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# Deposit Insurance and Failed Bank Resolution

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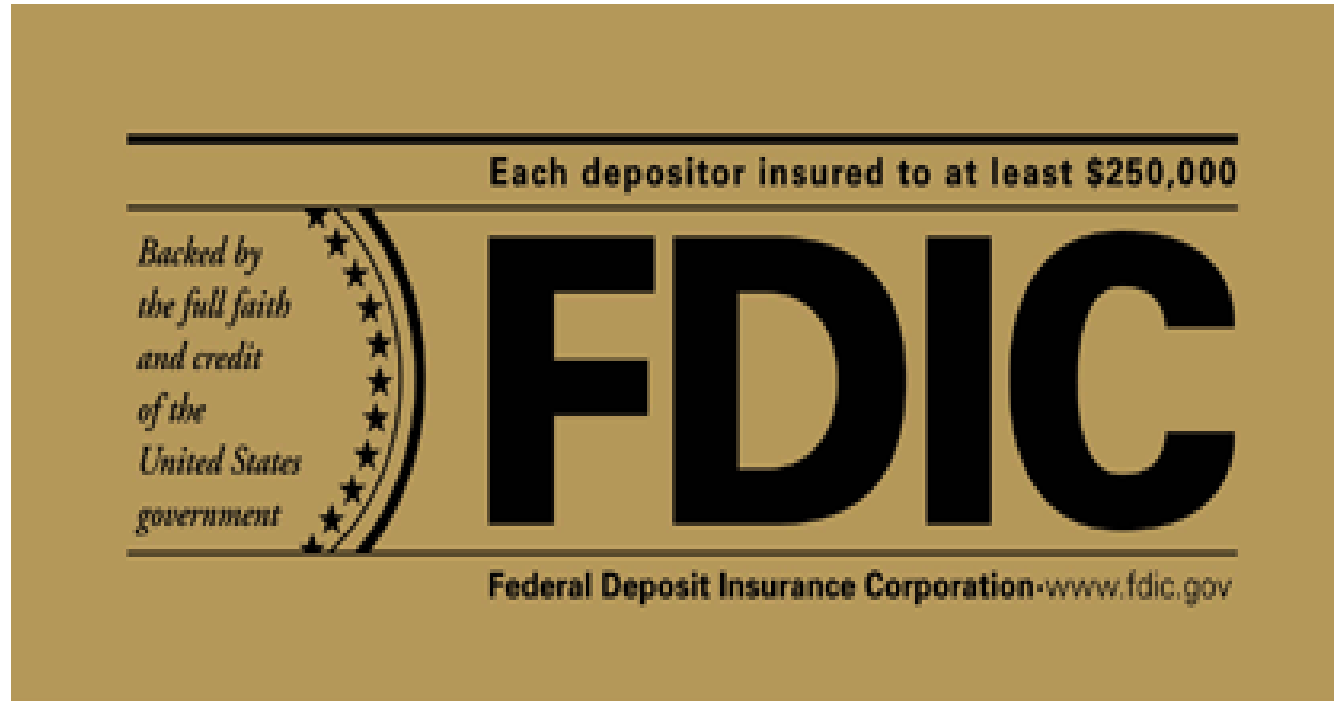


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# Deposit Insurance

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# Deposit Insurance Coverage



# Non-deposit Product Disclosure



Not Guaranteed by the Bank	Not FDIC Insured	Not a Deposit
Not Insured by Any Federal Government Agency	May Lose Value including Loss of Principal	

# Deposit Insurance Coverage – What is Covered?



- Covers checking accounts, savings accounts, CDs, money market deposit accounts, and NOW accounts.
- Does not cover stocks, bonds, mutual funds, life insurance annuities, crypto currency, safe deposit boxes, etc.
- Standard amount of coverage is \$250,000 per depositor, per insured bank, for each account ownership category.

# Recent Deposit Insurance History



- During the 2008 financial crisis, deposit insurance coverage was temporarily increased from \$100,000 to \$250,000.
- Dodd-Frank Act made \$250,000 permanent

# Deposit Insurance Coverage – Types of Accounts



- Single accounts owned by one person.
- Joint accounts owned by two or more persons
- Certain retirement accounts
- Revocable trust accounts
- Corporation accounts
- Irrevocable trust accounts -- \$250,000 for the non contingent interest of each unique beneficiary.

# Examples of Expanded Coverage



Account Title	Account Ownership Category	Owner(s)	Beneficiary(ies)	Maximum Insurable Amount
Husband	Single Account	Husband		\$250,000
Wife	Single Account	Wife		\$250,000
Husband & Wife	Joint Account	Husband & Wife		\$500,000
Husband POD	Revocable Trust Account	Husband	Wife	\$250,000
Wife POD	Revocable Trust Account	Wife	Husband	\$250,000
Husband & Wife Living Trust	Revocable Trust Account	Husband & Wife	Child 1 Child 2 Child 3	\$1,500,000
Husband IRA	Certain Retirement Account	Husband		\$250,000
Wife IRA	Certain Retirement Account	Wife		\$250,000
Total				\$3,500,000



# Deposit Insurance Coverage – Pass-Through Coverage



When funds are deposited by a fiduciary or custodian on behalf of one or more actual owners of the funds, the FDIC will insure the funds as if the actual owners had established the deposit in the IDI.

- Examples of accounts which may be entitled to receive pass-through coverage are Fiduciary Accounts. These accounts are established and maintained by third parties on behalf of the actual owner (referred to as the principal).
- An account that meets the definition of a fiduciary or agency account is entitled to “pass-through” deposit insurance coverage from the FDIC through the third party who establishes the account to the actual owner/principal, provided certain conditions are met.
- Pass-through deposit insurance regulations can be found at 12 C.F.R. § 330.5 and 12 C.F.R. § 330.7 (on the FDIC Website at: <http://www.fdic.gov/regulations/laws/rules/2000-5400.html>).

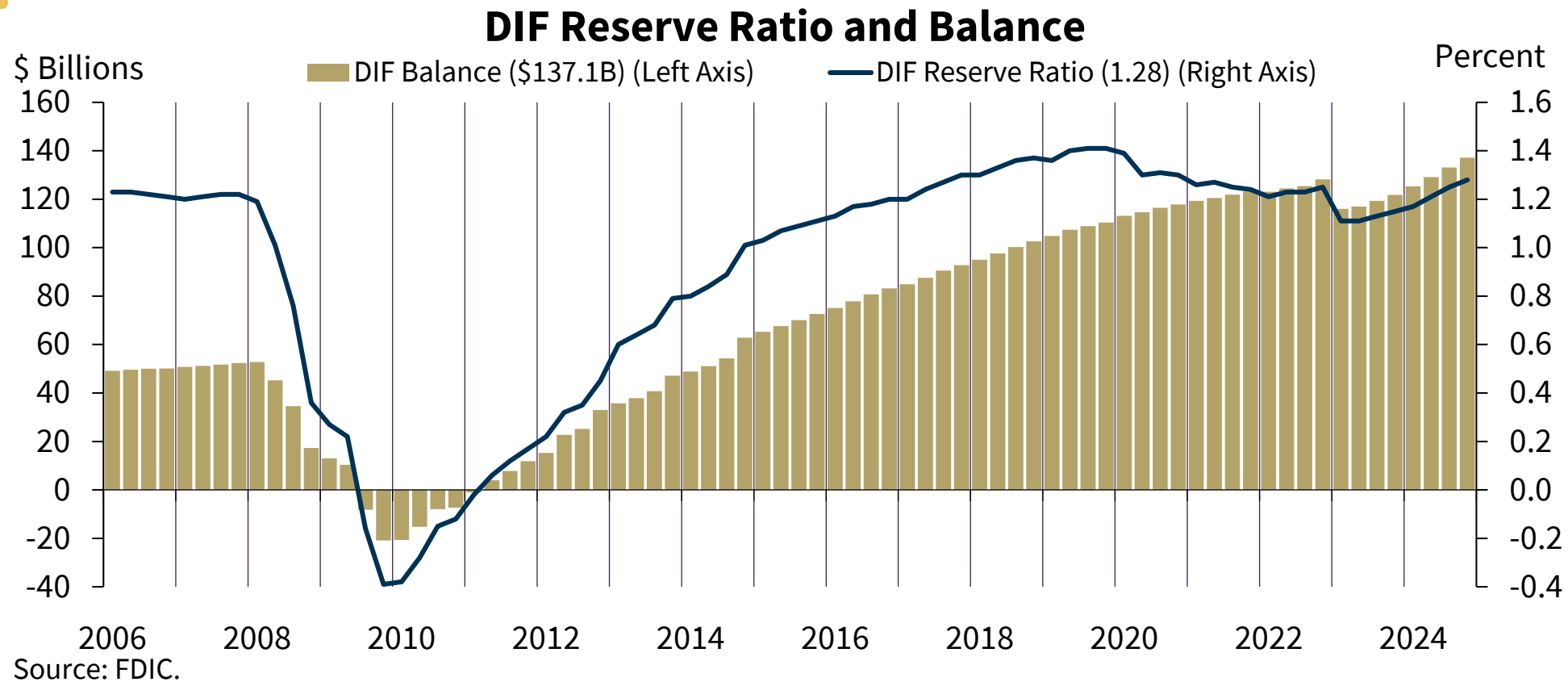
# FDIC's Electronic Deposit Insurance Estimator (EDIE)



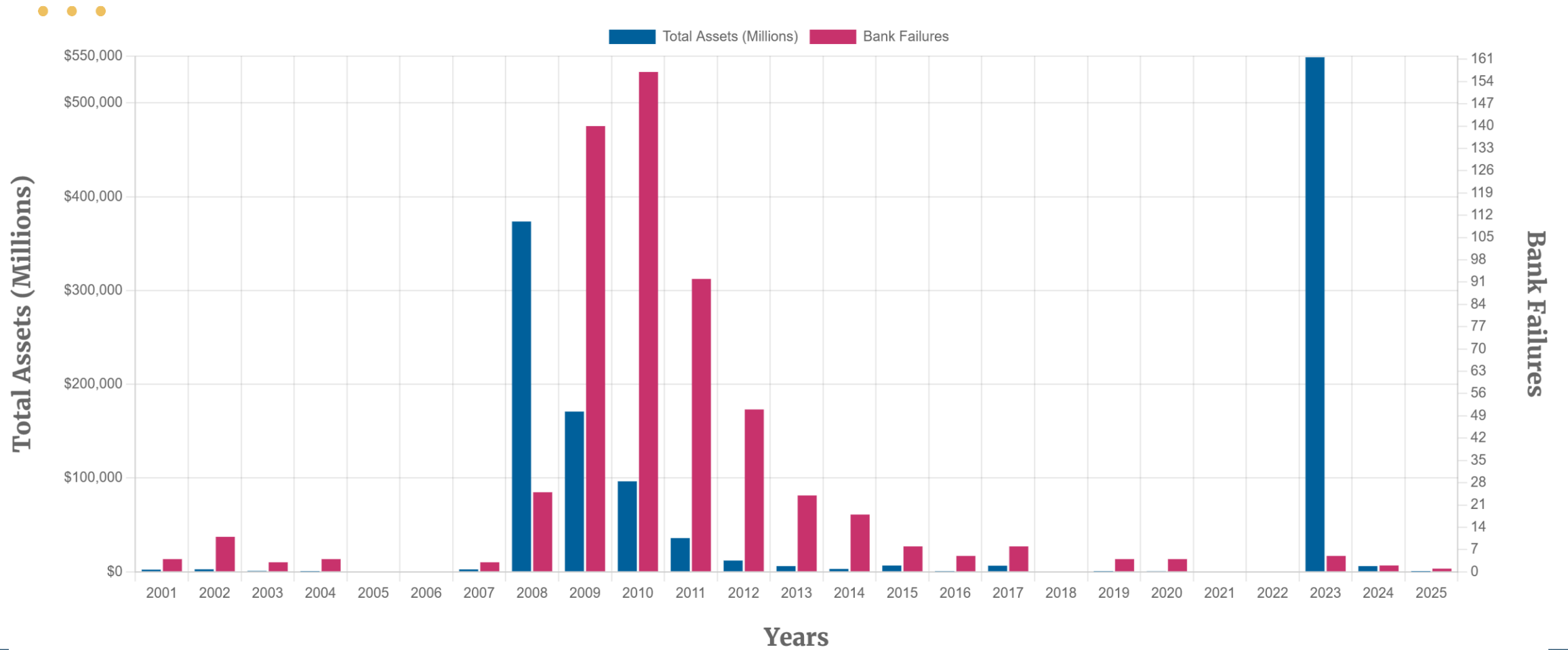
<https://edie.fdic.gov/index.html>

# Deposit Insurance Fund

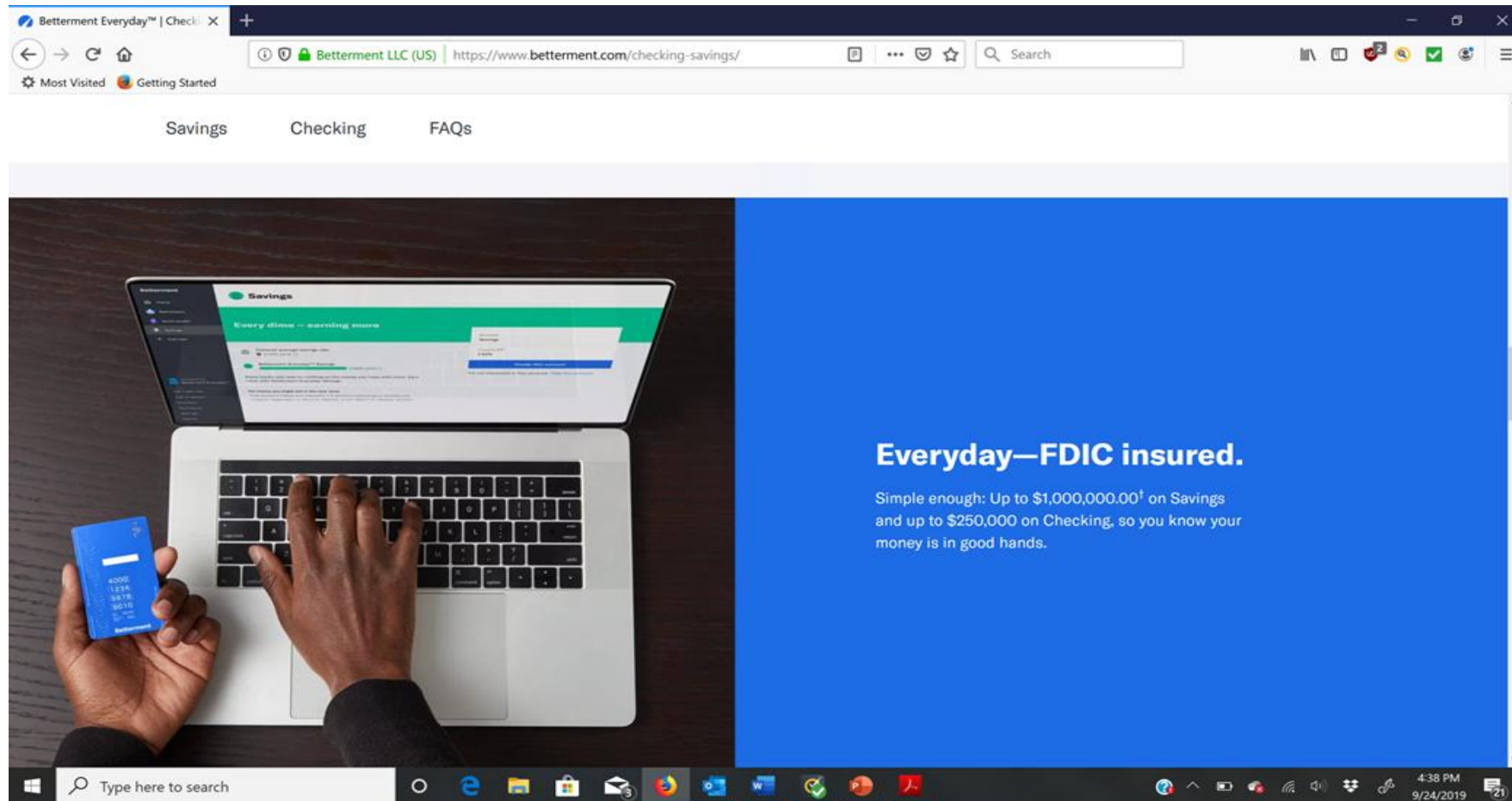
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# Failed Bank Number and Assets



# Betterment



# Voyager



DEC 18 2019, 13:28 EST / THE VOYAGER TEAM

## USD held with Voyager is now FDIC Insured

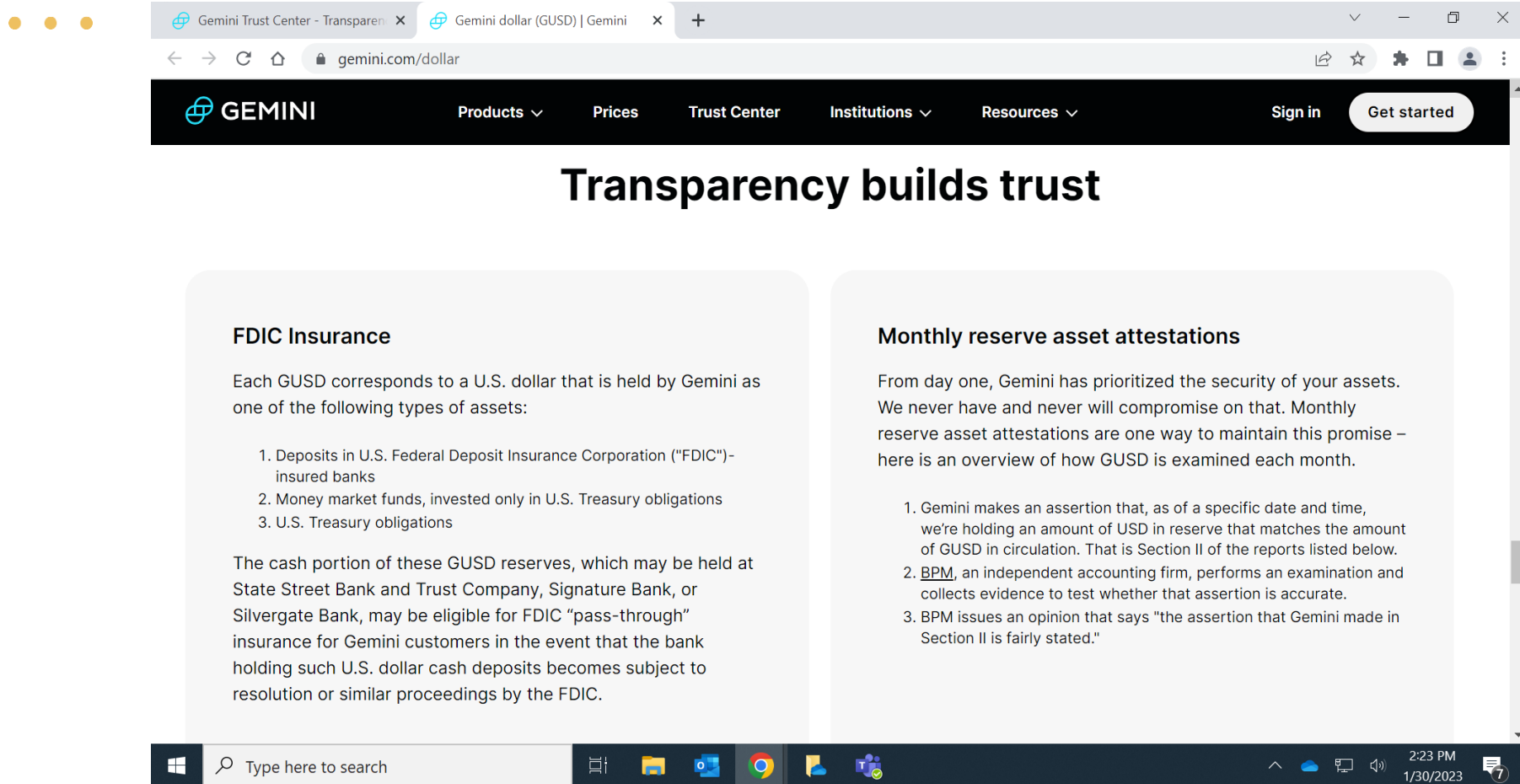
Through our strategic relationships with our banking partners, all customers' USD held with Voyager is now FDIC insured. That means that in the rare event your USD funds are compromised due to the company or our banking partner's failure, you are guaranteed a full reimbursement (up to \$250,000).

We're excited to offer our customers an extra level of security, so they can feel more comfortable holding their USD with Voyager.



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# Gemini Earn



The screenshot shows a web browser window with two tabs: 'Gemini Trust Center - Transparency' and 'Gemini dollar (GUSD) | Gemini'. The address bar shows 'gemini.com/dollar'. The Gemini website header is black with the Gemini logo and navigation links: Products, Prices, Trust Center, Institutions, and Resources. There are 'Sign in' and 'Get started' buttons. The main content area has a large heading 'Transparency builds trust'. Below this, there are two columns. The left column is titled 'FDIC Insurance' and explains that each GUSD corresponds to a U.S. dollar held by Gemini as one of the following types of assets: 1. Deposits in U.S. Federal Deposit Insurance Corporation ("FDIC")-insured banks, 2. Money market funds, invested only in U.S. Treasury obligations, and 3. U.S. Treasury obligations. It also states that the cash portion of these GUSD reserves may be held at State Street Bank and Trust Company, Signature Bank, or Silvergate Bank, which may be eligible for FDIC "pass-through" insurance. The right column is titled 'Monthly reserve asset attestations' and explains that Gemini has prioritized the security of its assets and that monthly reserve asset attestations are one way to maintain this promise. It provides an overview of how GUSD is examined each month, listing three steps: 1. Gemini makes an assertion that, as of a specific date and time, it is holding an amount of USD in reserve that matches the amount of GUSD in circulation. 2. BPM, an independent accounting firm, performs an examination and collects evidence to test whether that assertion is accurate. 3. BPM issues an opinion that says "the assertion that Gemini made in Section II is fairly stated."

**FDIC Insurance**

Each GUSD corresponds to a U.S. dollar that is held by Gemini as one of the following types of assets:

1. Deposits in U.S. Federal Deposit Insurance Corporation ("FDIC")-insured banks
2. Money market funds, invested only in U.S. Treasury obligations
3. U.S. Treasury obligations

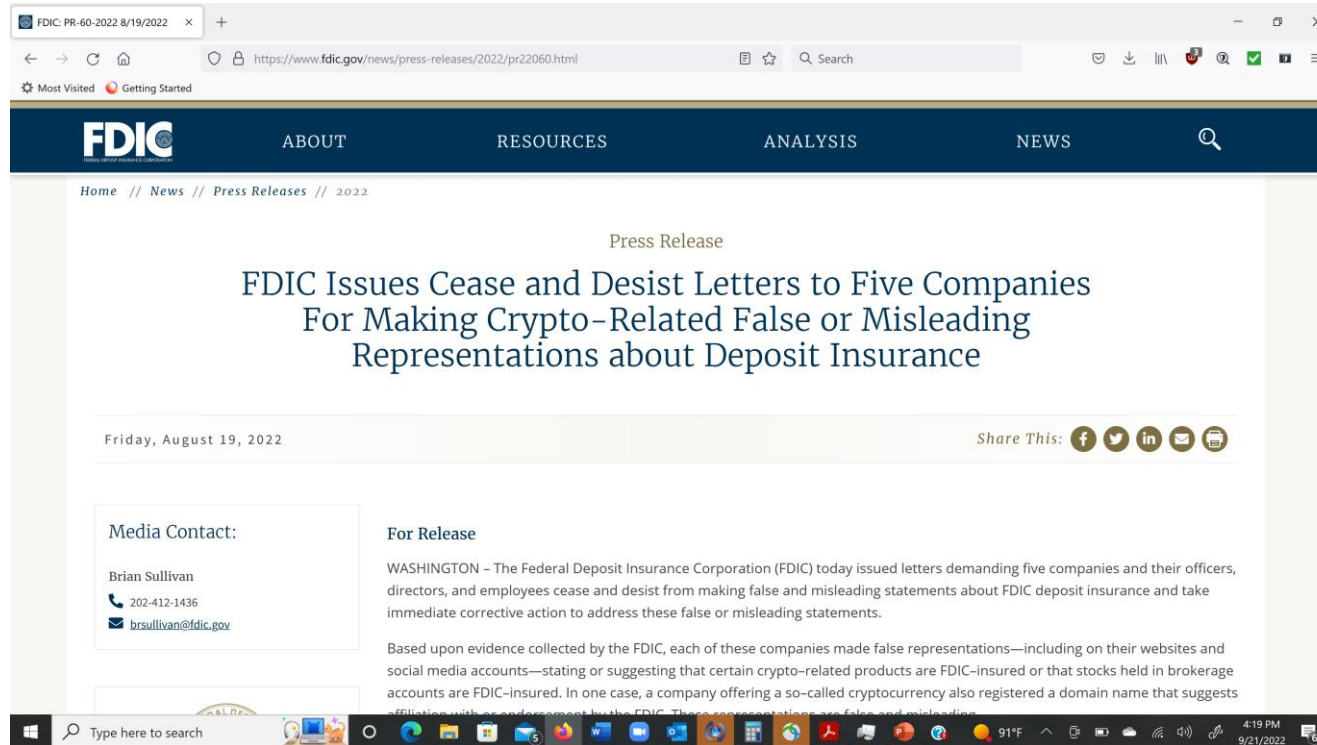
The cash portion of these GUSD reserves, which may be held at State Street Bank and Trust Company, Signature Bank, or Silvergate Bank, may be eligible for FDIC "pass-through" insurance for Gemini customers in the event that the bank holding such U.S. dollar cash deposits becomes subject to resolution or similar proceedings by the FDIC.

**Monthly reserve asset attestations**

From day one, Gemini has prioritized the security of your assets. We never have and never will compromise on that. Monthly reserve asset attestations are one way to maintain this promise – here is an overview of how GUSD is examined each month.

1. Gemini makes an assertion that, as of a specific date and time, we're holding an amount of USD in reserve that matches the amount of GUSD in circulation. That is Section II of the reports listed below.
2. BPM, an independent accounting firm, performs an examination and collects evidence to test whether that assertion is accurate.
3. BPM issues an opinion that says "the assertion that Gemini made in Section II is fairly stated."

# Cease and Desist





## 12 U.S.C. 1828(a)(4)(B)



### (B) Prohibition on misrepresentations of insured status

No person may knowingly misrepresent—

- (i) that any deposit liability, obligation, certificate, or share is insured, under this chapter, if such deposit liability, obligation, certificate, or share is not so insured; or
- (ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured under this chapter, if such deposit liability, obligation, certificate, or share is not so insured, to the extent or in the manner represented.

# Failed Bank Resolution

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# History of Bank Resolutions



- Too Big to Fail
- Open Bank Assistance
- Less Costly than the Cost of Resolution
- Least Cost Resolution
  - Systemic Risk Exception

# Bank Resolution Process



- Primary regulator notifies FDIC
- Marketing through confidential website and virtual data room
- Bid submission
- Resolves failed institution in the “least costly” resolution manner 12 U.S.C. 1823(c)(4)
- FDIC Board vote
- Closing of institution and appointment of FDIC as receiver
- The receiver is expected to maximize the return on the assets of the failed institution and to minimize any loss to the insurance fund that may result from closing the institution.
- Insurance fund cannot be used to benefit/ protect shareholders 12 U.S.C. 1821(a)(4)(C); 1823(c)(4)(E)

# Resolution Methods



- Payout
  - FDIC pays insured depositors and takes control of all assets and liabilities.
  - Deposit Insurance National Bank (DINB)
- Purchase & Assumption Transaction
  - Some or all assets are purchased and some liabilities are assumed
  - All Deposit Transaction
  - Insured Deposit Transaction
  - Loss Sharing Agreement
- Bridge Bank
  - FDIC creates an interim open bank to facilitate a near term sale of some or all of the assets and liabilities

# Functions and Powers as Receiver



- Acquires all rights, powers and privileges of the failed institution 12 U.S.C. 1821(d)(2)(A)
- Transfer assets and liabilities
- Determine the valid liabilities/creditors of the failed institution
- Recover the value of assets of failed institution
- Distribute recoveries to creditors of the institution in accordance with the statutory priority requirements

# FDIC Failed Bank Assets

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# Claims Against Receivership



- Is an administrative process rather than a judicial process like bankruptcy
- Receiver Publishes Notice To Creditors to File Claims within 90 days of Publication. 12 U.S.C. 1821(d)(3)
- Receiver has 180 days to determine claims. 12 U.S.C. 1821(d)(5)
- Creditor must seek judicial review of disallowance within 60 days. 12 U.S.C. 1821(d)(6)



# Priority of Receivership Claims



- Administrative expenses
- Secured depositors and preferred creditors: Paid in full.
- Depositor class: The FDIC and the uninsured depositors share losses on a pro-rata basis based on their respective percentages of total deposits.
  - Depositor Preference
- General creditors: Typically have losses in the total amount outstanding.
- Subordinated creditors: Typically have losses in the total amount outstanding.

Note: Any creditors that experience losses that file a claim receive a receivership certificate and may be paid in the future from proceeds generated from additional asset sales.

# Receivership Superpowers



- Claims Process 12 U.S.C. 1821(d)(3)-(6)
- Remove Litigation to Federal Court 12 U.S.C. 1819(b)(2)(B)
- Stay Litigation for 90 days 12 U.S.C. 1821(d)(12)
- Courts may not enjoin or restrain receiver 12 U.S.C. 1821(j)
- Authority to repudiate or enforce contracts 12 U.S.C. 1821(e)(1),(13)
- Subpoena Authority 12 U.S.C. 1821(d)(2)(I)
- Statute of Limitations 12 U.S.C. 1821(d)(14)
- Agreements must be in writing 12 U.S.C. 1823(e)



# Receivership Superpowers (cont.)



- Avoidance of fraudulent transfers within 5 years. 12 U.S.C. 1817(d)(17)
- Not liable for taxes, except real property tax. 12 U.S.C. 1825(b)(1)
- No property subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation. 12 U.S.C. 1825(b)(2)
- Not liable for penalties or fines. 12 U.S.C. 1825(b)(3)
- Exempt from prosecution for any criminal offense committed by the institution, or persons acting on behalf of the institution, prior to the appointment of the Corporation as receiver. 12 U.S.C. 1825(b)(4)

# Dodd–Frank Act



## Resolution Plans/Living Wills

- Must demonstrate that the firm could be resolved under bankruptcy without severe adverse consequences for the for the financial system or the U.S. economy.
- FDIC and Fed are charged with jointly reviewing and assessing each firm's plan to determine whether it is not credible

# Dodd–Frank Act



## Orderly Liquidation Authority

- If it is determined that a financial company's default would have serious adverse effects on financial stability of the United States, Orderly Liquidation Authority may be invoked. 12 U.S.C. 5383
- OLA only applies to financial institutions where there is not currently a system other than bankruptcy
- OLA authorizes only receiverships, not conservatorships with liquidation as result.
- No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.

... Questions?