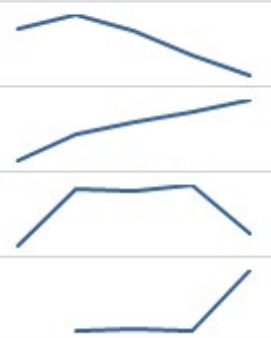
The memorandum recommending the interim ratings changes was drafted in early October 2023 by the Examiner-in-Charge following discussion with the NYRO, and submitted to the New York Regional Director on October 10, 2023. Unlike the memorandum associated with the November 2023 visitation that upgraded the Management rating, we found that the memorandum recommending downgrades contained a highly detailed overview of the financial state of Republic Bank, clearly outlining a deteriorating situation. Notably, the recommendation concluded:

*It is recommended that the Composite rating be downgraded from 4 to 5. The volume and severity of the bank’s problems appear to be beyond management’s ability to control or correct. **The bank poses a significant risk to the deposit insurance fund and a liquidity or capital failure is highly probable** (emphasis added).*

In contrast, the Problem Bank Memorandum associated with the November 2023 visitation states, “The bank’s overall condition needs improvement and the risk posed to the DIF is moderate.” As discussed in greater detail in the following section, another result of the November 2023 visitation was that the FDIC decided not to pursue the recommended and approved Consent Order resulting from the June 5, 2023, examination, “given improvement in the bank’s condition.” As shown in Figure 2, however, key financial metrics show that the Bank’s financial situation did not materially improve between June and December 2023.

**Figure 2: Key Financial Metrics for Republic Bank, June-December 2023**

Trend	Date	6/30/2023	9/30/2023	10/31/2023	11/30/2023	12/31/2023
	Leverage Ratio	5.03%	4.65%	4.59%	4.47%	4.43%
	Tier 1 Capital Ratio	9.02%	9.08%	8.98%	8.83%	8.83%
	Total Capital Ratio	9.86%	9.94%	9.84%	9.70%	9.59%

	Net Interest Margin	0.67%	0.87%	0.97%	1.06%	1.15%
	Liquidity	130,139	585,545	555,674	611,895	220,818
	Borrowing Capacity	--	262,584	271,289	261,810	799,428

Source: Sikich analysis of Republic Bank financial data.

In addition, documentation shows that supervisory personnel had several discussions prior to the November 20, 2023, visitation focused on the consequences of a downgrade of Republic Bank to a composite “5” rating, which included, among other things, the immediate loss of the Bank’s access to the Federal Reserve’s Secondary Credit program. As demonstrated by the Bank’s failure, because the Bank’s strategy for managing liquidity and capital was reliant on access to this credit, the loss of it resulted in the Bank’s inability to hold its HTM securities to maturity and assertion that it was “more-likely-than-not” that the Bank would be required to sell impaired AFS securities, ultimately causing critical undercapitalization. Although FDIC officials explained that the potential consequences of ratings decisions are not taken into account when determining CAMELS ratings, the significance of such outcomes underscores the importance of clearly documenting the support for supervisory decisions through summaries and other workpapers.

#### *External Auditor Concerns*

Internal FDIC documentation shows that a primary focus at the time downgrades were being considered was whether Republic Bank would be able to assert in the September 30, 2023, Call Report that it could hold its HTM debt securities to maturity and whether it was “more-likely-than-not” that the Bank would be required to sell impaired AFS securities. This was just one of multiple accounting concerns at the time that was contributing to the continued delay in Republic Bank’s filing of its 2022 Form 10-K and the completion of the 2022 financial statement audit. As discussed previously, the June 2023 examination also included an MRBA related to internal financial controls.

Although the *Manual* recommends examiners review external auditor workpapers, it recommends that they do so during the examination planning process, to assist in “determining the scope of the examination and the procedures to be applied to different areas of operations.” Because of the way by which the June 2023 examination evolved—starting as a visitation—examiners told us that it did not undergo the traditional planning process, as much of the work was underway when it became a full-scope exam. FDIC officials also stated that they did not review any external auditor workpapers in 2023, because the 2022 financial statement audit had not been completed. In addition, the *FDIC’s Internal and External Audit Evaluation Examination Documentation Module* includes questions related to an IDI’s external audit program, primarily focused on the compliance of the external auditor with applicable regulations and standards. The module includes further questions for examiners to pursue

when needed, but in the June 2023 examination, examiners found the external audit program to be effective and in compliance, so no further work was completed.

Nonetheless, FDIC examiners were aware of the external auditor's concerns and met with them regularly. In particular, these discussions focused on whether the Bank could continue as a going concern and the status of the Bank's assertion memorandum related to its debt securities. Concerns related to the Bank's ability to assert that it would be able to hold its debt securities were significant enough that on October 13, 2023, the FDIC's Division of Resolutions and Receiverships (DRR) began to market the Bank in anticipation of potential failure.<sup>47</sup> At this point in time, FDIC correspondence shows that everyone involved with the Bank, including Bank management, the FDIC, the PA DoBS, and the Federal Reserve, was aware that the Bank's continued operation past October 30, 2023, (the September 30, 2023, Call Report filing deadline) hinged on whether or not the Bank could make this assertion.

One of the primary events that occurred between the October 10, 2023, memorandum recommending significant ratings downgrades and the November 20, 2023, visitation was that the Bank filed the September 30, 2023, Call Report. This Call Report included an assertion that it was not "more-likely-than-not" that the Bank would be required to sell impaired AFS securities, and therefore Republic Bank "could continue as a going concern." DRR suspended the marketing of the Bank on October 27, 2023, in anticipation of the Bank filing the Call Report on October 30, 2023, and the FDIC did not proceed with the ratings downgrades.

On November 8, 2023, the FDIC obtained a copy of Republic Bank management's assertion related to its debt securities and the external auditor's assessment of the assertion. Supervisory personnel obtained this information to review the assumptions on which the Bank relied when making the assertion. The documentation demonstrates that the external auditor's assessment focused on the fact that the Bank's scenarios relied heavily on discretionary information that was not within the control of management, particularly reliance on access to credit facilities under the FHLB and Federal Reserve. On November 9, 2023, the FDIC requested additional information from Republic Bank to assist in its review of the assertion submitted with the September 30, 2023, Call Report. Specifically, the letter requested that management provide the following information by November 16, 2023:

1. *Clarify management's anticipated recovery period in the impairment analysis, including support for the forecasted recovery of the amortized cost of the securities during the anticipated recovery period.*
2. *Identify the source of "cash on hand" that would be used to pay down Bank Term Funding Program loans as described in the impairment analysis.*

Republic Bank management responded to this letter on November 14, 2023, but the response did not provide any new information, and FDIC officials told us that they considered it to be non-responsive.<sup>48</sup>

Internal meeting records show the FDIC met with the external auditors several additional times prior to the Bank's failure. However, the accounting issues and the ongoing challenges management faced in completing the required annual filing for 2022 were not mentioned in the November 20, 2023, visitation memorandum where the FDIC upgraded the Management

---

<sup>47</sup> According to DRR, since 2009, 584 banks have been marketed. Of these, 517, or 89 percent have ultimately failed.

<sup>48</sup> The *Manual* states that "Responsiveness to recommendations from auditors and supervisory authorities," is one of the evaluation factors that the Board and management are assessed on for the Management component rating.

component rating. This occurred despite the fact *the Manual* expressly includes financial reporting as one of the evaluation factors within the Management component, stating that the capability and performance of management and the board of directors should be assessed, in part, on:

*The adequacy of audits and internal controls to promote effective operations and reliable financial and regulatory reporting; safeguard assets; and ensure compliance with laws, regulations, and internal policies.*

The primary issue preventing the auditor from opining on the 2022 financial statements (whether the Bank could hold its HTM debt securities, was not “more-likely-than-not” required to sell impaired AFS securities, and could continue as a going concern) would ultimately be the reason Republic Bank failed. As such, better documentation about how these issues factored into the ratings decisions was warranted. With better guidance for examiners on how to incorporate the perspectives of external auditors into their examination process beyond the planning phase, the FDIC could more accurately account for the wide range of risks faced by IDIs.

We recommend that the Director, Division of Risk Management Supervision:

- **Recommendation 2:** Revise examiner guidance to ensure supervisory personnel consider significant delays in required financial filings and any associated perspectives of external auditors when assessing UFIRS ratings.

### ***The FDIC Lacked Documented Support in Replacing the Recommended Consent Order***

We found that FDIC’s decision to replace the recommended Consent Order<sup>49</sup> (a formal enforcement action) with an MOU (an informal enforcement action) was not supported by the limited evidence available at the time of the decision. As discussed previously in this report, the June 5, 2023, examination resulted in significant ratings downgrades for Republic Bank, including a composite rating downgrade to “4”. According to the *Manual*, a composite rating of “4” is defined as follows:

*Financial institutions in this group generally exhibit unsafe and unsound practices or conditions. There are serious financial or managerial deficiencies that result in unsatisfactory performance. The problems range from severe to critically deficient. The weaknesses and problems are not being satisfactorily addressed or resolved by the board of directors and management. Financial institutions in this group generally are not capable of withstanding business fluctuations. There may be significant noncompliance with laws and regulations. Risk management practices are generally unacceptable relative to the institution’s size, complexity, and risk profile. **Close supervisory attention is required, which means, in most cases, formal enforcement action is necessary to address the problems.** Institutions in this group pose a risk to the deposit insurance fund. Failure is a distinct possibility if the problems and weaknesses are not satisfactorily addressed and resolved (emphasis added).*

Accordingly, following the June 5, 2023, examination, FDIC examiners prepared a memorandum recommending a Consent Order to correct weaknesses identified in (1) capital

---

<sup>49</sup> According to the *Manual*, a consent order is a formal enforcement action under Section 8(b), *Cease and Desist Orders*, of the FDI Act. Section 8(b) authorizes the FDIC to issue a cease and desist to “remedy unsafe or unsound practices or violations, to correct conditions resulting from such practices or violations, and to prevent future unsafe and unsound practices or violations.” If an institution agrees to comply with an enforcement action (stipulates), the FDIC will issue a consent order.

levels and planning, (2) board oversight and strategic planning, (3) liquidity levels, (4) funds management and liquidity risk management, (5) internal controls, (6) management of interest rate risk, (7) earnings, (8) control of intercompany transactions, (9) the failure to comply with laws and regulations, (10) the timely and accurate issuance of financial reports and Consolidated Reports of Condition and Income, and (11) asset diversification. The recommended Consent Order was approved by the New York Regional Director on August 17, 2023.

Shortly thereafter, on August 21, 2023, the ROE for the June 2023 examination was sent to Republic Bank. The transmittal letter included a notification to the Bank that the FDIC and PA DoBS determined that Consent Orders were required to address the deficiencies identified by the examination. Specifically, the letter stated:

*This letter serves as notification that the FDIC and Bureau [(i.e., PA DoBS)] have decided to pursue a formal enforcement action against Republic Bank. Under the FDIC's Guidelines for Appeals of Material Supervisory Determinations, formal enforcement-related actions and decisions are not material supervisory determinations and, therefore, not appealable through the Supervision Appeals Review Committee process.*

The FDIC provided Republic Bank with a draft of the Consent Order on October 17, 2023. Between the time of the FDIC's request for the Bank's consent to the orders and the November 20, 2023, visitation, the Bank provided the FDIC with several operational updates, including a required progress report for the previously issued 2023 MOU and a month-end financial report for October 31, 2023. No other analysis, recommendation memorandum, or other written record of the examiner's decisions and analysis associated with the Consent Order was documented or retained in RADD. Instead, the next available documentation in RADD associated with the proposed enforcement action and subsequent change to the FDIC's supervisory action was the internal memorandum associated with the November 2023 visitation (dated December 4, 2023). This memorandum stated:

*Given improvement in the bank's condition, a contemplated Consent Order will not be pursued. However, the NYRO will convert the Consent Order to a new MOU. An MOU is appropriate given management and the Board's commitment to address the underlying causes of the institution's weakened financial condition. Bank management has also made progress complying with laws and regulations and correcting unsafe or unsound practices, and initiated corrective action and established procedures to prevent future deficiencies in a variety of areas.*

According to FDIC officials, the support underlying these statements is documented in the visitation memorandum itself, in which the upgrade to the Management component rating is discussed. However, as we noted previously in this report, the evidence in support of the memorandum's conclusions was insufficient, particularly in terms of the bank's improved condition. Further, the visitation memorandum notes that Republic Bank had not successfully resolved most of the items included in the February 2023 MOU. As the *Formal and Informal Enforcement Actions Manual* states:

*Use of a MOU does not prevent the FDIC from subsequently pursuing formal enforcement action if such formal action is required by law or if the FDIC believes the institution's management is unwilling or unable to voluntarily take necessary corrective action. A formal enforcement action may also be pursued if efforts to comply with the informal enforcement action have not resulted in sufficient resolution of the identified concerns or improvement in the institution's condition.*



FDIC officials told us that, in their view, issuing a new MOU was a form of escalating enforcement, as it included more extensive requirements than the 2023 MOU. FDIC officials further stated that the new, 2024 MOU was identical to the drafted Consent Order. However, upon review, we determined that a significant section of the drafted Consent Order related to financial reporting and recordkeeping had been removed, but no explanation of this change was documented.

Given the extent to which the Consent Order process had been completed including the approval by the Regional Office Director, drafting of the Consent Order, and communication of the Consent Order to the financial institution, it is reasonable to expect that the documentation file would contain sufficient data to support the decision process and change in supervisory action. As noted above, “Examination workpapers should demonstrate a clear trail of decisions and supporting logic.”

However, the FDIC does not currently have policy, procedures, or guidelines that specifically detail a required decision-making process for modifying enforcement actions that have been approved but not been implemented. For implemented enforcement actions, the FDIC provides clear guidance on replacing an enforcement action, such as a Consent Order, with a less severe action, such as an MOU. Specifically, the *Formal and Informal Enforcement Actions Manual* states:

*There may be limited exceptions in which replacing an enforcement action with a less severe or less comprehensive action may be appropriate. Requests for use of this limited exception must be presented to the appropriate Division Director and the General Counsel and require consultation with the Chairman. Use of the limited exception is expected to be rare.*

While it is within the FDIC’s discretion to issue an informal enforcement action to an IDI, even if it is rated as a composite “4” or “5”, it is clear from existing FDIC guidance that such decisions should be well-supported, particularly considering that the Manual states that, “in most cases, formal enforcement action is necessary to address the problems [at composite “4” rated institutions].” Given that the FDIC had issued the draft Consent Order to the Bank, greater support providing the rationale for issuing a less severe enforcement action would help ensure that the FDIC is implementing a consistent approach toward determining the appropriate enforcement actions and is fairly addressing violations, unsafe or unsound practices, and other problems.

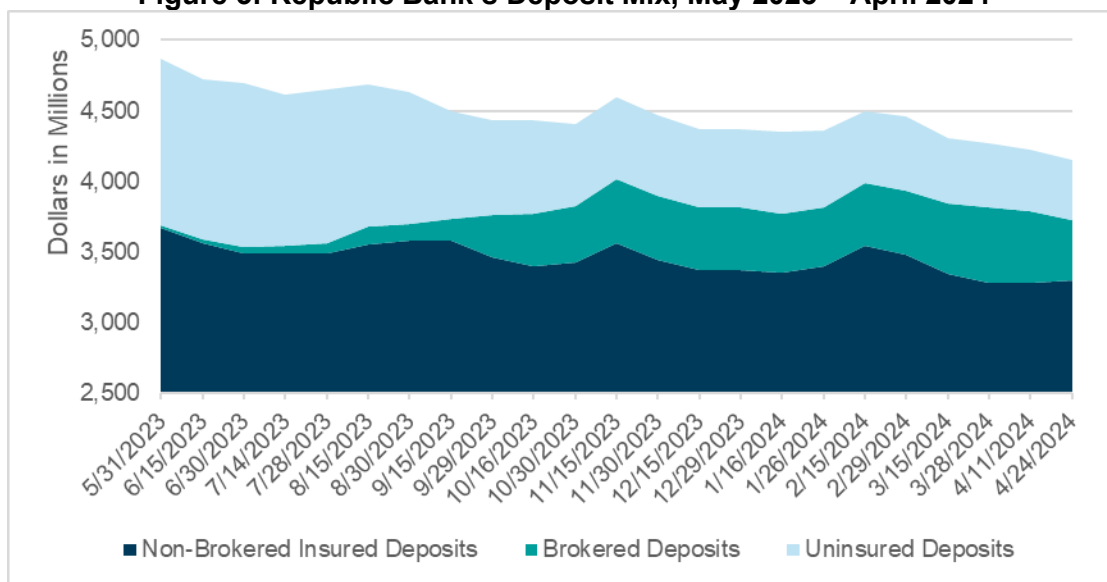
We recommend that the Director, Division of Risk Management Supervision:

- **Recommendation 3:** Revise the FDIC’s *Internal Formal and Informal Actions Procedures* to include specific process and documentation requirements related to circumstances in which an approved formal enforcement action is replaced with a less severe action.

### The FDIC Approved Brokered Deposit Waivers for Republic Bank, Resulting in an Increase of Insured Deposits

Republic Bank greatly increased its use of a certain type of brokered deposit—referred to as reciprocal deposits<sup>50</sup>—starting in September 2023, increasing the amount of insured deposits held by the Bank by approximately \$300 million. In light of the deposit run concerns created by the 2023 large bank failures in March 2023, Republic Bank began offering a reciprocal deposit product to its uninsured depositors which, by design, allowed their large deposits which exceeded FDIC deposit insurance thresholds, to achieve DIF coverage. This reciprocal arrangement allowed the Bank to maintain the same amount of funds the customer had on deposit while ensuring that deposits in excess of the \$250,000 deposit limit were fully insured. Unlike “traditional” brokered deposits, reciprocal deposits typically involve a relationship between the bank and the customer. In the case of Republic Bank, virtually all of its brokered deposits involved an existing customer relationship. Figure 3 illustrates Republic Bank’s deposit mix from May 2023 through April 2024.

**Figure 3: Republic Bank’s Deposit Mix, May 2023 – April 2024**



Source: Sikich Analysis of Republic Bank financial data.

As shown in Figure 3, brokered deposits comprised a small percentage of total deposits (less than 3 percent) until September 2023, when Republic Bank dramatically increased its use of brokered deposits, reaching approximately \$300 million, or 6.8 percent of total deposits, by month’s end. This occurred shortly after the June 5, 2023, ROE was issued, which downgraded the Bank’s composite rating to “4” and noted that Republic Bank’s high volume of uninsured deposits was a major contributor to its liquidity risk. The composite downgrade meant that the Bank had reduced or no access to FHLB and certain Federal Reserve credit sources, further increasing liquidity risk and the Bank’s reliance on deposits. Figure 3 also demonstrates that by the end of 2023, brokered deposits comprised more than 10 percent of total deposits, reaching

<sup>50</sup> The reciprocal deposit arrangement is based upon a network of banks that place funds at other participating banks in order for depositors to receive insurance coverage for the entire amount of their deposits. In these arrangements, institutions within the network are both sending and receiving identical amounts of deposits with identical maturity dates, if any.

a high of \$448 million. Although these brokered deposits were reciprocal deposits and, therefore, had a neutral balance sheet effect, by definition, they increased the value of Republic Bank's insured deposits.

### *Brokered Deposit Waivers*

In September 2023, as noted earlier in this report, the Bank amended its previously submitted quarterly Call Reports for periods ending December 31, 2022; March 31, 2023; and June 30, 2023; which caused the Bank to fall to "Adequately Capitalized" for purposes of PCA. Because of the risks associated with brokered deposits, IDIs with a PCA status of "Adequately Capitalized" cannot unilaterally use brokered deposits without the express written approval from the FDIC.<sup>51</sup> According to Section 29 of the FDI Act:

- (a) In General.--An insured depository institution that is not well capitalized may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.*
- (c) Waiver Authority.--The Corporation may, on a case-by-case basis and upon application by an insured depository institution which is adequately capitalized (but not well capitalized), waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.*

Republic Bank filed its first brokered deposit waiver application with the FDIC in late August 2023 in anticipation of its change in PCA status, which the FDIC approved immediately after the Bank filed its amended quarterly Call Reports. According to FDIC officials, the purpose of the first waiver was to provide short-term stability and prevent a liquidity event. Specifically, FDIC officials told us that they approved this waiver to ensure that Republic Bank did not lose \$118 million in existing reciprocal deposits upon the PCA change. The FDIC then approved a subsequent waiver in late October 2023. According to FDIC officials:

*The [reciprocal deposit] strategy allowed the Bank to maintain uninsured deposit relationships that could otherwise leave the Bank, and for municipal depositors who entered the program, participation in the program acted to free securities previously pledged to municipal depositors to be repledged to borrowing facilities for additional liquidity access.*

To assess these waivers, the *Case Manager Procedure Manual* provides detailed guidance on how to process the waiver applications and document them in a Summary of Investigation (SOI). It states:

*The SOI comments should address:*

- o Traditional safety and soundness concerns as they may apply to the institution in the particular circumstances.*
- o Contacts with other regulators and their views.*
- o An analysis of each of the eight requirements addressed in the application.*
- o A finding that the waiver of the prohibition would not result in an unsafe or unsound practice with respect to the institution.*
- o The Regional Director's approval paragraph or recommendation to the Washington Office.*

---

<sup>51</sup> Between October 1, 2022 and September 30, 2024, FDIC approved brokered deposit waivers for eleven banks.

We found that the FDIC included the required information in both of the SOIs prepared in response to Republic Bank's brokered deposit waivers. The safety and soundness section in each of the SOIs provides a number of examples of why approving the waiver would be appropriate and beneficial to the Bank, and why not approving the waiver would have negative consequences. For example, in the October 2023 application to extend the waiver, the SOI notes that

*Absent a waiver for reciprocal brokered deposits over the deposit insurance [limit], management would be required to "one-way sell" the uninsured portions of customers' deposit balances in the Sweep Programs off the balance sheet. Because reciprocal funds would not be received, replacement funding may not be available on acceptable rates and terms.*

The waiver assessment also included an analysis of the 8 requirements for a brokered deposit waiver application contained in the FDIC regulations.<sup>52</sup> However, the 8 requirements specified by the regulation refer to the content the application filing is required to contain, rather than criteria by which the FDIC assesses the appropriateness of the waiver. We found that although supervisory personnel included summaries of information the Bank provided in response to the 8 requirements, the SOIs did not include an assessment of how the provided information did or did not support the approval of the waiver. In addition, the SOIs did not include a consideration of potential risks or other information not included in the application materials. However, in discussions with FDIC officials, they told us that other factors were considered. For example, FDIC officials said that a significant factor they considered for the Republic Bank waivers was the strained market conditions that existed at the time as a result of the 2023 large bank failures.

The SOIs do not include an assessment of potential risks associated with approving the waiver because the FDIC criteria does not require that such information be assessed when determining whether a brokered deposit waiver is appropriate. However, because brokered deposits directly result in an increase in insured deposits, they have the potential to increase the loss to the DIF in the event of an IDI's failure and liquidation. As discussed later in this report, the FDIC has previously recognized the risk that brokered deposits pose to the DIF, as evidenced, in part, by the existence of the waiver process itself. Developing guidance that clearly identifies the information that should be considered when assessing waiver applications, including potential risks associated with approving individual waivers, will help ensure the regional offices consistently provide a thorough assessment of these applications. Improving the assessment process for brokered deposit waivers will also help ensure that the significant risks to the DIF by brokered deposits are adequately considered.

#### *Effect of Brokered Deposits*

As noted previously, Republic Bank was first referred to DRR in September 2023, given its financial condition, concerns related to its ability to remain a going concern, and potential for failure. At that time, DRR completed a liquidation analysis based on the June 30, 2023, Call Report data and presented the information within the Failing Bank Board Case dated September 13, 2023. This analysis was conducted prior to Republic Bank's increasing use of brokered deposits. The September 2023 liquidation analysis estimated that the claim associated with Republic Bank's insured depositors was \$2,010,029,000. After Republic Bank's assertion in April 2024 that it could no longer hold its securities, DRR completed a second analysis for comparison based on bank data downloads as of January 31, 2024. The estimated claim

---

<sup>52</sup> [12 CFR 303.243\(a\)\(3\)](#).

associated with insured depositors in April 2024 had increased by almost \$500 million, to \$2,497,346,000.

DRR prepares an estimated cost of liquidation as an input for determining the least-cost solution for failed bank resolutions. The comparison also showed an increase in the estimated cost of liquidation,

*...primarily related to a decrease in uninsured deposits and a decrease in general creditors, in other words a reduction in loss absorbing capacity to the depositor claimants and FDIC's subrogated claim for insured deposits.<sup>53</sup>*

For Republic Bank, rather than liquidate the Bank following failure, the FDIC determined that the least-cost solution was a purchase and assumption agreement with Fulton Bank, National Association of Lancaster, Pennsylvania to assume substantially all of the deposits and purchase substantially all of the assets of Republic Bank. As the estimated cost of liquidation increases, purchasing bids may also increase while still representing a least-cost option. However, because the objectives of the MLR are to (1) determine why the Bank's problems resulted in a material loss to the DIF, and (2) evaluate the FDIC's supervision, an evaluation of DRR's least-cost assessment for Republic Bank is outside the scope of this review.

The FDIC has consistently recognized the risks brokered deposits pose to the DIF, and as recently as July 2024 has taken actions to strengthen protections associated with this tool for managing liquidity. Externally, the FDIC issued a Notice for Proposed Rulemaking that seeks to "strengthen the safety and soundness of the banking system, help ensure uniform and consistent reporting of brokered deposits, and reduce operational challenges and reporting burdens on [IDIs]." Internally, also in July 2024, the FDIC issued examiner instructions on reciprocal deposits via Regional Director Memorandum. These instructions direct examiners to:

*...consider reciprocal deposit risks, including sources, concentrations, and stability of deposits when assessing liquidity stress analysis and CFP, as well as assignments of CAMELS ratings, particularly for the Liquidity and Management components.*

Although such guidance will likely help examiners better supervise "Well Capitalized" IDIs with reciprocal deposits in the future, additional criteria is needed to assist supervisory personnel when considering the approval of brokered deposit waivers for "Adequately Capitalized" IDIs. In particular, the FDIC should similarly prioritize the consideration of supervisory findings, ratings, and enforcement actions related to the Liquidity and Management components when assessing brokered deposit waivers. In doing so, the FDIC will be better positioned to minimize the known risks that brokered deposits pose to the DIF.

We recommend that the Director, Division of Risk Management Supervision:

- **Recommendation 4:** Develop detailed guidance that clarifies what information should be considered when assessing whether it is appropriate to approve a brokered deposit waiver for "Adequately Capitalized" IDIs.

---

<sup>53</sup> According to FDIC officials, the increase in the cost of liquidation was also due to the Bank misreporting \$664,000,000 in secured borrowings as unsecured borrowings in Schedule RC-O in the 6/30/2023 Call Report.

## V. COMPLIANCE WITH PROMPT CORRECTIVE ACTION (PCA)

As discussed earlier in this report, FDI Act Section 38, *Prompt Corrective Action (PCA)*, establishes a framework of mandatory and discretionary supervisory actions for IDIs that are not “Adequately Capitalized.” Regulators are required to take certain supervisory actions, known as “Prompt Corrective Actions,” if an institution’s capital level deteriorates below defined measures, as shown in Table 3 of this report. The purpose of Section 38 is to resolve problems of IDIs at the least possible cost to the DIF.

### Purpose of Capital and the FDIC’s Assessment of Capital

Functions of Bank Capital: The *Manual* explains the four essential functions of Capital, as shown in the table below.

**Table 10: Essential Functions of Bank Capital**

Absorbs Losses	Capital allows institutions to continue operating as going concerns during periods when operating losses or other adverse financial results are experienced.
Promotes Public Confidence	Capital provides a measure of assurance to the public that an institution will continue to provide financial services even when losses have been incurred, thereby helping to maintain confidence in the banking system and minimize liquidity concerns.
Restricts Excessive Asset Growth	Capital, along with minimum capital ratio standards, can act as a constraint on expansion by requiring that asset growth be funded by a commensurate amount of capital.
Protects Depositors and the Deposit Insurance Fund	Placing owners at significant risk of loss, should the institution fail, helps to minimize the potential for moral hazard, and promotes safe and sound banking practices.

Source: The FDIC’s *RMS Manual of Examination Policies* (the *Manual*).

FDIC examiners concluded that Republic Bank was well-capitalized throughout each full-scope examination cycle (from 2019 through the June 5, 2023, examination) based on defined capital measures. After the Bank amended its previously submitted quarterly Call Reports on September 22, 2023, for the periods ending December 31, 2022; March 31, 2023; and June 30, 2023, the FDIC notified the Bank immediately of its change in PCA category, as required. Republic Bank’s year-end capital ratios for the between 2019 and 2023 are summarized in Table 8, with greater detail about the Bank’s ratios following its shift to “Adequately Capitalized” categorization found in Table 11.

**Table 11: Republic Bank’s Year-End Capital Ratios 2019-2023**

Capital Ratio	12/31/2019	12/31/2020	12/31/2021	12/31/2022	12/31/2023
Tier 1 leverage ratio	7.54%	7.43%	5.85%	5.27%	4.43%
Common Equity Tier 1 (CET1) ratio	11.50%	11.82%	10.81%	9.45%	8.83%
Tier 1 capital ratio	11.50%	11.82%	10.81%	9.45%	8.83%
Total capital ratio	11.94%	12.36%	11.43%	10.20%	9.59%
Category	Well-Capitalized	Well-Capitalized	Well-Capitalized	Well-Capitalized	Adequately Capitalized

Source: Calculated based on 2019-2023 *Uniform Bank Performance Reports (UBPRs)*.

On September 22, 2023, the FDIC issued a PCA letter notifying Republic Bank that due to the amended Call Reports, the Bank was categorized as “Adequately Capitalized” as of March 31, 2023, under PCA, as required. As presented in Table 12, from that point forward, Republic

Bank’s various capital ratios consistently declined, though the Bank remained within the “Adequately Capitalized” category.

**Table 12: Republic Bank’s Capital Ratios March 2023-December 2023**

Capital Ratio	3/31/2023	6/30/2023	7/31/2023	8/31/2023	9/30/2023	10/31/2023	11/30/2023	12/31/2023
Tier 1 leverage ratio	5.12%	5.03%	5.03%	<b>4.77%</b>	<b>4.65%</b>	<b>4.59%</b>	<b>4.47%</b>	<b>4.43%</b>
CET1 ratio	9.16%	9.02%	8.89%	9.03%	9.08%	8.98%	8.83%	8.83%
Tier 1 capital ratio	9.16%	9.02%	8.89%	9.03%	9.08%	8.98%	8.83%	8.88%
Total capital ratio	<b>9.93%</b>	<b>9.86%</b>	<b>9.74%</b>	<b>9.90%</b>	<b>9.93%</b>	<b>9.84%</b>	<b>9.70%</b>	<b>9.59%</b>
Category	Adequately Capitalized	Adequately Capitalized	Adequately Capitalized	Adequately Capitalized	Adequately Capitalized	Adequately Capitalized	Adequately Capitalized	Adequately Capitalized

Note: Bolded text indicates the ratios that caused Republic Bank to be considered “Adequately Capitalized.”

Source: Republic Bank financial data.

According to the FDIC’s *Rules and Regulations*, under PCA:

*All IDIs are prohibited from making capital distributions or paying management fees if such distributions or payments would result in the IDI becoming undercapitalized, unless it is shown that the capital distribution would improve the IDI’s financial condition or the management fee is being paid to a person or entity without a controlling interest in the IDI. Section 29 of the FDI Act also places restrictions on certain brokered deposit activity and on deposit rates offered by IDIs as the PCA capital category declines below well capitalized.*

As discussed previously in this report, the FDIC appropriately required Republic Bank to submit a brokered deposit waiver in order to continue using reciprocal deposits after the Bank’s PCA category changed to “Adequately Capitalized.” All other mandatory supervisory actions as a result of PCA are only applicable to those IDIs that are less than “Adequately Capitalized,” and, therefore, the FDIC was not required to implement other corrective actions.<sup>54</sup>

### Limitations of PCA

Although Republic Bank was “Adequately Capitalized” according to PCA, the Bank’s capital position failed to fulfill the essential functions of bank capital, namely, to promote public confidence, fully absorb losses, and protect depositors and the DIF. This mainly occurred because the cause of Republic Bank’s failure—significant unrealized losses on securities—was disclosed, but was not required to be fully reflected in the Bank’s balance sheet<sup>55</sup> and therefore was not reflected in the Bank’s capital ratios. As noted previously, once fully recognized, all of Republic Bank’s capital ratios immediately fell below zero.

The FDIC was aware of the risks associated with these unrealized losses, both for Republic Bank specifically and for the banking industry in general. As early as the September 2022 examination, examiners noted the potential impact of Republic Bank’s unrealized losses, stating in the Liquidity assessment section of the ROE:

*Unrealized depreciation in the AFS securities (20% of the AFS portfolio and 55% of Total*

<sup>54</sup> Such mandatory corrective actions include requirements to submit a capital restoration plan, prohibitions on approving capital distributions or management fees, and restrictions associated with asset growth.

<sup>55</sup> Unrealized losses on HTM debt securities were not reflected in the balance sheet, while the losses associated with AFS debt securities were reflected in equity capital within AOCI.

*Capital) somewhat adversely affects the portfolio's liquidity because of the potential impact security sales could have on capital.*

Examiners continued to note concerns related to unrealized losses in Republic Bank's securities in supervisory activities until the Bank's failure in April 2024, with the exception of the November 2023 visitation, discussed previously.

As an example of its awareness of this issue outside of Republic Bank, and in recognition of the challenges and potential risk posed by unrealized losses, the FDIC issued a Regional Director Memorandum in April 2023 to examiners titled "*Supplemental Activities for Institutions with Significant Exposure to Net Unrealized Holding Losses on Debt Securities.*" The purpose of the memorandum is to provide resources to help examiners assess the continued impact of rising interest rates on affected institutions. The memorandum encourages examiners to inquire about IDIs' access to the Federal Reserve's Discount Window and FHLB advances and provides a series of questions that examiners can ask bank management during the examination process relevant to the potential impact of unrealized losses. We found that the issues covered by this memorandum were covered by examiners during the course of Republic Bank's supervisory activities from April 2023 forward.

In addition, the previous MLR conducted in response to the May 2023 failure of First Republic of San Francisco, CA included two recommendations related to unrealized losses.<sup>56</sup> The first of these recommendations<sup>57</sup> was specific to the Continuous Examination Process that is used to supervise large banks, and the FDIC satisfied the recommendation prior to issuance of the final MLR report. The second of these recommendations<sup>58</sup> recommended that the Director, Division of Risk Management Supervision "Engage with other federal regulators to evaluate the need for changes to rules under the safety and soundness standards, including the adoption of noncapital triggers that would require early and forceful regulatory actions tied to unsafe banking practices before they impair capital." Unrealized losses are included as one of the potential noncapital triggers that should be considered. As of November 2024, this recommendation remained open.

Republic Bank's unrealized losses on its debt securities directly resulted in the Bank's failure when it was required to recognize those losses in accordance with GAAP. While this caused all of the Bank's capital ratios to immediately fall below zero, the PCA framework—designed to identify and address capital deterioration—cannot account for such unrealized losses. Further, as previously reported in the First Republic Bank's MLR in 2023, although the safety and soundness standards specified in Section 39 of the FDI Act are designed to identify and address problems before Capital becomes impaired, they do not sufficiently account for risks associated with unrealized losses. The failure of Republic Bank similarly suggests the need for noncapital triggers under Section 39 that would require supervisory actions. Because the recommendation made in the MLR for First Republic Bank in 2023 would address this issue and remains open, we are not making a new recommendation at this time.

---

<sup>56</sup> FDIC Office of the Inspector General, *Material Loss Review of First Republic Bank*, EVAL-24-03, November 28, 2023.

<sup>57</sup> EVAL-24-03, Recommendation 10.

<sup>58</sup> EVAL-24-03, Recommendation 11.



## VI. CONCLUDING OBSERVATIONS

The FDIC's mission is to maintain stability and public confidence in the nation's financial system by insuring deposits, examining and supervising financial institutions for safety and soundness and consumer protection, making large and complex financial institutions resolvable, and managing receiverships. As further explained by the *Manual*, the FDIC's examinations and supervisory activities not only serve to maintain public confidence in the banking system, but also serve to protect the DIF, which is necessary to protect customers' deposits and resolve failed banks. Further, CAMELS ratings, which the FDIC assigns following examinations and supervisory activities, are designed to ensure all financial institutions are evaluated in a comprehensive and uniform manner. While the *Manual* and other relevant FDIC policies, procedures, and guidance provide personnel with significant and necessary discretion when carrying out supervisory responsibilities, these programmatic controls all state that supervisory decisions should be well-supported, logical, and serve to correct problems that create a risk to the safety and soundness of the institution and the integrity of the DIF.

The limited documentation available surrounding the supervisory decisions the FDIC made in November 2023 impedes our ability to fully ascertain the factors that supervisory personnel took into consideration during this time. However, the information that is documented shows that the FDIC changed the Management rating and proposed enforcement action on the basis of ongoing management actions and did not adequately consider the Bank's financial situation and delayed financial reporting. We acknowledge that the new management team had a number of significant efforts underway, and was operating within a difficult market environment. However, most of the MRBAs and MOU provisions remained outstanding, and anticipated improvements, such as the impending capital raise, had not materialized. Additionally, there was limited documentation explaining why the ratings downgrades and consent order proposed immediately preceding the November 2023 visitation were no longer appropriate.

By requiring adequate examination documentation for all supervisory activities, the FDIC will help ensure that all of its supervisory decisions are well-supported and defensible. Further, clarifying the factors that supervisory personnel should assess when considering changes to ratings, enforcement actions, or when approving brokered deposit waivers, will help ensure that the FDIC carries out its supervisory responsibilities in a thorough and consistent manner, while minimizing losses to the DIF.

**APPENDIX I: OBJECTIVES, SCOPE, AND METHODOLOGY****Objectives**

Pursuant to the relevant requirements of the Federal Deposit Insurance (FDI) Act, 12, U.S.C. § 1831o(k), and our contractual requirements with the Federal Deposit Insurance Corporation (FDIC) Office of Inspector General (OIG), the objectives of our engagement were to (1) determine why Republic First Bank (Republic Bank) problems resulted in a material loss to the Deposit Insurance Fund (DIF) and (2) evaluate the FDIC's supervision of Republic Bank, including the FDIC's implementation of the Prompt Corrective Action (PCA) requirements of section 38 of the FDI Act, and make recommendations for preventing any such loss in the future.

We conducted this Material Loss Review (MLR) in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (commonly referred to as the Blue Book). In addition, we conducted this engagement in accordance with the American Institute of Certified Public Accountants' *Statement on Standards for Consulting Services*.

We performed our work from May 2024 through November 2024 at the Sikich office in Alexandria, Virginia and remotely. In conducting our work and preparing the report, we relied primarily on supervisory records, bank documents, and other information provided by the FDIC's Division of Risk Management Supervision (RMS). This review fulfills a statutory mandate and does not serve any investigatory purposes.

**Scope and Methodology**

The scope of our MLR covered examinations performed and supervisory actions taken by the FDIC from 2019 until Republic Bank failed on April 26, 2024, with emphasis on the periods 2021-2024. Given the objectives of the MLR, we determined that other FDIC actions related to Republic Bank's failure were outside the scope of our review. Specifically, we did not evaluate DRR's process for estimating the cost of liquidation or least-cost test. To accomplish our objectives, we evaluated:

- Relevant aspects of the FDI Act.
- Pertinent FDIC policies, procedures, and guidance, including the FDIC's Risk Management *Manual of Examination Policies* (the Manual) *Formal and Informal Enforcement Actions Manual*, Case Managers Procedures, Examination Documentation Modules Interagency Guidelines Establishing Standards for Safety and Soundness
- Form 10-K filings with the Securities and Exchange Commission, Consolidated Reports of Condition and Income for A Bank With Domestic and Foreign Offices (Call Reports), daily liquidity monitoring reports, business plans, board and committee meeting minutes, and other internal bank reports and communications retained by FDIC examiners.
- Information pertinent to the economic environment, such as interest and inflation rates.
- Selected correspondence and examination documentation located in the Regional Automated Document Distribution and Imaging System (RADD) database, including Supervisory Plans, Supervisory Letters, Reports of Examination (ROE), Visitation Memoranda, and Confidential Problem Bank Memoranda.
- Documentation from the Virtual Supervisory Information on the Net (ViSION) including offsite monitoring, supervisory actions and enforcement actions.
- The FDIC's Failed Bank Cases.

We interviewed officials from the FDIC's RMS, the Division of Resolutions and Receivership, the Pennsylvania Department of Banking and Securities, the Federal Reserve, and personnel from the FDIC examination teams. We obtained their perspectives on the principal causes of Republic Bank's failure, the supervisory approach, and other examination-related information.

We performed certain procedures to determine whether the FDIC had complied with relevant Prompt Corrective Action provisions in Section 38 of the FDI Act.

We obtained data from two FDIC systems, ViSION and RADD. We determined that information system controls pertaining to these systems were not significant to the evaluation objectives. Therefore, we did not evaluate the effectiveness of the FDIC's information system controls as part of this engagement.

We incorporated technical comments from RMS and the Federal Reserve, as appropriate, on a draft copy of this report.

**APPENDIX II: MATTERS REQUIRING BOARD ATTENTION 2022-2024****September 26, 2022 Joint Examination*****Capital***

Capital Plan: A comprehensive capital plan should be developed and implemented. The Board should include minimum capital level and contingency plans tied to specific triggers for when capital levels fall below set minimums. Specifically, the contingency plans should set forth the capital levels that would trigger action, the specific steps that will be taken to address deficient capital levels, the order of priority for the steps to be taken and the timeframes within which the steps will be taken. For example, when the capital conservation buffer declines below 2.50% what actions will be taken and within what timeframe. Additionally, projections for capital levels should include several scenarios including the inability to raise capital. Projections should also identify planned bank distributions to the HC for preferred dividend payments and other expenses, as well as evaluate the anticipated impact the distributions will have on the bank's capital ratios. Once a comprehensive capital plan is established, the Board and management should monitor for compliance. A long-term capital plan with effective contingency plans and triggers is essential for increasing and maintaining capital ratios above established targets, achieving strategic goals, and maintaining capital at a level that adequately supports operations

Increase Capital (capital levels): Capital levels must be increased to fully support the institution's risk profile. As of September 30, 2022, the Total Capital ratio declined to 102.1%, resulting in a capital conservation buffer of 2.21%, below the 2.50% minimum in the current Strategic and Capital Plan. A capital conservation buffer below 2.50% restricts payout amounts for capital distributions and other discretionary payments as codified under Section 324.11 of FDIC Rules and Regulations. As a result, current capital levels are impacting the bank's ability to make distributions to the holding company (HC) for preferred dividend payments and other expenses.

***Board/Management***

Strategic Plan: Throughout the first half of 2022, the Board was divided on strategic direction of the bank. The Strategic and Capital Plan covering 2022 through 2024 was no longer usable because of outdated projections and the lack of unified Board support to revise and update. While recent changes to the composition of the Board help alleviate divisions among the directorate, the Board must now finalize and implement an updated strategic plan that identifies actions for increasing capital and improving earnings. An updated strategic plan is essential for setting the strategic vision of the current directorate on how management should operate the bank going forward and execute reasonable strategies to improve earnings and capital.

**April 6, 2023, Off-site Review*****Liquidity***

Contingency Funding Plan: The Board and management should conduct a lessons learned exercise relative to market events, management's actions, the CFP. Following this exercise, policies and procedures should be updated as necessary. Special emphasis should be placed on the following areas:

1. Routine monitoring expectations relative to both uninsured deposits and deposit flows.
2. CFP trigger events and the governance around initiating the CFP.

3. Clearly defined management actions.
4. The appropriateness of contingency funding sources, including amount, ability and speed to access, and securities management considerations.

**June 5, 2023, Joint Examination*****Liquidity***

Contingency Funding Plan: The CFP needs improvement. In March 2023, management did not timely initiate the CFP despite liquidity stresses until after discussions with regulators. Weaknesses related to the CFP were identified as a MRBA in an FDIC/Bureau April 6, 2023, letter. The MRBA is expanded below to address identified weaknesses. The Board and management should ensure the CFP clearly identifies monitoring, governance, and testing procedures.

- Monitoring
  - routine monitoring expectations relative to both uninsured deposits and deposit flows
  - early warning indicators to recognize potential stress events
  - trigger events for initiating the CFP
- Governance
  - clearly defined roles and responsibilities
- Testing
  - appropriateness of projected contingency funding sources, including amount, ability and speed of access, and securities management
  - periodic operational test of the CFP
  - identifying risks and accompanying stress events that provided the basis for liquidity stress testing

Stress/Sensitivity Testing: Liquidity stress testing is not commensurate with the size, complexity, and funding risk profile of the bank. Current liquidity stress tests are limited to several different non-maturity deposit outflows and/or borrowing capacity reductions occurring over one year without any consideration of other funding sources or needs. The Board and management should adopt scenario-based stress testing for a variety of bank-specific and industry-wide events and time horizons that are tailored to the bank's asset/liability mix and key risks. Examples of such scenarios include the potential loss of the Well Capitalized designation, rating agency changes, and adverse publicity.

***Risk Management***

Internal Routines and Controls: Internal controls over general ledger account reconciliations, intercompany transactions, and financial reporting are unsatisfactory. The lack of effective financial controls contributed to delays in the financial statement audit and resulted in apparent violations and inaccurate Consolidated Reports of Condition and Income (Call Reports). The Board and management should ensure that appropriate financial controls are in place and followed to allow for timely and accurate financial reporting and compliance with laws and regulations. Failure to maintain adequate financial controls could impact the accuracy of financial reporting and/or result in losses to the bank.

**APPENDIX III: FEDERAL RESERVE HOLDING COMPANY INSPECTION FINDINGS 2022-2024****Report of Holding Company Inspection June 3, 2022*****Board Oversight and Reporting***

Republic First's board of directors is fractured over the leadership and strategic direction of the organization, as evidenced through recent litigation, press releases, and the installment of a court -appointed custodian. The division has resulted in dysfunction that undermines the effectiveness of the board of directors, increases potential risks to both the bank and consolidated organization, and limits the ability of the holding company to serve as a source of strength to the depository institution. Due to the evolving nature of the situation, the impact of potential risks on the consolidated organization is uncertain, requiring more than normal supervisory attention and increased monitoring by the Reserve Bank.

***Parent Company Contingency Planning***

The capital plan does not include specific contingency options to ensure that the parent company acts as a source of strength to the depository institution. Additionally, consolidated capital levels have been on a declining trend since the prior inspection. Marginal earnings performance also does not allow for sufficient capital accretion, particularly given the organization's growth plans, and a planned capital raise has been put on hold indefinitely. Based on current cash reserves, the parent company would be unable to meet its obligations through year-end 2022 absent a dividend from Republic Bank. Excessive dividends to the parent company could cause the depository institution's capital ratios to fall below regulatory minimums.

**Report of Holding Company Inspection May 26, 2023*****Management Information Systems (MIS)***

Examiners observed that board packages contained limited MIS to inform the directorate and enable them to effectively measure, monitor, and control risk. Management acknowledged that some board -level MIS had been lost in the core conversion from Jack Henry to Fiserv that occurred in June 2022. Management stated that enhancements to board MIS, including dashboards from each business line, are planned for the future but have not yet been rolled out. Similar dashboard enhancements are planned for the compliance and risk committee, which serves as the entity's enterprise risk management (ERM) function. Given the elevated risk profile of the organization, the lack of appropriate board -level MIS reflects a weakness that could have adverse effects on the safety and soundness of the consolidated organization if corrective action is not taken by management.

***Compliance with Regulation W***

As cited in the Apparent Violations of Law section, the activities of the parent company resulted in apparent violations of Regulation W. The parent company did not appropriately secure extensions of credit from the depository institution, and it did not reimburse the depository institution in a timely manner. In addition, Form FR Y-8 was not filed as required.

***Succession Planning***

Succession planning practices require improvement. The current plan is too high-level in nature and is not commensurate with the risk profile of the organization. An overly vague or

incomplete succession plan could expose Republic First to excessive transition risk should there be a sudden or unexpected departure of a senior leader or key employee.

**APPENDIX IV: ACRONYMS AND ABBREVIATIONS**

<b>Acronym/Abbreviation</b>	<b>Meaning</b>
AACL	Adjusted allowances of credit losses
AICPA	American Institute of Certified Public Accountants
AFS	Available for sale
AOCI	Accumulated other comprehensive income
ASC	Accounting Standards Codification
Bank	Republic First Bank of Philadelphia
BBR	Bank Board Resolutions
BTFP	Bank Term Funding Program
Call Report	Consolidated Reports of Condition and Income
CAMELS	Capital, Asset Quality, Management, Earnings, Liquidity, Sensitivity to Market Risk
CEO	Chief Executive Officer
CET1	Common Equity Tier 1 ratio
CFPB	Consumer Financial Protection Bureau
CIGIE	Council of Inspectors General on Integrity and Efficiency
CFO	Chief Financial Officer
CFP	Contingency Funding Plan
CFR	Code of Federal Regulations
DIF	Deposit Insurance Fund
DRR	Division of Resolutions and Receiverships
EIC	Examiner-In-Charge
EVP	Executive Vice President
FASB	Financial Accounting Standards Board
FDI Act	Federal Deposit Insurance Act
FDIC	Federal Deposit Insurance Corporation
FFIEC	Federal Financial Institutions Examination Council
FHLB	Federal Home Loan Bank
GAAP	U.S. Generally Accepted Accounting Principles
GAGAS	Generally Accepted Government Auditing Standards
HTM	Held-to-maturity
IDI	Insured Depository Institution
IG	Inspector General
IRR	Interest Rate Risk
<i>The Manual</i>	<i>FDIC's Risk Management Manual of Examination Policies</i>
MIS	Management Information Systems
MLR	Material Loss Review
MRA	Matter Requiring Attention
MRBA	Matters Requiring Board Attention
MRIA	Matter Requiring Immediate Attention
MOU	Memoranda of Understanding
NASDAQ	National Association of Securities Dealers Automatic Quotation
NCUA	National Credit Union Administration
NIM	Net Interest Margin
NOW	Negotiable Order Withdrawal
NYRO	New York Regional Office
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General
PA DoBS	Pennsylvania Department of Banking and Securities
PCA	Prompt Corrective Action
RADD	Regional Automated Document Distribution and Imaging System
RMS	Risk Management Supervision
ROE	Report of Examination
SEC	U.S. Securities and Exchange Commission
SOI	Summary of Investigations
SR	Supervisory Recommendation
UFIRS	Uniform Financial Institutions Rating System
U.S.C.	United States Code





# Material Loss Review of Republic First Bank

---

---

---

## Part II

\*\*\*\*\*

FDIC Comments and OIG Evaluation

---

---



# Material Loss Review of Republic First Bank

---

## FDIC COMMENTS AND OIG EVALUATION

On November 5, 2024, the FDIC Director, RMS, provided a written response to a draft of this report. The response emphasized the significant market turmoil that occurred in the Spring of 2023, the challenges the Bank's new executive management team was operating against in their efforts to improve the Bank's condition, and how the FDIC's supervisory actions were based on the various activities of the new executive management team. The response also clarified the FDIC's view of the supervisory activities resulting in the November 2023 supervisory findings as a continuous monitoring event and acknowledged that the written documentation supporting both the Management rating upgrade and the enforcement action decision should have been more thorough. Finally, the response provided additional information regarding the brokered deposit waiver and potential cost to the DIF. The response is presented in its entirety beginning on page II-3. We reiterate the conclusion in the report that improving guidance for assessing brokered deposit waiver applications, including an assessment of the potential risks to the DIF, will help ensure that FDIC consistently provides a thorough assessment of these applications.

In its response, the FDIC agreed with the findings, concurred with three of the recommendations, and partially concurred with the remaining recommendation. The FDIC's proposed corrective actions are sufficient to address the intent of the recommendations. Therefore, we consider all four recommendations to be resolved.

All recommendations in this report will remain open until we confirm that corrective actions have been completed and the actions are responsive. A summary of the FDIC's corrective actions begins on page II-11.



# Material Loss Review of Republic First Bank

## APPENDIX 1: FDIC COMMENTS



**Federal Deposit Insurance Corporation**  
550 17th Street NW, Washington, D.C. 20429-9990

Division of Risk Management Supervision

November 5, 2024

**TO:** Terry L. Gibson  
Assistant Inspector General for Audits, Evaluations, and Cyber  
Office of Inspector General

**FROM:** Doreen R. Eberley  
Director, Division of Risk Management Supervision

**SUBJECT:** FDIC Response – Draft Material Loss Review of Republic First Bank

DOREEN  
EBERLEY

Digitally signed by DOREEN  
EBERLEY  
Date: 2024.11.05 12:40:38  
+05'00'

Thank you for the opportunity to comment on the draft report, *Material Loss Review of Republic First Bank* (Report).

The Report states that, “the direct cause of Republic First Bank’s [Bank] failure was its determination that it could no longer hold its ‘held-to-maturity’ debt securities to maturity, requiring the Bank to reclassify them as ‘available-for-sale’ securities. Because of insufficient liquidity, the Bank then further determined it was ‘more-likely-than-not’ that it would have to sell these securities before the recovery of the amortized cost, thereby requiring the Bank to recognize significant fair value losses in its net income.” The Report also noted that, “the dysfunctional Board and management team was a significant contributing factor to the Bank’s troubled condition, its inability to adjust strategies and address increasing risks, and its eventual failure.” As described in the Report and below, there were significant changes in the Board and management team beginning in 2022.

The Report provided observations and findings related to FDIC supervision, with a specific focus on the 12 -months preceding the Bank’s failure. Below, the FDIC expands on certain of these findings, namely the November 2023 supervisory findings and the brokered deposit waivers. The FDIC concurs with three of the OIG’s four recommendations and partially concurs with one recommendation, as described below.

In reviewing the supervisory history of the Bank, there are also important contextual matters to consider. Namely, the significant market turmoil that occurred in the Spring of 2023, when a run on deposits of Silicon Valley Bank (SVB), the day after Silvergate Bank announced its plan for self-liquidation after questioning its ability to continue as a going concern, resulted in its sudden failure and sparked contagion risk that ultimately resulted in the failures of two other large banks.<sup>1</sup> Banks, such as subject Bank, that shared similar characteristics to those that contributed to the failures, namely high levels of uninsured

<sup>1</sup> [Material Loss Review of Silicon Valley Bank](#), [Material Loss Review of Signature Bank of New York](#), [Material Loss Review of First Republic Bank](#), [Federal Reserve's Supervision of Silicon Valley Bank](#), [FDIC's Supervision of Signature Bank](#), and [FDIC's Supervision of First Republic Bank](#)



# Material Loss Review of Republic First Bank

deposits, high levels of long term assets, and significant amounts of unrealized holding losses on securities, experienced negative press attention, deposit outflows, sharp drops in equity prices for publicly traded firms, acute liquidity shortages, or a combination of the foregoing.<sup>2</sup>

The Bank's new executive management team (led by the CEO installed in December 2022 and expanded in the first half of 2023) was operating against this backdrop in their efforts to improve the condition of the Bank, notably announcing a capital raise on March 10, 2023, which was the same day as SVB's failure. Capital raising, asset sales, and other balance sheet repositioning strategies were very challenging in the months that followed, and this capital raise was later terminated in July 2023. Also, in the wake of market turmoil, the Bank experienced a loss of approximately 13 percent of total deposits in 2023. To replace funding and bolster on balance sheet liquidity, the bank increased total borrowings significantly, through a mix of overnight and term secured borrowings, including through the Federal Reserve's Bank Term Funding Program (BTFP).<sup>3</sup>

Another important consideration is the evolving views of the external auditors with respect to the Bank's completion of financial statements leading up to failure and the resultant impact on the Bank's risk profile. Beginning around May 2023, in reviewing the Bank's efforts to file its 2022 financial statement, the external auditors asked the Bank to evaluate the need to include a going concern statement in its financial statements, in consideration of its shifting liquidity profile, its capital position, the potential for an enforcement action, and later, the delisting of the Bank's stock, among other things. At that juncture and taking into account market conditions, the FDIC was primarily concerned with liquidity risk, including the risk of deposit outflows, that could occur upon publication of such a statement. It was not until early October 2023 that the FDIC understood that the external auditors were raising concerns about whether Bank management could support the assertion that it was more likely than not the Bank would not be required to sell impaired available-for-sale securities before the recovery of cost. As described briefly above and in the Report, this determination could have, and ultimately did, render the bank insolvent.

Given these accounting implications and uncertainty regarding how the Bank would assert with the filing of the September 30, 2023 Call Report on or before October 30, 2023, the FDIC had to be prepared. To avoid the implications of a sudden and disorderly failure, the FDIC began marketing the bank on October 13, 2023, but suspended marketing on October 27, 2023, when the FDIC learned that the Bank would, and later did, file a Call Report on October 30, 2023, showing the Bank asserted it could hold securities to maturity or recovery.

As noted in the FDIC's March 11, 2024 visitation transmittal letter dated April 15, 2024, "On April 2, 2024, the Federal Reserve informed management that the Secondary Credit Program could not be used to refinance BTFP maturities." On April 25, 2024, the Bank's Board

<sup>2</sup> See for example, Jiang, Erica Xuewei and Matvos, Gregor and Piskorski, Tomasz and Seru, Amit, [Monetary Tightening and U.S Bank Fragility in 2023: Mark-to-Market Losses and Uninsured Depositor Runs?](#) (March 13, 2023); Banerji, Gunjan, [Are Regional Banks the New Meme Stocks?](#) (May 5, 2023); and Seru, Amit, Stanford Institute for Economic Policy Research, [Fragile: Why more US banks are at risk of a run](#) (November 2023).  
<sup>3</sup> On March 12, 2023, the Federal Reserve Board [announced](#) it would make available additional funding to eligible depository institutions to help assure banks had the ability to meet the needs of their depositors.



# Material Loss Review of Republic First Bank

approved the assertion that the Bank no longer had the ability to hold securities until maturity and determined that it was more likely than not that impaired securities would be required to be sold before recovery of cost prompting the write down to fair value. This determination rendered the Bank insolvent and prompted the Pennsylvania Department of Banking and Securities to close the Bank and appoint the FDIC as receiver.

## NOVEMBER 2023 SUPERVISORY FINDINGS

The November 2023 supervisory findings, or Visitation as it is described in the Report, included a mix of onsite and offsite monitoring subsequent to the issuance of the June 5, 2023 Report of Examination on August 21, 2023. In this regard, FDIC staff viewed and described the Visitation to the OIG as a continuous monitoring event rather than a point-in-time visitation. However, due to limitations in the FDIC's electronic tracking system, the FDIC had to record a specific visitation date in its system of record to effectuate the change to the Management component rating and the issuance of a revised Memorandum of Understanding (MOU). Supervisory activities focused on reviewing Bank management's efforts to (1) address the February 28, 2023 MOU and weaknesses identified during the June 2023 examination, including controls over financial reporting; (2) strengthen funds management practices; and (3) identify external sources of capital. In addition, the FDIC held regular meetings with Bank management, the external auditors, and other regulatory agencies throughout the second half of 2023 and had access to a significant amount of information via daily liquidity reports, management conversations, and special requests.

### Management Component Rating

Based on information gathered through the mix of onsite and offsite monitoring, the FDIC upgraded the Management component rating from a "4" to a "3" on January 24, 2024, via letter dated January 24, 2024. The interagency Uniform Financial Institutions Rating System defines a Management rating of "4," in part, as "deficient management and board performance or risk management practices that are inadequate..." A rating of "3" is defined, in part, as "management and board performance that need improvement or risk management practices that are less than satisfactory..."<sup>4</sup>

The upgraded Management rating was documented in writing in the January 24, 2024 letter and an internal memorandum dated the same day. The component change was based on various actions the new executive management team was taking to improve the Bank's condition and to resolve issues created by prior management, including controls over financial reporting. The new management team recognized the risks in the Bank's balance sheet structure and was actively focused on improving the Bank's capital and liquidity positions, streamlining the Bank's operations, selling real estate, and reducing operating costs. More specifically, management repositioned collateral to increase secured borrowing capacity, reduced depositor flight risk, identified external sources of capital, implemented operational efficiencies to reduce expenses, replaced key officers and board members and expanded executive management, and was actively working and making progress in

<sup>4</sup> [Uniform Financial Institutions Rating System](#), 62 Fed. Reg. 752 (January 6, 1997).



# Material Loss Review of Republic First Bank

addressing the MOU provisions and Matters Requiring Board Attention (MRBA). Despite these actions, management and board performance was still less than satisfactory with a rating of “3,” and the Bank’s Composite remained “4” rated.

## Enforcement Action

A proposed Consent Order was transmitted to the Bank on October 17, 2023. The FDIC subsequently determined to pursue a revised MOU, and the revised MOU became effective on February 22, 2024. The decision to pursue a revised MOU rather than a Consent Order was documented in writing in an internal memorandum approved on January 24, 2024 and was due to the new management team’s progress in stabilizing the Bank’s liquidity position, announcement of a source of external capital via the Securities Purchase Agreement, and actions in trying to address external auditor concerns. In addition, the new management team had continued making notable progress in addressing the existing MOU provisions and the June 2023 examination recommendations.

As noted in the Report, the proposed Consent Order provision related to financial reporting and recordkeeping was removed from the revised MOU. The proposed provision stated that “the Board must ensure that the Bank has internal controls over financial reporting, reconcilements, and intercompany transactions...” Management’s internal controls over these areas were assessed during the Visitation, and it was determined that significant progress was being made such that an MOU provision was not needed. More specifically, the Visitation transmittal letter, dated January 24, 2024, states, “Management, in consultation with external auditors, is addressing a backlog of account reconciliations that had grown while resources were prioritized to the bank’s system conversion and has been charging off stale items as needed. Management also reports that new procedures have been implemented for the monthly and quarterly general ledger and deposit account reconciliation process bankwide. The Transactions with Affiliates Policy has been substantially revised and improved to include specific guidance on the applicability of Regulation W, as well as procedures relating to intercompany transactions.” Although continued efforts to improve internal controls was needed as evidenced by the MRBA item remaining open, the underlying issues were created by prior management, and the new management team was taking meaningful actions to address the issues.

## Documentation

The FDIC agrees that its written documentation supporting the Management rating upgrade and enforcement action decision should have been more thorough. As described above, the FDIC did document its decisions in writing. FDIC staff also provided written commentary on draft OIG findings and further discussed the rationale with OIG staff as addressed above. The upgrade to the management factor did not change the overall rating of a “4,” and issuing a formal enforcement action versus a revised MOU was not required to compel the Bank’s new Board and management to address the Bank’s most urgent issues, which were stabilizing liquidity, raising capital, and working with external auditors to file financial reports; the Bank’s new Board and management was already actively engaged in working on these urgent issues.



# Material Loss Review of Republic First Bank

## BROKERED DEPOSIT WAIVERS

As described above, due to its balance sheet position, the Bank experienced deposit outflows, particularly its uninsured deposits, following the events of March 2023 and at other points in 2023. Like other banks that shared similar balance sheet structures,<sup>5</sup> in May 2023, Bank management sought to reduce the potential risk of additional deposit outflows of uninsured depositors by offering uninsured depositors the option to participate in a reciprocal<sup>6</sup> deposit program. This strategy allowed the Bank to maintain uninsured deposit relationships that could otherwise leave the Bank, and for municipal depositors who entered the program, participation acted to free securities previously pledged to municipal depositors to be repledged to borrowing facilities for additional liquidity access. The strategy had a neutral balance sheet effect, as the Bank received an equal or reciprocal amount back from the reciprocal network.

On August 29, 2023, the Bank filed a brokered deposit waiver application with the FDIC, indicating that, due to refile of the March 31, 2023 and June 30, 2023 Call Reports, its Prompt Corrective Action (PCA) category would change from Well Capitalized to Adequately Capitalized. Under PCA, Adequately Capitalized banks may not accept brokered deposits without a waiver from the FDIC, and banks that are less than Adequately Capitalized may not accept brokered deposits at all.

On September 22, 2023, the FDIC approved the brokered deposit waiver application for a three-month duration. The waiver allowed the Bank to (1) offer reciprocal deposit coverage to existing uninsured deposit customers, (2) accept reciprocal deposits from 12 prospective customers that were in the bank's boarding pipeline (although, records show that these customers were not boarded), and (3) renew a very small existing \$1.05 million traditional brokered deposit. The sum of these three items was restricted to up to 20 percent of total deposits. On October 27, 2023, the FDIC amended the waiver by extending the waiver period to June 30, 2024, with all the existing restrictions in place.

The waiver was intended to reduce the risk of a run on deposits and preserve franchise value by allowing the Bank an avenue to retain its large, uninsured depositors. As described in the Report, attracting public deposits was a significant part of the Bank's business model. As noted in the Washington Office Addendum to the Summary of Investigation (SOI) for the waiver application, "It is possible that uninsured depositors may seek to flee the Bank in response to the Bank's ongoing negative publicity." In approving the application, the FDIC determined that the acceptance of reciprocal deposits did not constitute an unsafe or unsound

<sup>5</sup> See, for example, Prescott, Edwards S. and Rosenberger, Grant, Federal Reserve Bank of Cleveland, Economic Commentary 2024-14, [Reciprocal Deposits and the Banking Turmoil of 2023](#).

<sup>6</sup> Under section 29 of the FDI Act, the term "reciprocal deposits" means deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks. Whether reciprocal deposits are reported as brokered on the Call Report depends on the bank's status as an agent institution as defined in section 29(i) of the FDI Act and 12 CFR 337.6(e).



# Material Loss Review of Republic First Bank

practice, in accordance with section 29 of the Federal Deposit Insurance (FDI) Act.<sup>7</sup> The acceptance of reciprocal deposits was restricted to certain customers and capped at 20 percent of total deposits, and it was not expected to result in material balance sheet growth. The purpose of the waiver was to reduce liquidity risk, not to support growth or a change in the Bank's business model.

### Cost to the Deposit Insurance Fund

The Report states that, "Since brokered deposits directly result in an increase in insured deposits, they have the potential to increase the loss to the Deposit Insurance Fund (DIF) in the event of an insured depository institution's failure and liquidation." This is a nuanced statement. First, losses to the DIF are dependent on estimated gains/losses on each individual bank's assets and liabilities. In some instances, losses do not go beyond the subordinated or general creditor class. Second, the FDIC's least cost option in resolving a receivership is predominantly managed by entering into a Purchase and Assumption Agreement with an acquiring institution. In these situations, it is unknown how much value the acquiring institution assigns to reciprocal brokered deposits.

This statement regarding liquidation also fails to acknowledge that in this case, the Bank was sold in a whole bank transaction, including virtually all deposits, to another bank and was not liquidated. The FDIC actively marketed the Bank beginning on October 13, 2023, and April 8, 2024. In both marketing events, the FDIC obtained bids and determined that the least cost option was entering into a Purchase and Assumption Agreement with the highest bidder. In fact, the winning bid in the April 2024 marketing event was \$10 million *higher* than the winning bid in the October 2023 marketing event. Receiving a whole bank bid in and of itself is indicative of franchise value, including related to the Bank's large, uninsured deposit relationships.

The Report states that the estimated claim associated with insured depositors increased from by almost \$500 million from the September 2023 to the April 2024 liquidation analyses. The September 2023 liquidation analysis was based on inaccurate June 30, 2023, Call Report data. Specifically, the Bank misreported its \$664 million in secured borrowings as unsecured borrowings on Call Report Schedule RC-O. This issue was corrected in the FDIC's second liquidation analysis in April 2024, resulting in the loss amount absorbed by general creditors to decline by an equal amount.

### **RECOMMENDATIONS**

**Recommendation 1:** Clarify the Manual to ensure that supervisory activities that do not meet the minimum requirements for a full-scope examination, including visitations and limited-scope examinations, provide adequate documentation in support of conclusions and retain this documentation in the FDIC system of record.

<sup>7</sup> Section 29 of the FDI Act states, "The FDIC may, on a case-by-case basis and upon application by an insured depository institution which is adequately capitalized (but not well capitalized), waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution."





# Material Loss Review of Republic First Bank

The FDIC concurs with this recommendation. The FDIC will update the Risk Management Manual of Examination Policies by June 30, 2025, to clarify that appropriate supporting records of all major examination or visitation conclusions, recommendations, and assertions must be maintained in the system of record.

**Recommendation 2:** Revise examiner guidance to ensure supervisory personnel consider significant delays in required financial filings and any associated perspectives of external auditors when assessing UFIRS ratings.

The FDIC concurs with this recommendation. The FDIC will update examiner guidance by June 30, 2025, to explicitly state that significant delays in required financial filings and any associated perspectives of external auditors should be considered when assessing UFIRS ratings.

However, the FDIC did consider the significant delays in required financial filings and the external auditor's perspectives when assessing and assigning the UFIRS ratings. The FDIC met with the external auditors prior to and throughout the Visitation, and meeting notes and other supporting documents note that the status of the 2022 audited financial statements and Bank management's efforts to engage with their external auditor were considered. Further, in accordance with the UFIRS evaluation factors for the Management component rating, examiners should consider "The adequacy of audits and internal controls to: promote effective operations and reliable financial and regulatory reporting..." FDIC also notes that bank managers have a right to express their opinions and there could be, at times, disagreements with auditors.

**Recommendation 3:** Revise the FDIC's Internal Formal and Informal Enforcement Actions Procedures to include specific process and documentation requirements related to circumstances in which an approved formal enforcement action is replaced with a less severe action.

The FDIC concurs with this recommendation. The FDIC will update its Internal Formal and Informal Actions Procedures by June 30, 2025, to include procedures and documentation related to instances in which a formal enforcement action is replaced with a less severe action.

The FDIC notes that in this case, facts changed quickly in between the regional director "approving" a draft enforcement action and later issuing a revised MOU, namely learning that the Bank was not going to file its Call Report on October 30, 2023, showing the bank as insolvent and that, as described above, Bank management was already working on the Bank's most urgent issues.

**Recommendation 4:** Develop detailed guidance that clarifies what information should be considered when assessing whether it is appropriate to approve a brokered deposit waiver for "Adequately Capitalized" IDIs.



# Material Loss Review of Republic First Bank

The FDIC partially concurs with this recommendation. There is already significant information related to brokered deposit waivers and how to analyze them. Section 337.6<sup>8</sup> of the FDIC Rules and Regulations, which implements section 29 of the FDI Act,<sup>9</sup> states that “the FDIC may, on a case-by-case basis and upon application by an adequately capitalized insured depository institution, waive the prohibition on the acceptance, renewal or rollover of brokered deposits upon a finding that such acceptance, renewal or rollover does not constitute an unsafe or unsound practice with respect to such institution.” The required contents of an application, noted in section 303.243(a)(3) of the FDIC Rules and Regulations,<sup>10</sup> assist the FDIC in making this determination.

The FDIC’s primary method for presenting the facts, circumstances, and analysis regarding applications is in the SOI. Section 40 of the FDIC’s internal processing procedures addresses brokered deposit waivers and states that SOI comments should address, among other items, (1) traditional safety and soundness concerns as they may apply to the institution in the particular circumstances, (2) an analysis of each of the eight requirements addressed in the application, and (3) a finding that the waiver of the prohibition would not result in an unsafe or unsound practice with respect to the institution. These factors align with the requirements of section 29 of the FDI Act and its implementing regulations. Moreover, staff consideration of these factors has resulted in approvals, returns and withdrawals. The Report notes that the FDIC has approved brokered deposit waivers for 11 banks in the last two years, but it does not note that 16 applications were either returned or withdrawn over the same period.

The FDIC has been unable through discussion to date to gain clarity about what additional “detailed guidance” is needed, which makes it difficult for the FDIC to fully concur. Notwithstanding, the FDIC will review existing guidance by June 30, 2025, to determine whether further guidance is warranted and will document this review in a memorandum to the Division Director. The FDIC will also continue to engage with the OIG to seek clarity on the detailed guidance needed.

---

<sup>8</sup> [Part 337 of the FDIC Rules and Regulations](#)

<sup>9</sup> [Section 29 of the FDI Act](#)

<sup>10</sup> [Part 303 of the FDIC Rules and Regulations](#)



# Material Loss Review of Republic First Bank

## APPENDIX 2: SUMMARY OF THE FDIC'S CORRECTIVE ACTIONS

This table presents management's response to the recommendations in the report and the status of the recommendations as of the date of report issuance.

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved: <sup>a</sup> Yes or No	Open or Closed <sup>b</sup>
1	The FDIC will update the Risk Management Manual of Examination Policies by June 30, 2025, to clarify that appropriate supporting records of all major examination or visitation conclusions, recommendations, and assertions must be maintained in the system of record.	June 30, 2025	\$0	Yes	Open
2	The FDIC will update examiner guidance by June 30, 2025, to explicitly state that significant delays in required financial filings and any associated perspectives of external auditors should be considered when assessing UFIRS ratings.	June 30, 2025	\$0	Yes	Open
3	The FDIC will update its Internal Formal and Informal Actions Procedures by June 30, 2025, to include procedures and documentation related to instances in which a formal enforcement action is replaced with a less severe action.	June 30, 2025	\$0	Yes	Open
4	The FDIC will review existing guidance by June 30, 2025, to determine whether further guidance is warranted and will document this review in a memorandum to the Division Director. The FDIC will also continue to engage with the OIG to seek clarity on the detailed guidance needed.	June 30, 2025	\$0	Yes	Open



# Material Loss Review of Republic First Bank

---

<sup>a</sup> Recommendations are resolved when —

1. Management concurs with the recommendation, and the OIG agrees the planned corrective action is consistent with the recommendation.
2. Management does not concur or partially concurs with the recommendation, but the OIG agrees that the proposed corrective action meets the intent of the recommendation.
3. For recommendations that include monetary benefits, management agrees to the full amount of OIG monetary benefits or provides an alternative amount and the OIG agrees with that amount.

<sup>b</sup> Recommendations will be closed when the OIG confirms that corrective actions have been completed and are responsive.



# Federal Deposit Insurance Corporation

## Office of Inspector General

3501 Fairfax Drive  
Room VS-E-9068  
Arlington, VA 22226  
(703) 562-2035



The OIG's mission is to prevent, deter, and detect waste, fraud, abuse, and misconduct in FDIC programs and operations; and to promote economy, efficiency, and effectiveness at the agency.

To report allegations of waste, fraud, abuse, or misconduct regarding FDIC programs, employees, contractors, or contracts, please contact us via our [Hotline](#) or call 1-800-964-FDIC.

FDIC OIG website | [www.fdicoidg.gov](http://www.fdicoidg.gov)  
X, formerly known as Twitter | [@FDIC\\_OIG](https://twitter.com/FDIC_OIG)  
Oversight.gov | [www.oversight.gov](http://www.oversight.gov)