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# Deposit Insurance and Failed Bank Resolution

Eric J. Spitler  
Adjunct Professor  
UNC School of Law



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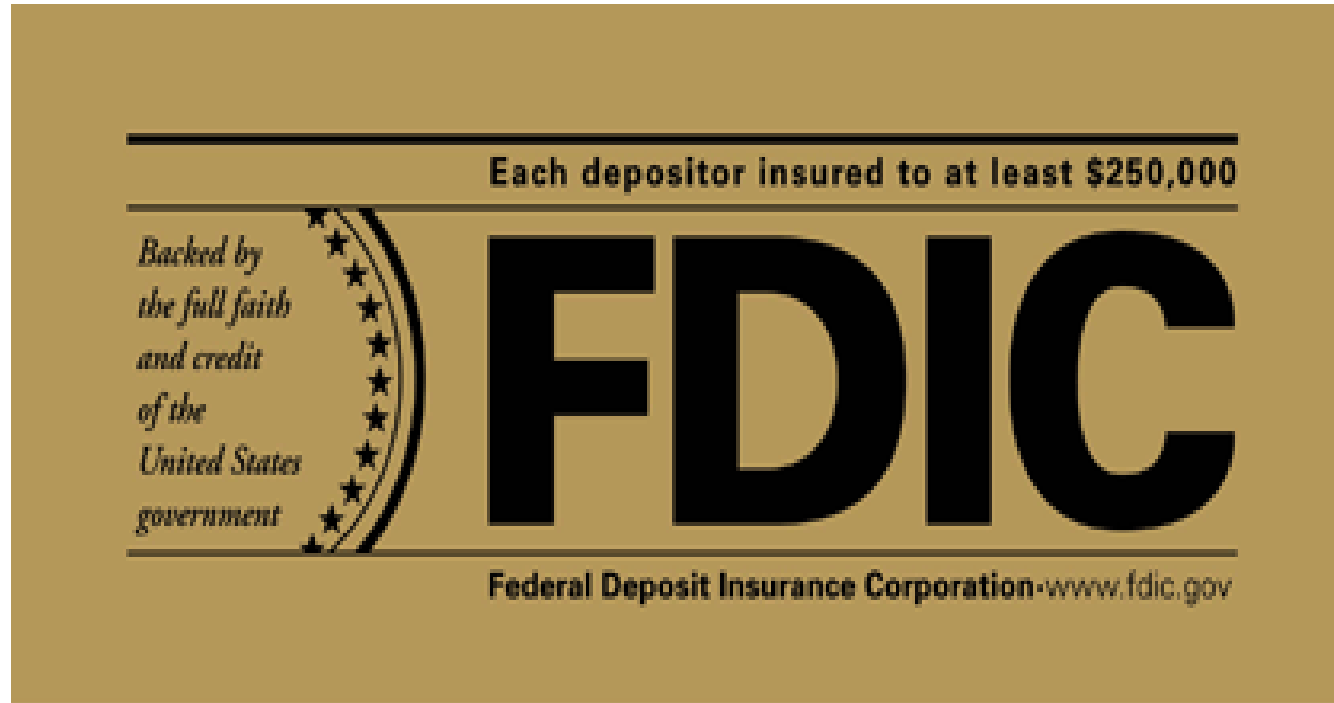
# Deposit Insurance



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# Deposit Insurance Coverage



# Non-deposit Product Disclosure



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



# 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



# FDIC's Electronic Deposit Insurance Estimator (EDIE)



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



# Deposit Insurance Reform Proposals



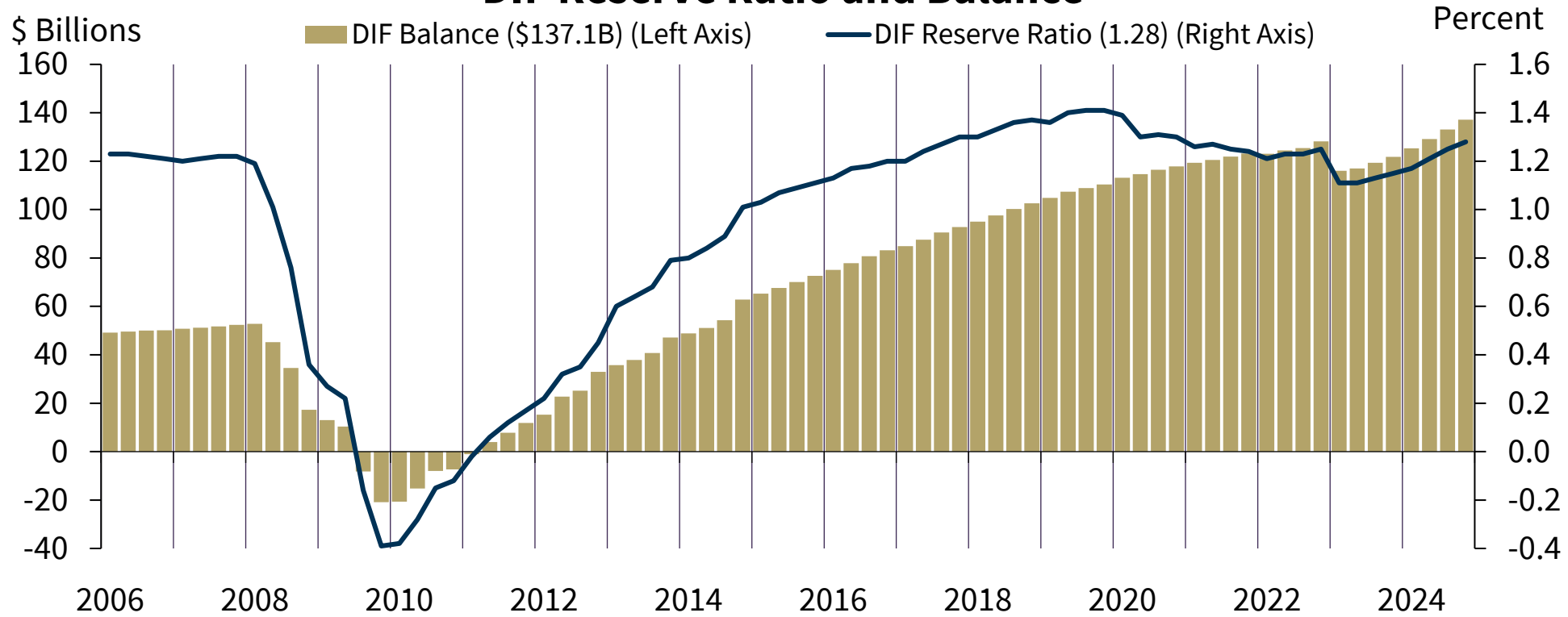
- S. 2999 – Main Street Depositor Protection Act would increase coverage to \$10 million, except for the largest banks.
- Provide the FDIC with authority to provide full coverage for business transaction accounts without first requiring congressional authorization.



# Deposit Insurance Fund



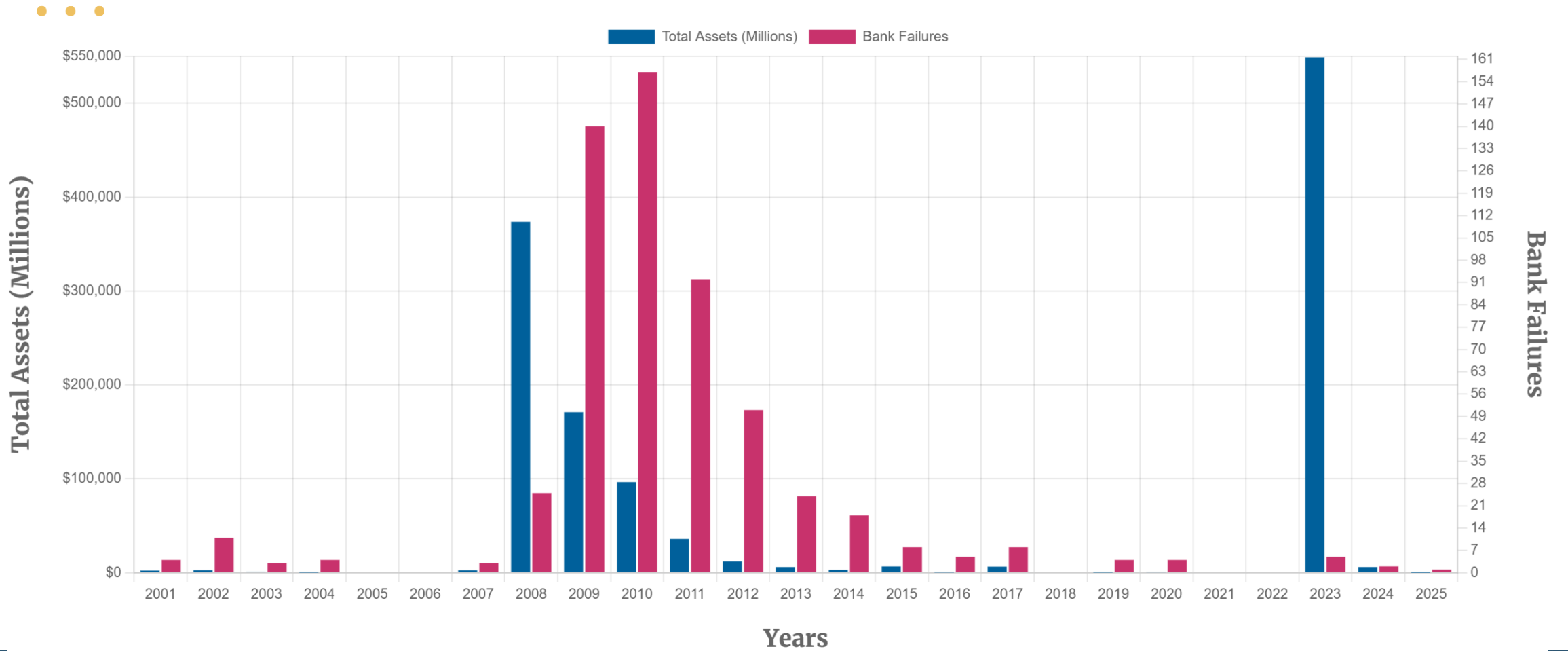
## DIF Reserve Ratio and Balance



Source: FDIC.



# Failed Bank Number and Assets



# Betterment



The screenshot shows a web browser window with the Betterment website. The browser's address bar displays "Betterment LLC (US) | https://www.betterment.com/checking-savings/". The website's navigation menu includes "Savings", "Checking", and "FAQs". The main content area features a large blue background with the text "Everyday—FDIC insured." and a sub-headline: "Simple enough: Up to \$1,000,000.00<sup>†</sup> on Savings and up to \$250,000 on Checking, so you know your money is in good hands." To the left of the text is an image of a person's hands typing on a laptop keyboard while holding a blue credit card. The Windows taskbar at the bottom shows the time as 4:38 PM on 9/24/2019.



# 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).

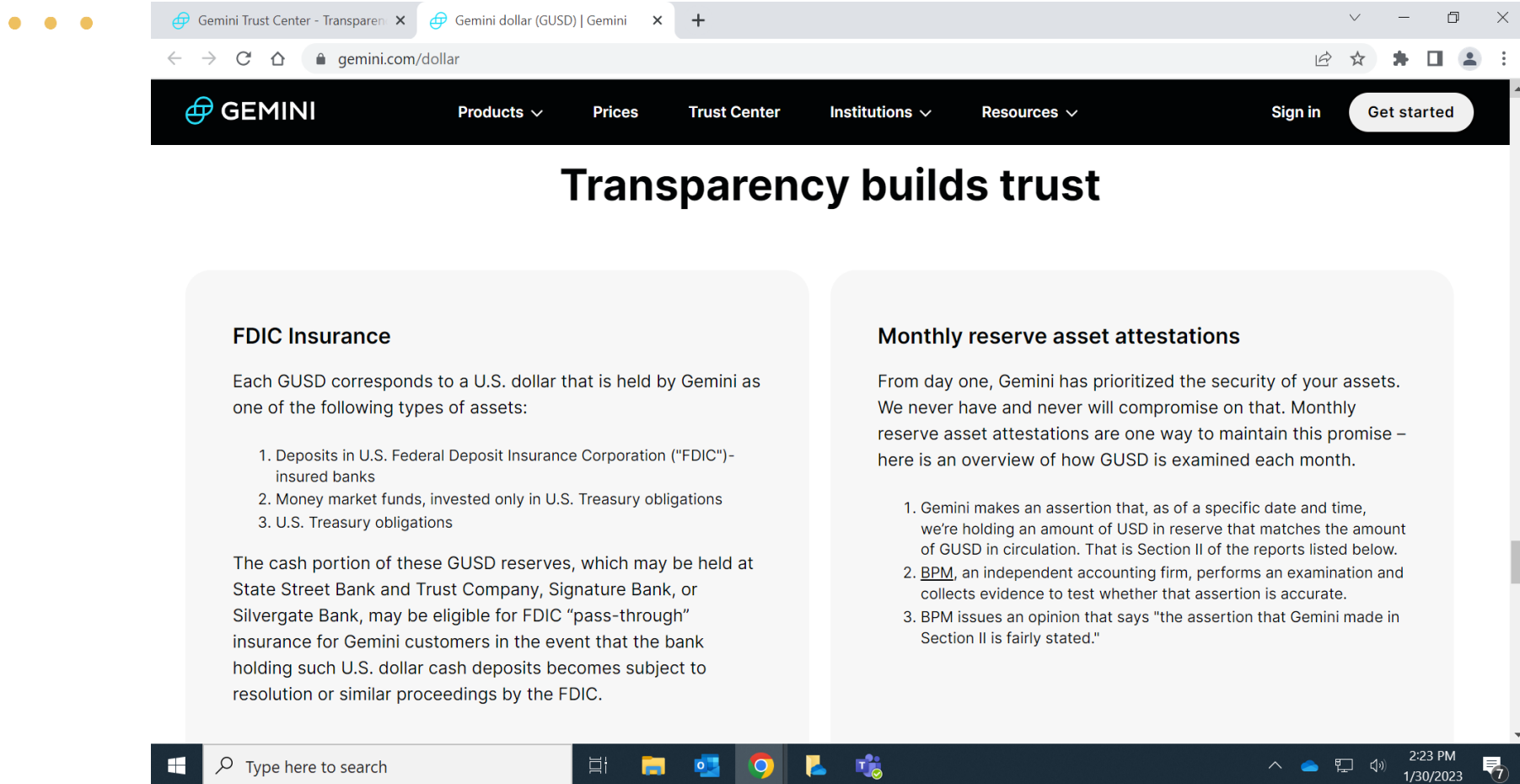
We're excited to offer our customers an extra level of security, so they can feel more comfortable holding their USD with Voyager.



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# Gemini Earn



The screenshot shows a web browser window with two tabs: "Gemini Trust Center - Transparen" and "Gemini dollar (GUSD) | Gemini". The address bar shows "gemini.com/dollar". The website header includes the Gemini logo, navigation links for "Products", "Prices", "Trust Center", "Institutions", and "Resources", and buttons for "Sign in" and "Get started".

## Transparency builds trust

### 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

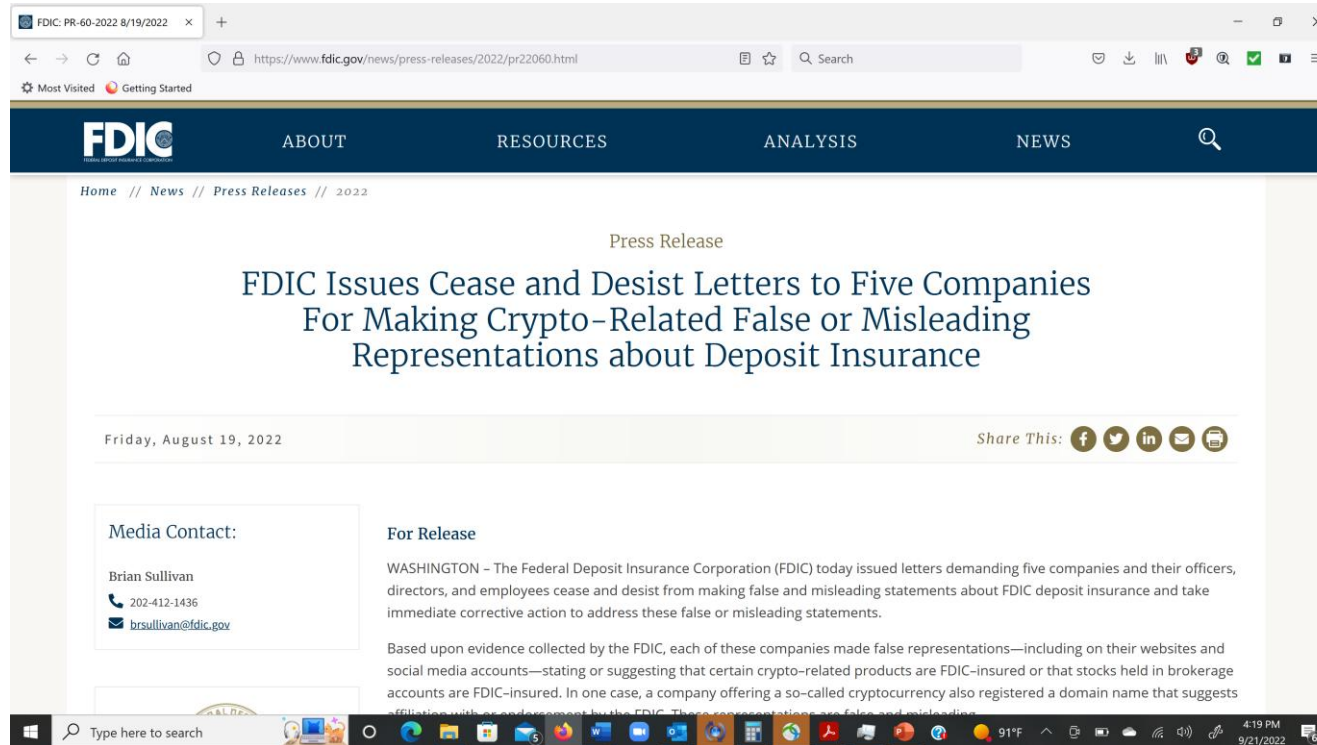
From day one, Gemini has prioritized the security of your assets. We never have and never will compromise on that. Monthly reserve asset attestations are one way to maintain this promise – here is an overview of how GUSD is examined each month.

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."

The Windows taskbar at the bottom shows the search bar with "Type here to search", several application icons, and the system tray with the time "2:23 PM 1/30/2023".



# Cease and Desist



The screenshot shows a web browser displaying a press release from the FDIC. The browser's address bar shows the URL <https://www.fdic.gov/news/press-releases/2022/pr22060.html>. The FDIC logo is in the top left, and navigation links for ABOUT, RESOURCES, ANALYSIS, and NEWS are in the top right. The breadcrumb trail reads "Home // News // Press Releases // 2022". The main heading is "FDIC Issues Cease and Desist Letters to Five Companies For Making Crypto-Related False or Misleading Representations about Deposit Insurance". The date is "Friday, August 19, 2022". A "Media Contact" box lists Brian Sullivan with phone number 202-412-1436 and email [bsullivan@fdic.gov](mailto:bsullivan@fdic.gov). A "For Release" section begins with "WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) today issued letters demanding five companies and their officers, directors, and employees cease and desist from making false and misleading statements about FDIC deposit insurance and take immediate corrective action to address these false or misleading statements." The text continues: "Based upon evidence collected by the FDIC, each of these companies made false representations—including on their websites and social media accounts—stating or suggesting that certain crypto-related products are FDIC-insured or that stocks held in brokerage accounts are FDIC-insured. In one case, a company offering a so-called cryptocurrency also registered a domain name that suggests affiliation with or endorsement by the FDIC. These representations are false and misleading."



# 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.



# GENIUS Act



In general.—Payment stablecoins shall not be backed by the full faith and credit of the United States, guaranteed by the United States Government, subject to deposit insurance by the Federal Deposit Insurance Corporation, or subject to share insurance by the National Credit Union Administration.

(2) Misrepresentation of insured status In general.—It shall be unlawful to represent that payment stablecoins are backed by the full faith and credit of the United States, guaranteed by the United States Government, or subject to Federal deposit insurance or Federal share insurance.



# 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



# 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?



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