

Will California's Bank Failures May Shine A Spotlight On California Corporate Law?

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As has been widely reported, the California Department of Financial Protection & Innovation [announced](#) that it has taken possession of another California chartered bank - First Republic Bank. This is the second California state bank failure this year. California state banks (other than public banks) are corporations incorporated the California General Corporation Law. Cal. Fin. Code § 1004(a). Accordingly, all provisions of law applicable to corporations generally, including, but not limited to, the General Corporation Law apply to California state banks that are not public banks. However, whenever any provision of California banking law or any regulation or order issued under any provision applicable to banks is inconsistent with any provision of law applicable to corporations generally, that provision of this division or that regulation or order shall apply and the provision of law applicable to corporations generally shall not apply. Cal. Fin. Code § 1004(a). A "public bank" should not be confused with a publicly traded bank. See [Governor Signs Bill Authorizing Public Banks - What Could Possibly Go Wrong?](#) and [Straight Talk On Public Banks](#).

Because both First Republic Bank and Silicon Valley Bank are California corporations, California corporate law will likely be applied to suits against directors and officers. However, the situation is more complex in the case of Silicon Valley Bank because it was a subsidiary of a bank holding company incorporated in Delaware - SVB Financial Group. Therefore, the applicable law may depend upon whether the director or officer is sued in his or her capacity as a director or officer of the holding company or the bank.

About nine years ago, I wrote this [summary](#) of several cases involving the FDIC actions against officers of failed banks.

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