

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION, as receiver for Silicon
Valley Bank,

Defendant.

Civil Action No. 1:24-cv-427
Judge Amy Berman Jackson

JOINT STATUS REPORT AND JOINT MOTION TO EXTEND THE STAY

The United States of America, on behalf of the Internal Revenue Service (IRS), and the Federal Deposit Insurance Corporation as Receiver for Silicon Valley Bank (FDIC-Receiver) jointly file this status report and move for the entry of an Order extending the stay of this case for an additional ninety-days. The current stay ends on September 5, 2024, and the requested extension would be until December 4, 2024.

Background

The United States, on behalf of the IRS, brought this action pursuant to 12 U.S.C. § 1821, seeking *de novo* review of the FDIC-Receiver's disallowance of the IRS's timely filed administrative claim in the amount of \$1.4 billion dollars for alleged federal tax liability. As the United States noted in its complaint, its asserted claims for corporate income taxes (tax years 2020, 2021 and 2022) and employment taxes (tax years 2020, 2021, 2022 and 2023) were estimates because the examination of the tax returns was underway and some of the employment taxes have been paid. Compl. ¶¶ 9, 10. On May 8, 2024, the Court entered a stay of this case

until 90 days after the completion of the IRS's examination of the consolidated corporate income tax returns was completed.

On June 7, 2024, the IRS transmitted a statutory notice of deficiency to SVB Financial Group, Silicon Valley Bank's parent company, regarding the corporate income taxes (tax years 2020, 2021 and 2022) arising from the consolidated tax group's income tax return. According to the statutory notice of deficiency, almost all of the tax deficiency for Tax Year 2022 was the result of the IRS's disallowance of a loss reported as "other income—mark to market" based on the use of the "mark-to-market" method of accounting to value certain financial products for tax purposes in accordance with 26 U.S.C. § 475.

The IRS and SVB Financial Group have subsequently resolved this "mark-to-market" dispute. On June 28, 2024, the IRS filed an amended proof of claim in the SVB Financial Group bankruptcy proceeding asserting that the corporate income taxes arising from the consolidated tax group's income tax returns are \$43,917,572.70 for Tax Years 2020 and 2021, collectively, and no longer asserting any claims of tax deficiency for Tax Year 2022. *In re SVB Financial Group*, No. 23-bk-10367 (Bankr. S.D.N.Y.), Stipulation and Agreed Order Regarding IRS Claim, ECF 1253 at ¶ F. SVB Financial Group and the IRS have agreed to confer in good faith to explore whether some or all of the non-mark-to-market issues subject to objections in the bankruptcy proceeding by SVB Financial Group may be resolved. *Id.* at ¶ G.

The Parties Jointly Request that the Court Extend the Stay of All Proceedings in the Case

On May 8, 2024, the Court stayed this case until 90 days after the completion of the IRS's examination of the consolidated corporate income tax returns. Since the IRS transmitted the statutory notice of deficiency to SVB Financial Group on June 7, 2024, the stay will expire

on September 5, 2024. The parties respectfully request that this Court extend the stay of this case, including all pleadings, for an additional ninety-days, until December 4, 2024.

As discussed above, the IRS and SVB Financial Group were able to resolve the “mark-to-market” issues and an amended claim for the corporate income taxes arising from the consolidated tax group’s income tax returns has been filed in the bankruptcy proceeding in the United States Bankruptcy Court for the Southern District of New York. The additional ninety-day stay would permit the IRS and the FDIC-Receiver to engage in settlement discussions with the hopes of resolving this matter without further involvement of the Court. To keep the Court apprised of developments, the parties will provide a status report to this Court in ninety-days, or at a frequency that is convenient to the Court.

Conclusion

For the foregoing reasons, the parties jointly request that this Court extend the stay by ninety-days, until December 4, 2024.

Dated: August 6, 2024

Respectfully Submitted,

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Federal Deposit Insurance Corporation

By: /s/ Kristina M. Portner

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[PROPOSED] ORDER

Pursuant to the foregoing *Joint Status Report and Joint Motion to Extend the Stay*, and good cause appearing, IT IS HEREBY ORDERED:

All proceedings in this case, including all pleadings, are stayed until December 4, 2024. The parties shall jointly provide a status report ninety-days after the entry of this Order.

IT IS SO ORDERED.

Date

HON. AMY BERMAN JACKSON
United States District Court

Copies to:
Counsel of Record