

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

HISTORY ASSOCIATES INCORPORATED,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,

Defendant.

Case No. 1:24-cv-1857-ACR

**JOINT STATUS REPORT**

Pursuant to this Court’s Minute Order of February 11, 2025, Plaintiff, History Associates Incorporated, and Defendant, the Federal Deposit Insurance Corporation (“FDIC”), hereby submit this joint status report.

1. On November 8, 2023, History Associates filed a Freedom of Information Act (“FOIA”) request for the FDIC to produce supervisory letters (“pause letters”) that the FDIC sent to certain banks asking them to “pause all crypto-asset-related activity” and “not [to] proceed with planned activities, pending supervisory feedback.” ECF 1, ¶ 38. The “pause letters” are described in an October 2023 FDIC Office of Inspector General report, OIG, FDIC Strategies Related to Crypto-Asset Risks (Oct. 2023), <https://www.fdicigo.gov/sites/default/files/reports/2023-10/EVAL-24-01-Redacted.pdf>. History Associates appealed the FDIC’s denial of the FOIA request, and after the appeal was denied, History Associates initiated this lawsuit on June 27, 2024 by filing a Complaint alleging violation of FOIA, 5 U.S.C. § 552.

2. On February 12, with leave of the Court, History Associates filed an amended complaint alleging that the FDIC has unlawful FOIA policies or practices. ECF 37.

3. The Court stayed the FDIC's deadline to answer the amended complaint and required the parties to file status reports every two weeks regarding the FDIC's progress in providing the requested information. ECF 38-1, at 15, 17; *see also* February 11, 2025 Minute Order. In lieu of the FDIC's answering the complaint immediately, the Court suggested that the FDIC and History Associates "work cooperatively" on resolving the policy-or-practice claims. ECF 38-1 at 15. The Court stated that if "during the course of that cooperation" History Associates is "not satisfied that [it is] getting the full story, then certainly come back to me and I'm happy to order a 30(b)(6) [deposition] very quickly. But, I just don't think a bunch of litigation is the most efficient use of anyone's time, especially since you now have a cooperative agency that's highly motivated to help you out." *Id.*

4. This is the parties' second joint status report since the February 11 status conference. This status report covers: (1) the FDIC's most recent production made in response to History Associates' FOIA request, and (2) History Associates' most recent information requests and the FDIC's responses to them. The parties met and conferred on March 4 to discuss these issues.

#### **FDIC's Statement Regarding Progress**

5. On February 21, the FDIC produced eight additional records totaling 87 pages in response to History Associates' FOIA request. *See* Exhibit A. Those records were among the 9,000 documents that the FDIC previously identified as non-text searchable within its RADD database.

6. The FDIC has expended significant time and resources to ensure a complete and accurate production of documents in response to History Associates' FOIA requests and the Court's order. As a result of these efforts and despite recent reductions in workforce, the FDIC anticipates making its final production in response to the FOIA requests by next Friday, March 14.

7. Since filing its joint status report two weeks ago, the FDIC has completed its quality control measure of re-reviewing documents in the RADD Correspondence Folders that hit on crypto-related search terms – but did not necessarily contain the word “pause” or similar language – for all FDIC-supervised institutions that were not in the FDIC’s tracking system. As noted in the February 22, 2025 joint status report, this time-consuming measure was a demonstration of FDIC’s commitment to enhanced transparency, beyond what is required by FOIA and an attempt to fulfill the spirit of the FOIA requests. This effort located only a few additional documents that are either potentially responsive to the FOIA requests and the Court’s order or should be produced as a matter of policy, transparency, and/or discretion. The agency expects to be able to publish these documents to the FDIC’s reading room by next Friday, March 14. The FDIC will notify Plaintiff’s counsel when the documents are published.

8. Additionally, the FDIC also completed its review of all the archived documents for over 100 banks from November 8, 2023 through January 23, 2025 from RADD’s Correspondence Folder. Importantly, the FDIC’s review found no responsive documents. Identifying and extracting these documents from the RADD archive was laborious and time intensive. Nevertheless, the FDIC undertook such good faith efforts absent a Court order (Dkt. 38-1, 15:24-16:1) and absent credible evidence of document destruction (*id.* at 16:1) to assuage Plaintiff’s counsel’s unsubstantiated concerns about document destruction.

9. It is the FDIC’s view that Count I of History Associates’ Amended Complaint will be rendered moot when the FDIC makes its final production on or around March 14, 2025. During the parties’ March 4 meet and confer, the FDIC suggested that the parties set up a meeting to reassess the status of the litigation after Plaintiff’s counsel has an opportunity to review the production with their client.

*FDIC's Response to History Associates Redaction Objections*

10. History Associates recently raised objections to the redactions applied to documents comprising the FDIC's February 21 release to the FOIA Reading Room. Plaintiff's objections are without merit. As FDIC explained during the parties' March 4 meet and confer, approximately 20 of the 87 pages released on February 21 were authored by the FDIC. Limited redactions were applied to those pages pursuant to FOIA Exemptions 4, 6, and/or 8 (*see* FOIA Reading Room February 21, 2025 Release *titled "Additional Correspondence Related to Crypto-Related Activities"* at pgs. 3-10; 21-24; 49-51; 73-81) (Exhibit A). The remaining pages are communications from the banks to the FDIC, which contain proprietary, confidential business information, or personally identifiable information that frequently pertain to a targeted review, bank exam, or ongoing enforcement action. Importantly, nearly 20 of the full-page redactions obscured pages containing non-responsive text laid over an image that is publicly used by the bank in its other media. On other pages, the FDIC employed larger redactions to obscure formatting or design elements publicly used by the bank in its other media. In short, the redacted information is (1) exempted from disclosure under a relevant FOIA exemption; (2) is not relevant to History Associates' requests; and (3) could potentially identify the banks at issue. Notwithstanding the care the FDIC has taken with its redactions, the agency is reasonably concerned that the identities of financial institutions are being revealed, and reflect why the redactions are important. *See* Exhibit B.

11. History Associates, however, has requested the FDIC to unredact information even when offered an explanation for why the information is not responsive to their request. For example, during the March 4 meet and confer, Plaintiff's counsel requested that the FDIC unredact the numerical percentage of an insured depository institution's internal deposit limits referenced in the February 21 Release at pages 50, 66, 80, 90, and 91 of the production. Exhibit A. However, as



evidenced by the unredacted portions of those pages, the deposit limit is confidential and proprietary business information belonging to the bank. Based on the unredacted text, it appears it was the bank who imposed such deposit limits, not the FDIC. *See* Exhibit A at pp. 50, 66, 80 and 91. And it was the bank that shared their confidential and proprietary business information with the FDIC in a bank-authored communication. *Id.* It is unclear how a bank-imposed metric in a bank-authored document is responsive to a FOIA requests seeking pause letters from the FDIC to financial institutions.

*FDIC's Response to History Associates Multiple "Information Requests"*

12. FDIC has approached the conferral process with a collaborative spirit and an effort to resolve this matter without further litigation. To that end, the FDIC requested bi-weekly meet and confers prior to exchanging drafts of the JSR, to which Plaintiff's counsel has agreed. However, the FDIC is becoming increasingly concerned with History Associates' use of this purportedly collaborative process to propound discovery-like requests upon the FDIC without any of the reasonableness guardrails imposed on parties in litigation by the Federal Rules of Civil Procedure. By way of example, History Associates' Request No. 10 provides:

We do not believe that you have answered our question [Request No. 5] about the details of the due diligence the agency undertook to determine whether documents have been intentionally or unintentionally destroyed when the agency represented to the Court that it had done so at the February 11 hearing. Please specify who the FDIC spoke to, what information those individuals provided, what materials the FDIC reviewed, what if any forensic techniques the FDIC employed, and any other concrete actions taken to investigate this matter both before and after the February 11 hearing that constitute the due diligence the agency described to the Court. Please also let us know if you keep audit logs or other records of actions taken within FDIC databases and, if so, whether you reviewed those audit logs or other records.

This request is unreasonable and beyond the scope of discovery in this FOIA case, and the FDIC objects to it. By way of further example, History Associate's Request No. 12, states "Please pro-

vide a list of the FDIC's databases and document repositories. For each database, please let us know if you keep audit logs or other records of actions taken within the database" is similarly unreasonable, overbroad, and seeks information beyond what is appropriate under the Federal Rules. As such, FDIC also objects to this "information request." Again, the FDIC has undertaken a search in the RADD, which is the database reasonably expected to have records responsive to the FOIA request.

13. Its objections to History Associates' discovery notwithstanding, the FDIC has worked to provide fulsome responses to many of History Associates' requests. It did so while simultaneously reviewing and redacting documents and conducting quality control efforts on its earlier searches—all within a little over a week of the discovery-like requests being propounded.

14. The FDIC answered History Associates' Requests Nos. 7 & 8. *See supra*, ¶¶ 8-9.

15. In History Associates' first set of "information requests," History Associates asked the FDIC to provide all copies of written policies regarding how FOIA officers or other employees responsible for responding to FOIA requests: (1) apply Exemption 8; (2) construe FOIA requests; (3) search for records responsive to FOIA requests; and (4) ensure the preservation of documents responsive to FOIA requests both upon filing of the request and a lawsuit challenging the FDIC's decision on the request. In response, the FDIC previously produced FDIC Directive 1023.01 "Freedom of Information Act Requests" in its entirety.

16. In History Associates' second set of "information requests," Request No. 9 asked for the FDIC to "confirm whether the FDIC has any other written policies" regarding the above four issues and if so to produce the document(s). In response, the FDIC reviewed FDIC Directives that refer to either "Freedom of Information Act" or "FOIA." The FDIC located two additional Directives that may be responsive: Directive 1300.4 (Information Technology Acceptable Use)

and Directive 1210.01 (Records and Information Management Program). Because the majority of the text in these Directives do not pertain to FOIA, the documents will be heavily redacted and only the cover page and sections that refer to FOIA will be produced. FDIC offered to produce unredacted versions of the two Directives to History Associates if they would be willing to enter into a Protective Order. History Associates indicated that it would consider FDIC's suggestion of a Protective Order, but requested FDIC produce the heavily redacted versions first.

17. In addition to identifying and reviewing FDIC Directives that refer to either FOIA or Freedom of Information Act, the FOIA & Privacy Act Group identified two additional documents that may be responsive: (1) a written retention schedule, *see* ADM3010, (2) Record Custodian Search Instructions; and (3) the publicly available United States Department of Justice's Guide to the Freedom of Information Act. We are producing both documents in their entirety and a link to the DOJ Guide. FDIC will continue to search and, should FDIC find additional relevant, non-privileged written FOIA policies, it will notify Plaintiff's counsel and produce any such documents.

18. Although History Associates has yet to provide any evidence of document destruction, the FDIC is continuing to investigate the answer to Request No. 11. Upon our initial review, which is ongoing, RADD users (which comprise the overwhelmingly vast majority of those with RADD access) do not have the ability to delete (much less permanently delete) documents from the RADD archive. Needing a reasonable amount of time to ascertain a complete and correct answer does not reflect an unwillingness to cooperate. Moreover, History Associates allegations that the FDIC will not speak to its "due diligence" is incorrect. As the FDIC relayed to the Court, the RADD has an archive and the archive is backed up every 24 hours. History Associates now

asks the FDIC, without any evidence that a single document was destroyed, to explain what backs up the archive.

19. In Request No. 13, History Associates asked about how the RADD database was searched and, specifically, whether it was the full text of the entries in the database or only metadata. The FDIC can confirm that it was both: full text and metadata.

20. History Associates' complaints, below, about the FDIC's efforts in this case since the parties were first instructed by the Court to work together and file joint status reports are overblown, and wrong. The FDIC has made enormous progress producing records responsive to the FOIA request, to the point where on or before March 14, the FDIC expects to be in a position to conclude its production. The agency has stated time and again that it has focused its resources on reviewing thousands of pages of documents, including archived documents, and that providing responses to History Associates' plethora of discovery requests will require time. Even though the FDIC finds some of History Associates' requests objectionable, the agency nonetheless responded on a fast track to many of the requests in an effort to show its good faith: the agency identified why the RADD was the most reasonable place to search; explained how it conducted its search; conducted a re-review of documents in an effort to make additional releases where possible; reviewed archived documents without an order from this Court; produced agency written policies and directives regarding FOIA and agreed to produce others if located; explained in detail why some of the redaction were full page; and, offered to produce some materials unredacted if History Associates would agree to a protective order. All of this on two week turn arounds. But as has been obvious from the start, History Associates now does not appear to be willing to continue to work together. Instead, they have pressed to get on with the litigation, and their Statement about Progress, below, shows just that. This case does not warrant much of the discovery History

Associates seeks and neither the law nor the facts support it. The FDIC does not agree with History Associates that the Court should dissolve the stay or move forward with the approach urged by Plaintiff.

21. The FDIC will continue to work in good faith with History Associates to “resolve this litigation.” February 28, 2025 Minute Order.

### **History Associates’ Statement Regarding Progress**

22. The FDIC’s recent conduct and its arguments in this joint status report reveal that the agency is not (or no longer) willing to engage in the cooperative information-sharing process the Court put in place on February 11 as an alternative to formal discovery. Thus, for the reasons explained below, History Associates respectfully suggests that the Court should dissolve the stay in this case, order a targeted 30(b)(6) deposition on specific issues the FDIC has refused to address, and require the agency to respond to History Associates’ amended complaint so that litigation of History Associates’ claims can proceed expeditiously. In addition, History Associates has serious concerns with the heavy redactions to the FDIC’s February 21 production and may request *in camera* review once the FDIC completes its production on March 14.

### *History Associates’ Information Requests*

23. ***The Court Orders Informal Information Sharing so Long as FDIC Cooperates.*** The Court previously contemplated prompt and robust discovery from the FDIC, including a 30(b)(6) deposition, concerning the FDIC’s alleged FOIA practices at issue in this case. *See* ECF 37-1 at 9, 20. During the February 11 hearing, however, this Court suggested that History Associates then appeared to “have a cooperative agency that’s highly motivated to help [it] out” and that it would be more efficient for History Associates and the FDIC to “work cooperatively” to provide History Associates the information it is seeking. ECF 38-1, at 15. The Court anticipated

that History Associates would “get a lot more a lot faster that way than [through] the litigation process.” *Id.* at 16. The cooperative sharing of information the Court envisioned expressly encompassed the agency’s FOIA-related policies or practices centrally at issue in History Associates’ amended complaint. *Id.* at 15 (Court observing that History Associates “can have conversations with [the FDIC] about what their practices have been and were”). The Court stated that it was “happy to make [the FDIC] move forward quickly” and directed the parties to submit biweekly joint status reports on their progress. *Id.* at 16; *see also id.* at 17 (ordering status reports “every two weeks”).

24. The Court further made clear that, if the FDIC should prove uncooperative or dilatory, the Court “w[ould] not hesitate to step back in” swiftly. ECF 38-1, at 16, 18. The Court stated that, if History Associates is “not satisfied that [it’s] getting the full story, then certainly come back to me and I’m happy to order a 30(b)(6) very quickly.” *Id.* at 15; *see also id.* at 18 (Court observing that, “if I find that nothing much is happening and the status report says nothing much is happening and plaintiffs have a problem with that, we’re going to all come up here very quickly” and that Court would intervene “the second [History Associates’ counsel] tells me it’s not happening”). History Associates and the FDIC agreed to engage in this collaborative process.

25. ***The FDIC Ultimately Reveals Its Unwillingness to Cooperate.*** The FDIC initially indicated a willingness to participate in that cooperative process and made some efforts to supply requested information. But its more recent communications and conduct and its submissions in its portion of this status report reflect its desire to shut down that process as soon as possible and a return to its earlier resistance to History Associates’ requests.

26. Since the February 11 hearing, consistent with the Court’s directions, History Associates has sent the FDIC two sets of information requests. History Associates sent the first set

of information requests on February 12, and the FDIC provided responses on February 19. The parties filed a joint status report on February 21, in which History Associates expressed its “serious concerns” about the sufficiency of certain aspects of the FDIC’s responses. *See* ECF 38 at 4. On February 24, in keeping with the biweekly schedule the Court put in place, History Associates emailed the FDIC a second set of information requests. *See* Exhibit C. Most of those requests follow up on the FDIC’s responses to History Associates’ first set of information requests; the others seek information related to the FDIC policies or practices that History Associates has challenged in its amended complaint. All of those requests are directed at obtaining information “about what [the FDIC’s] practices have been and were,” per this Court’s instructions. ECF 38-1 at 15.

27. To History Associates’ surprise, the FDIC’s responses show that it now (again) seeks to provide as little information as it can and has no real intention of providing History Associates the further information it seeks unless ordered to do so—just as the agency repeatedly did earlier in this litigation. To take one stark example, one of History Associates’ requests concerns the FDIC’s representation in a hearing before the Court that the agency had conducted “due diligence” to ensure that no documents were destroyed. ECF 38-1 at 11. History Associates asked the FDIC to describe that due diligence, which it did not elaborate upon at the February 12 hearing. But the FDIC has repeatedly refused to do so, and now takes umbrage at the request to explain the basis of its assertion to the Court. *Supra* at 5-7.

28. The FDIC also refuses to provide a list of the agency’s document repositories, which is necessary for History Associates to understand the adequacy of the agency’s search. After all, the FDIC has previously adopted aggressively narrow interpretations of History Associates’ requests in this case, and it withheld responsive records because in its view History Associates had not employed arbitrary, undisclosed magic words. *See* ECF 37 ¶¶ 75-80. History Associates can-

not know if the agency is employing similar tactics here without knowing even what other databases the agency maintains.

29. In response to History Associates’ requests for FDIC guidance or policies on processing FOIA requests—directly relevant to History Associates’ policy-or-practice claims—the agency has produced only snippets from a few documents that have little to nothing to do with the specific FOIA policies or practices that History Associates has challenged in its amended complaint.

30. More broadly, the FDIC now bristles at responding to what it calls “discovery-like requests” on a biweekly basis. *Supra* at 5-6. But the informal, iterative information requests History Associates has made constitute *precisely* the process the Court put in place and the agency agreed to—which the Court had hoped would be a more efficient and more productive avenue than the formal, swift discovery the Court had previously indicated was appropriate.

31. ***The FDIC’s Lack of Cooperation Warrants the Court’s Intervention.*** The FDIC’s resistance evokes its earlier intransigence in this case and has caused this collaborative process to break down. The FDIC has now made clear that, for purposes of this litigation, History Associates has received all that the agency believes it is due and that the FDIC will not be “cooperative” and is not “highly motivated to help [History Associates] out” in resolving its FOIA claims. ECF 38-1, at 15. Instead, the FDIC apparently prefers litigation and evidently will withhold even basic information unless compelled to provide it by the Court.

32. The Court expressly stated that it would “order a 30(b)(6) very quickly” under these circumstances. *Id.* History Associates respectfully requests that the Court do so now. At a minimum, a 30(b)(6) deposition is needed to get the agency to explain definitively and under oath the due diligence the agency undertook to ensure that no responsive documents were destroyed. Dur-



ing the February 11 hearing, the Court directly asked the agency: “Has the FDIC done an investigation into whether any documents have been destroyed?” ECF 38-1 at 11. The agency responded that it “has done some due diligence into whether or not any such destruction took place,” without elaboration. *Id.* History Associates simply seeks to know the basis of that factual representation to the Court. But the FDIC has repeatedly declined to provide it. The agency now dismisses that unremarkable request as “unreasonable” and overly broad. *Supra* at 5-6. But the agency should have no difficulty explaining to History Associates what diligence (if any) it actually conducted—as the FDIC undoubtedly would have done and would do if asked the same question by the Court. The FDIC’s apparent inability to confirm that its RADD archives cannot be permanently deleted—nearly two months after allegations of document destruction arose—only confirms the need for a prompt investigation into the diligence the agency undertook.

33. In addition to authorizing a 30(b)(6) deposition, the Court should dissolve the stay and allow History Associates to proceed with its policy-or-practice claims. The FDIC has made clear that it will not informally share with History Associates the information needed to resolve those claims. Thus, there is no longer any basis for staying the FDIC’s obligation to respond to the amended complaint or forestalling litigation of History Associates’ claims on the merits.

*The FDIC’s Redactions to the February 21 Production*

34. ***The FDIC Again Over-Redacts Its Production.*** History Associates appreciates the FDIC’s February 21 production of additional records responsive to History Associates’ FOIA request. But History Associates remains concerned that the redactions in that production appear similar in extent and overbreadth to the redactions in the FDIC’s first production of pause letters in this case, which prompted the Court’s “concern[.]” in its December 12 order (following *in cam-*

era review) “with what appear[ed] to be FDIC’s lack of good-faith effort in making nuanced redactions.” Dec. 12, 2024 Minute Order.

35. The scope of the redactions speak for themselves. Fifty-three pages are redacted in their entirety. And many other pages contain heavy redactions rendering the documents unintelligible, much like those in its November 22, 2024 production. *Compare* Ex. A, at 6-7, 25, 92, with ECF 26-1.

36. ***The FDIC’s Attempts to Justify Its Redactions Are Meritless.*** The FDIC suggests that History Associates should be satisfied simply because the agency “offered an explanation” for the redactions. *See supra* at 4. But that is not how FOIA works—an agency cannot satisfy FOIA based on its mere say-so. Instead, FOIA provides that Courts can test the agency’s explanations against the documents themselves via *in camera* review, as this Court has done in this case.

37. Regardless, the FDIC’s explanations for the redactions are severely wanting on their own terms and appear to reflect its continued disregard for its FOIA obligations. The FDIC claims that it made only “[l]imited redactions” to documents generated by the agency (as opposed to documents produced by banks). *Supra* at 4. Yet the very first document in the production—a letter from the FDIC to a bank—contains redactions that make it impossible to discern what the letter is about or how it relates to crypto. Ex. A, at 4.

38. The FDIC also claims that “nearly 20 of the full-page redactions” were necessary to prevent identification of the bank at issue. *Supra* at 4. But it offers no explanation for the other 33 fully redacted pages.

39. Still more documents disclose that one or more banks imposed a cap on the percentage of deposits from crypto companies—which potentially corroborates public reporting that the FDIC informally imposed a 15% crypto deposit cap on banks as part of its anti-crypto cam-

paign. Veronic Irwin, *Regulators Are Limiting Banks Serving Crypto Clients. Does That Violate the Law?*, Unchained (Oct. 8, 2024), <https://bit.ly/41zFvPs>. The FDIC does not dispute that the unredacted portions demonstrate the *existence* of the deposit cap. Yet it refuses to disclose the *amount* of the cap on the perplexing theory that the cap was implemented by the banks. That elides the critical question of whether the banks did so at the FDIC's behest, just as it expressly instructed banks to pause crypto activities.

40. ***In Camera Review May Be Needed Following the March 14 Production.*** To be clear, History Associates is not asking the Court to resolve this dispute over redactions at this juncture. Although History Associates believes that *in camera* review of the February 21 production might be appropriate to evaluate the FDIC's heavy redactions, for purposes of efficiency History Associates intends to wait to make that request until after it reviews the FDIC's March 14 production.

41. Following that production, History Associates will negotiate in good faith with the FDIC on that issue and any others that remain open. But as set forth above, in History Associates' view the parties have reached an impasse on several issues that are now ripe for judicial resolution.

Date: March 7, 2025

/s/ Jonathan C. Bond

Eugene Scalia  
Jonathan C. Bond  
Nick Harper  
Aaron Hauptman  
GIBSON, DUNN & CRUTCHER LLP  
1700 M Street, N.W.  
Washington, D.C. 20036  
Telephone: 202.955.8500  
Facsimile: 202.467.0539  
escalia@gibsondunn.com  
jbond@gibsondunn.com  
nharper@gibsondunn.com  
ahauptman@gibsondunn.com

*Attorneys for Plaintiff*

Respectfully submitted,

/s/ Lina Soni

Andrew J. Dober  
Senior Counsel  
Lina Soni  
Federal Deposit Insurance Corporation  
3501 N. Fairfax Drive  
Arlington, VA 22226  
Telephone: 571.286.0401  
lsoni@fdic.gov

*Attorneys for Defendant*

# Exhibit A

## FDIC Records—Additional Correspondence Related to Crypto-Related Activities

February 21, 2025

This release includes eight records consisting of additional FDIC correspondence and other records involving the crypto-related activities of regulated institutions.





CONTROLLED//FDIC BUSINESS

Federal Deposit Insurance Corporation

Division of Risk Management Supervision

[REDACTED]

January 15, [REDACTED]

Board of Directors

[REDACTED]

Members of the Board:

On December 10, [REDACTED] you submitted information supporting your [REDACTED]

[REDACTED] Please be advised that the FDIC has reviewed the submitted information regarding [REDACTED]  
[REDACTED] Based upon your current risk profile, [REDACTED]  
[REDACTED]

If you have any questions, you may contact Assistant Regional Director [REDACTED] or  
Case Manager [REDACTED]

Sincerely,

[REDACTED]  
Regional Director

cc:

[REDACTED]





CONTROLLED//FDIC INTERNAL ONLY

Federal Deposit Insurance Corporation

January 15, [REDACTED]

**MEMORANDUM TO:**[REDACTED]  
Regional Director**THROUGH:**[REDACTED]  
Deputy Regional Director[REDACTED]  
Assistant Regional Director**FROM:**[REDACTED]  
Case Manager**SUBJECT:**BACKGROUND

The subject bank [REDACTED]

[REDACTED]  
on the findings of a [REDACTED]The [REDACTED] based  
which found the AML/CFT  
and [REDACTED]

[REDACTED] product lines.

After issuance of the [REDACTED] exited the existing [REDACTED] business lines, first pivoting to [REDACTED] while management built out the FinTech program by expanding existing and engaging new relationships. An [REDACTED] FDIC-led joint Safety and Soundness examination [REDACTED] Examination) identified [REDACTED] and found the AML program to be [REDACTED] with most [REDACTED]. In response to the [REDACTED] Examination, the bank hired a new BSAO [REDACTED] who began the process of improving the institution's AML program. The [REDACTED] Safety and Soundness Examination [REDACTED] Examination) noted some improvement in the program based on [REDACTED] initial efforts and plans, though continued to [REDACTED] and called the overall program [REDACTED] due to lack of completed implementation of those plans. [REDACTED] resigned in late [REDACTED] based on what he described as friction with President [REDACTED] over differences of opinion about the state of the program, [REDACTED] daily management of the [REDACTED] AML staff, and [REDACTED] providing incorrect guidance to AML staff, as well as the Board's failure to follow through on the promise to appoint him as President.

CONTROLLED//FDIC INTERNAL ONLY

In December [REDACTED], the bank contracted with [REDACTED] who currently serves as the BSAO. When [REDACTED] was appointed, the bank was [REDACTED]. [REDACTED] As such, [REDACTED] his appointment under those circumstances and only for the term of his [REDACTED] contract. [REDACTED] did not possess sufficient experience and competence in relation to the bank's FinTech business lines; however, given the [REDACTED] seek another individual to lead the program [REDACTED] him on the basis of [REDACTED]. The bank backed out of [REDACTED] with the Board stating its intention [REDACTED]. Upon the [REDACTED] expiration, the bank renewed [REDACTED] contract for another [REDACTED]. As part of the ongoing [REDACTED] Safety and Soundness Examination ([REDACTED] Examination), examiners communicated that the [REDACTED] proposed for another contract extension.

#### CONDITION OF THE INSTITUTION

The [REDACTED] Examination, as noted above, continued to [REDACTED] of the Bank Secrecy Act (BSA) and found the AML program to be [REDACTED]. The [REDACTED] Examination has found that many of the efforts [REDACTED] had initiated were not finalized and certain procedures were not maintained, and the program continues to be [REDACTED]. Since the [REDACTED] Examination, the bank has significantly expanded its [REDACTED] activity through several FinTech relationships, both new and existing. In addition to AML-based criticisms, examiners have found a concerning level of operational issues related to the various FinTech business lines. Some of these operational issues impact examiners' assessment of the bank's level of responsibility for AML monitoring and reporting. This assessment is different than prior examinations based upon the bank's inaccurate representations of the processes and payment flows under which these programs function.

#### ANALYSIS OF [REDACTED]

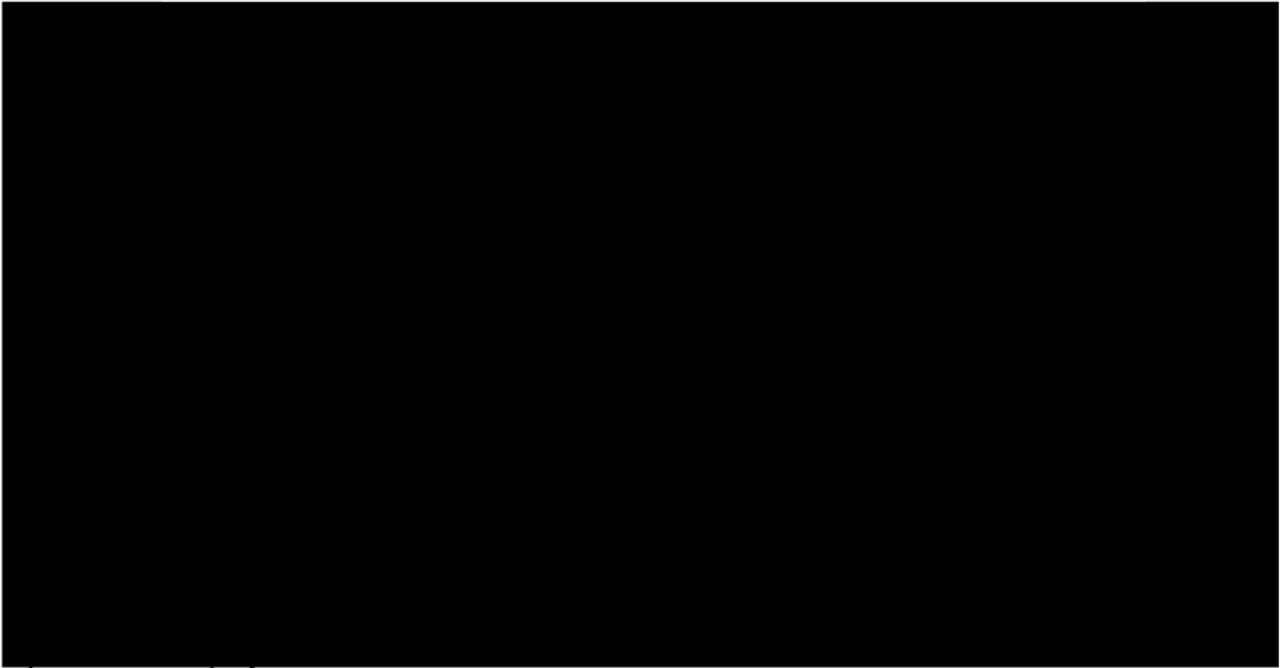
[REDACTED]

[REDACTED]

The [REDACTED] Examination ROE concluded that bank was in [REDACTED] with [REDACTED]. It also stated that the AML program was satisfactory, though listed [REDACTED].

**CONTROLLED//FDIC INTERNAL ONLY**

AML-specific [REDACTED]. The [REDACTED] Examination noted FinTech relationships, with IT-related [REDACTED] concerning due diligence over partners that had indirect crypto involvement. Despite referencing due diligence, the [REDACTED] did not include practices that appeared to reflect AML program deficiencies. The bank “paused” crypto-related relationships and only retained what appears to be a single FinTech relationship for a [REDACTED] platform.





CONTROLLED//FDIC BUSINESS



FEDERAL DEPOSIT INSURANCE CORPORATION

**DATE:** September 18, 2023

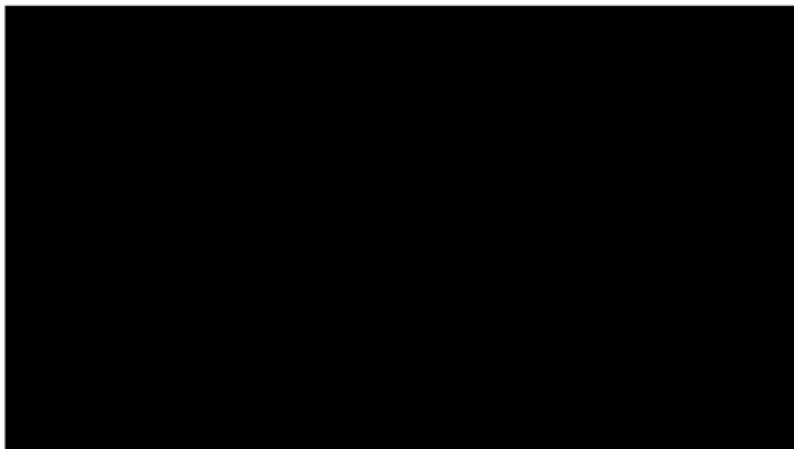
**TO:** Bank File

**FROM:** [REDACTED]  
Senior Case Manager

**SUBJECT:** Interim Bank Contact – Monthly Conference Call

Representatives of [REDACTED], the Federal Deposit Insurance Corporation (FDIC), the [REDACTED] [REDACTED], and the Federal Reserve Bank [REDACTED] (FRB) meet monthly to discuss ongoing significant activities of the [REDACTED] the bank, and [REDACTED] [REDACTED]. This file memo summarizes attendance and discussion topics for today's meeting.

Meeting Attendees



FDIC: [REDACTED]  
[REDACTED] Senior Case Manager (RMS)  
[REDACTED] Senior Examination Specialist (RMS)  
[REDACTED] Supervisory Examiner (RMS)  
[REDACTED] Examiner-In-Charge (RMS)  
[REDACTED] Special Activities Case Manager (RMS)  
[REDACTED] Information Technology Supervisory Examiner (RMS)  
[REDACTED] Information Technology Examination Analyst (RMS)  
[REDACTED] Review Examiner (DCP)  
[REDACTED] Examiner (DCP)

CONTROLLED//FDIC BUSINESS

[REDACTED]

FRB: [REDACTED] Central Point of Contact

#### Discussion Topics

##### *New Chief Audit Executive*

[REDACTED]

##### *AML/CFT Target Review Update*

Chief FinTech Risk & AML Officer [REDACTED] and CRO [REDACTED] provided a brief update on the AML/CFT target review. They are developing detailed management responses to the findings discussed during the recent exit meeting. The responses will be shared with the Committee [REDACTED] and then forwarded to the regulators in the next few days.

##### *[REDACTED] Termination & Deconversion*

[REDACTED] stated that the [REDACTED] wind down process continues as expected. All [REDACTED] bitcoin accounts have been liquidated as of [REDACTED]. Funds are now in the [REDACTED] cash accounts. As of [REDACTED] cash accounts hold a balance greater than \$0, with aggregate balances totaling [REDACTED]. Of the [REDACTED] accounts, [REDACTED] of them do not have a linked account. Bank staff is reaching out to these customers. [REDACTED] noted the bank's goal is to have all cash accounts closed and funds returned to customers by [REDACTED].

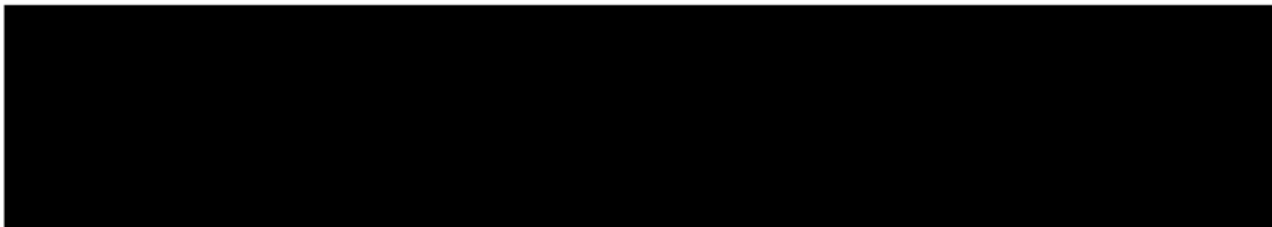
##### *Banking-as-a-Service*

[REDACTED] briefly discussed the bank's [REDACTED] and [REDACTED] relationships. [REDACTED] activity remains steady and consistent, which is typical for [REDACTED]. The bank is continuing to see steady low levels of growth in the average balances of [REDACTED] accounts. Customer [REDACTED] activity on the debit cards will continue to slowly decrease [REDACTED]. [REDACTED] balances remain stable, with the bank continuing to nudge the company to move to another bank partner.

In response to further questioning by [REDACTED] regarding explanation for "inactive" and "unfunded" [REDACTED] account closings, CRO [REDACTED] stated that unfunded accounts are closed after one year. At one point, [REDACTED] had over [REDACTED] accounts, but the longer an account remains dormant the greater possibility of fraud. Therefore, the bank established procedures with [REDACTED]

CONTROLLED//FDIC BUSINESS

██████ to close accounts that were never funded, which brought the number of accounts down to approximately ██████. The bank is working with ██████ to develop procedures to close inactive accounts.






**Regulatory**

September 2023



- 
- BSA Target Exam Update, [REDACTED]
  - [REDACTED] Termination & Deconversion, [REDACTED]
  - Banking as a Service Updates, [REDACTED]

# AGENDA

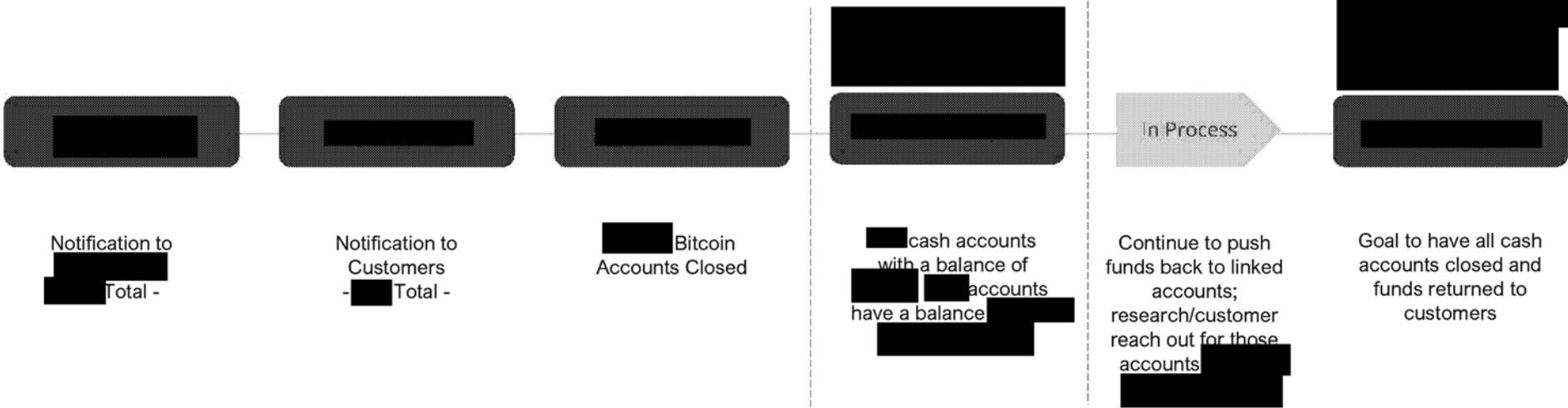




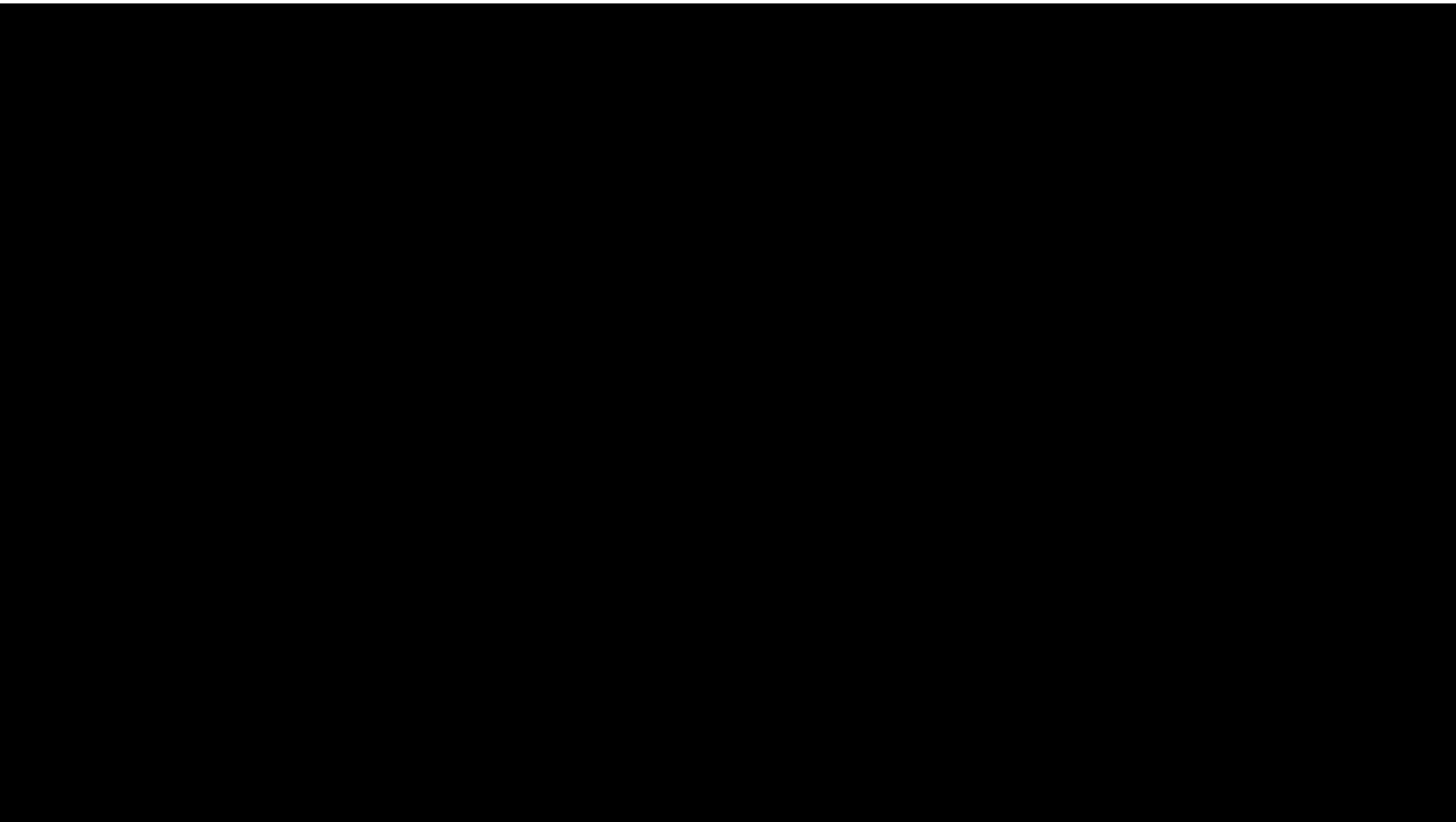
# Termination & Deconversion

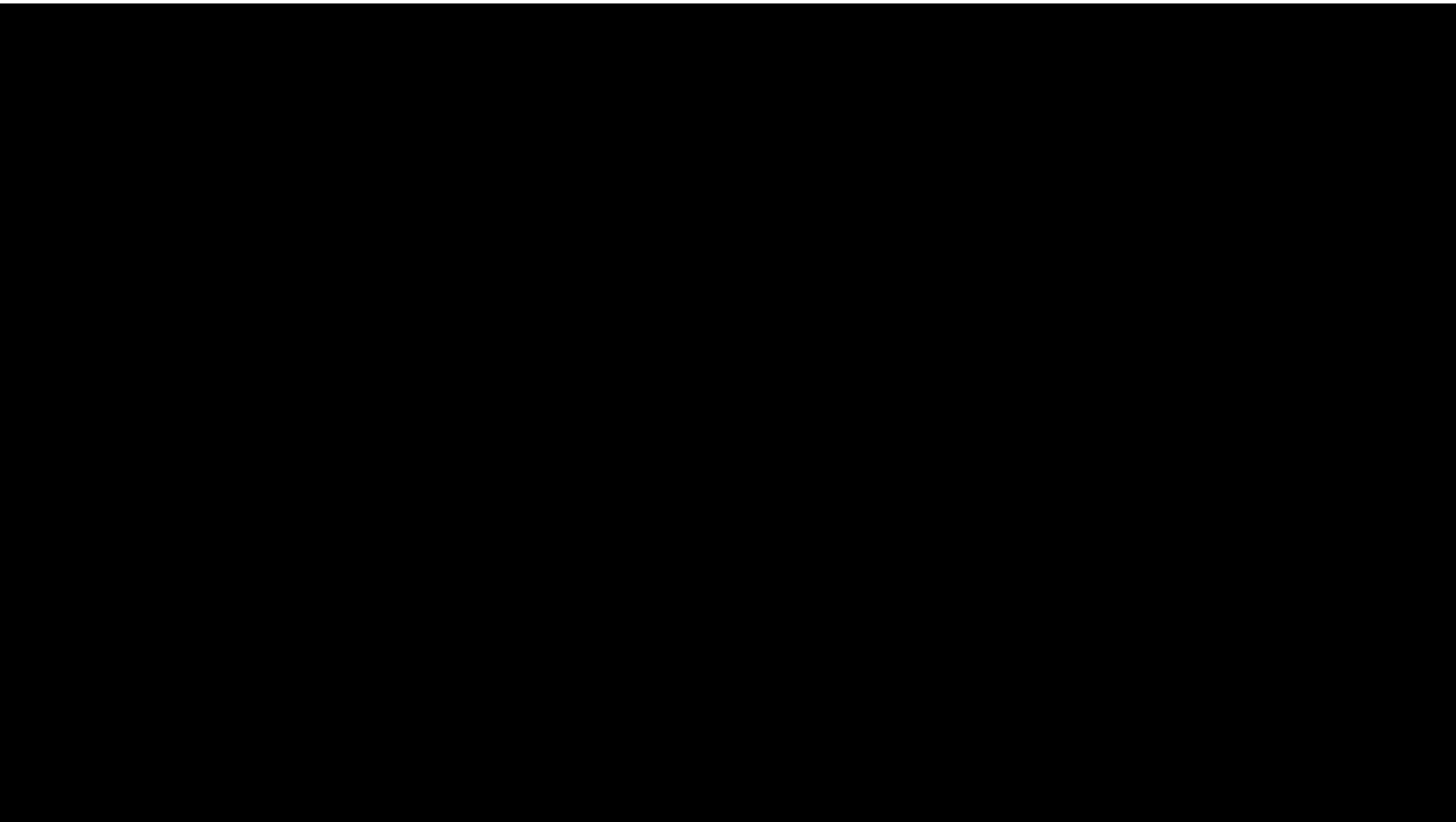


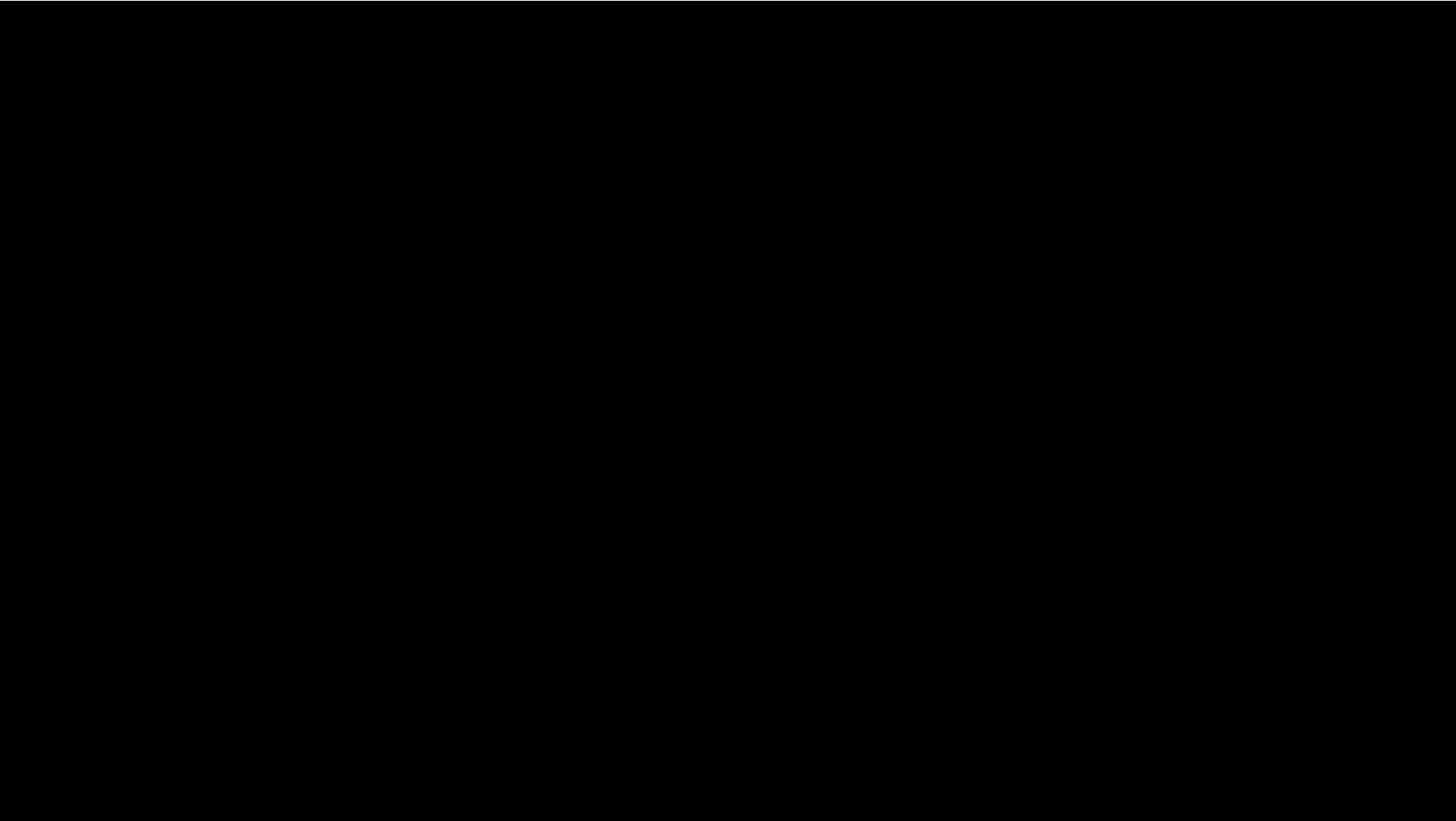
# ██████████ Wind Down Update

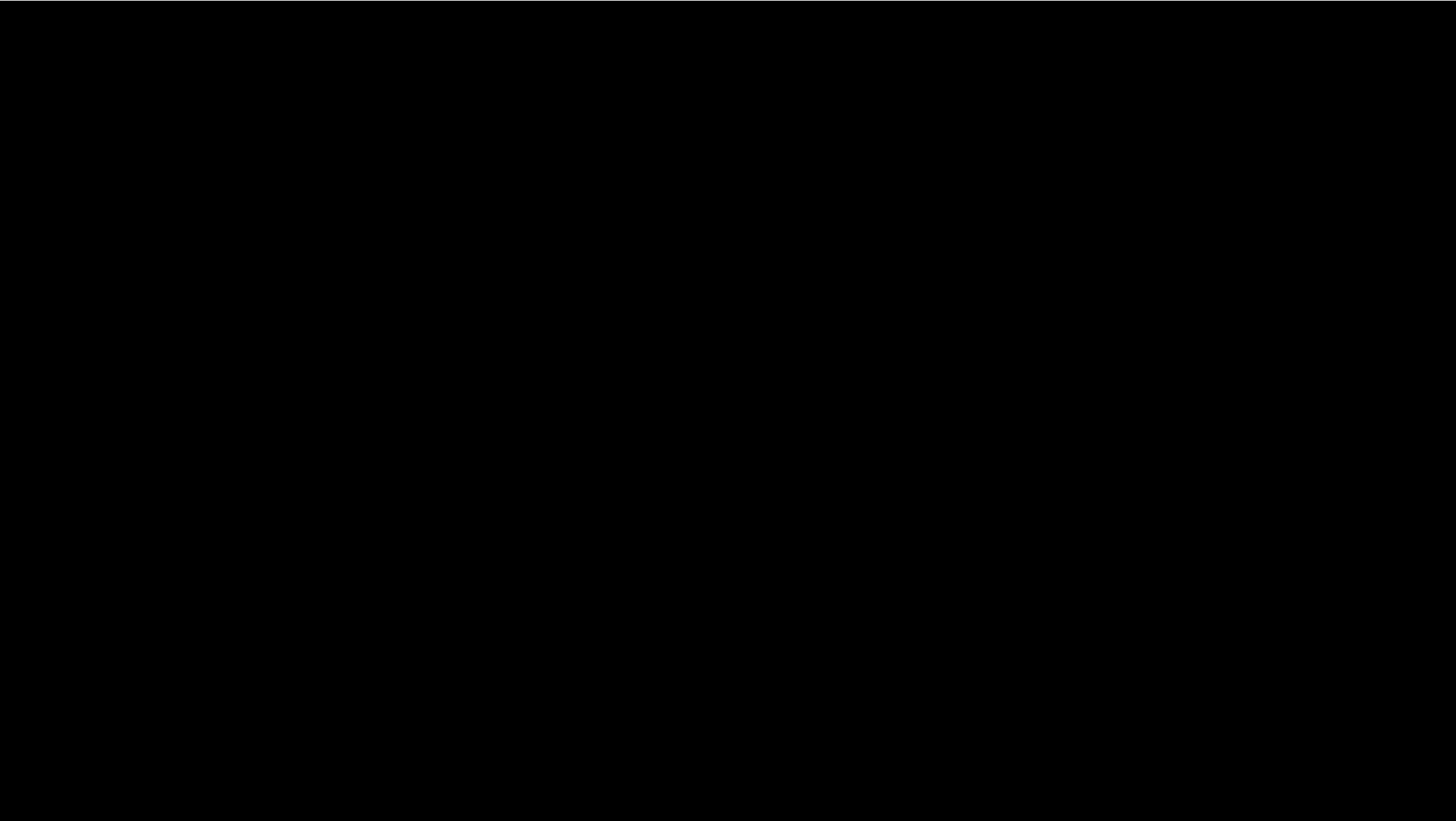


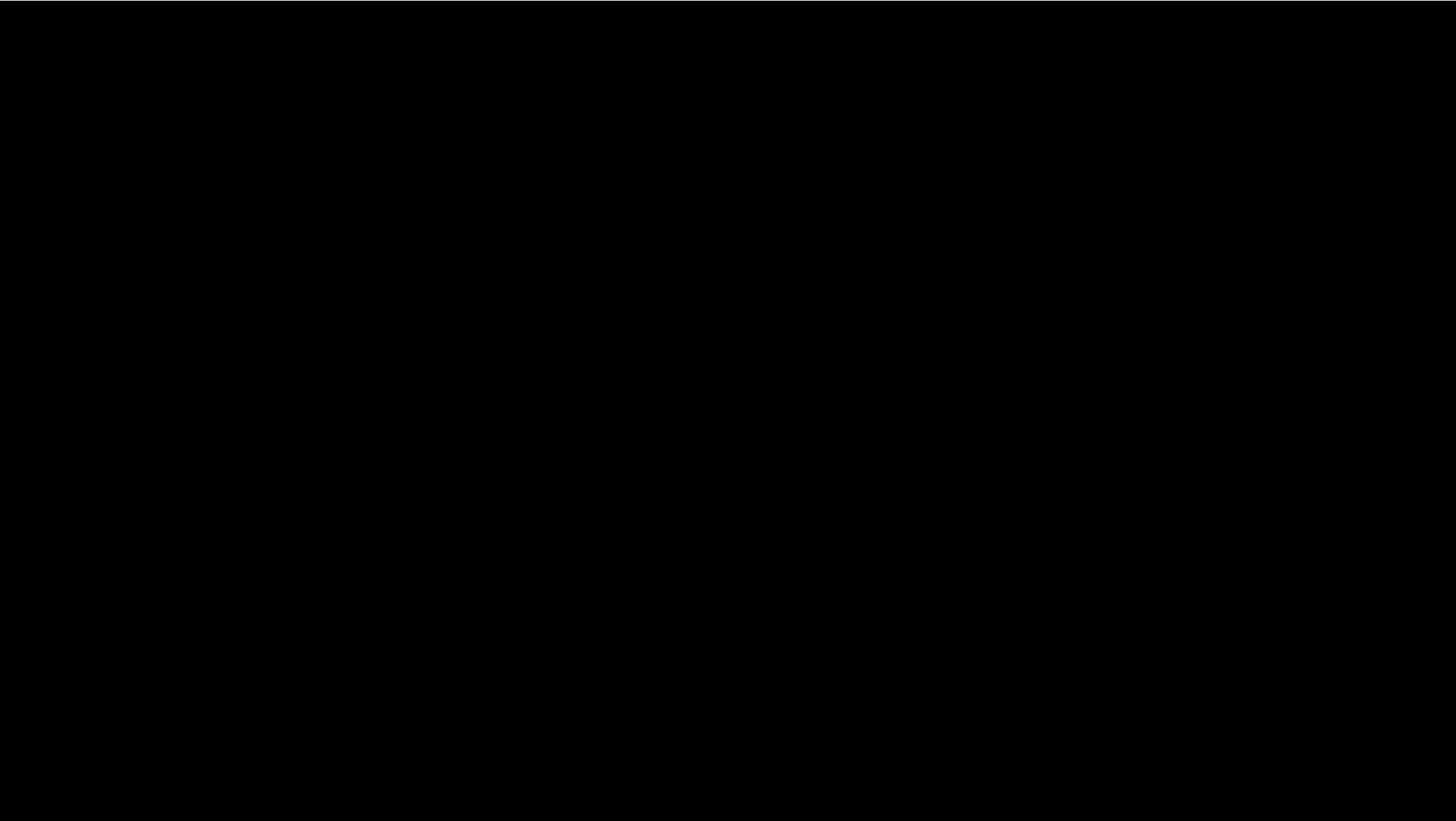
Cash Account Data as of 09.15.23	
# Open Accounts	██████████
# Open Accounts with \$0 Balance	██████████
# Open Accounts with > \$0 Balance	██████████
# Accounts ██████████	██████████
Total \$ in Accounts	██████████















CONTROLLED//FDIC INTERNAL ONLY

**OFFICE MEMORANDUM****Federal Deposit Insurance Corporation**  
**Division of Risk Management Supervision**  
[REDACTED]

9/27/2024

TO: Correspondence File

FROM: [REDACTED]  
Case ManagerSUBJECT: Discussion with [REDACTED] VP  
[REDACTED]

Case Manager [REDACTED] called VP/BSA Officer [REDACTED] on 9/26/24 to respond to questions she posed to Compliance examiner [REDACTED] via email on 9/13/24.

Her email posed the following questions:

“We have a **potential customer** who is a Bitcoin or virtual currency broker and they want to open an account with us for just their **commission fees**. They are not an issuer or an exchanger. There is some involvement in [REDACTED], which is an online casino. The way it has been explained to me is virtual currency is used as payment to [REDACTED] and the money from the transactions goes to three different attorneys’ IOLTA accounts. From there, funds are disbursed to the fee account (that our potential customer wants to open with us), and to other accounts at other banks that handle different aspects of the transactions. I am told we are expecting [REDACTED] transactions monthly, and they will be wires from the IOLTA accounts not held with our bank. Our bank president is the one who has been talking with the potential customer. I have talked to him about the potential for money laundering, etc. with virtual currencies. Other than those BSA implications, is there anything else we need to worry about? We are wanting to make sure we are not taking on more risk than what we want. Is there any guidance at all FDIC can [REDACTED]?”

Case Manager [REDACTED] discussed this issue with the regional [REDACTED] case manager, a regional IT specialist, and the DCP case manager for the bank. During his call with [REDACTED] he communicated various concerns and potential risks those contacts revealed. He highlighted the importance of performing thorough and ongoing customer due diligence, including questioning why the customer chose the bank to approach. He mentioned the relationship presents various aspects which may pose high risk for the bank. He noted the critical need for the bank to understand where funds were coming from and going to, and he mentioned the need for bank counsel to satisfy questions about the legality of the activity. He also referenced the potential need for policies and procedures to address Regulation GG, which may be applicable as the activity is related to gambling. He informed [REDACTED] about the 2023 Joint Statement concerning crypto currency activities as a possible reference source. CM [REDACTED] also shared potential IT concerns such as account access, wire transfer controls, reconciliation of activities, etc. [REDACTED] stated the bank has opened the account but no activity has occurred as yet. CM [REDACTED] closed the call with an offer to assist with any further questions [REDACTED] may give in the future.





FEDERAL DEPOSIT INSURANCE CORPORATION

**DATE:** January 14, 2025

**TO:** Bank File

**FROM:**

**SUBJECT:** Memo to File – Regional Office Meeting with

The purpose of this memo to file is to document the meeting of management with the FDIC at the on January 14, 2025. This file memo summarizes attendance and discussion topics for today's meeting.

Meeting Attendees

FDIC: , Regional Director (RMS)  
Deputy Regional Director (RMS)  
, Deputy Regional Director (DCP)  
Assistant Regional Director (RMS)  
Assistant Regional Director (DCP)  
Case Manager (RMS)  
Review Examiner (DCP)

Virtual: Field Supervisor, FDIC  
Supervisory Examiner, FDIC  
Examiner in Charge, FDIC  
Special Assistant to Regional Director, FDIC

Discussion Topics

**2022-2023 Report of Examination Response**

New CRO [REDACTED] presented slides that mirror [REDACTED] written ROE response in RADD dated November 22, 2024. Bank management asserts that provisions within the [REDACTED] MOU have been remediated. CRO [REDACTED] also noted that management has remediated all supervisory recommendations listed in the 2022-2023 ROE and [REDACTED]

[REDACTED]

Management noted that they have implemented changes to their reporting structure to address CEO [REDACTED]. RD [REDACTED] reiterated during discussions that the [REDACTED]

[REDACTED]

**FDIC Updates**

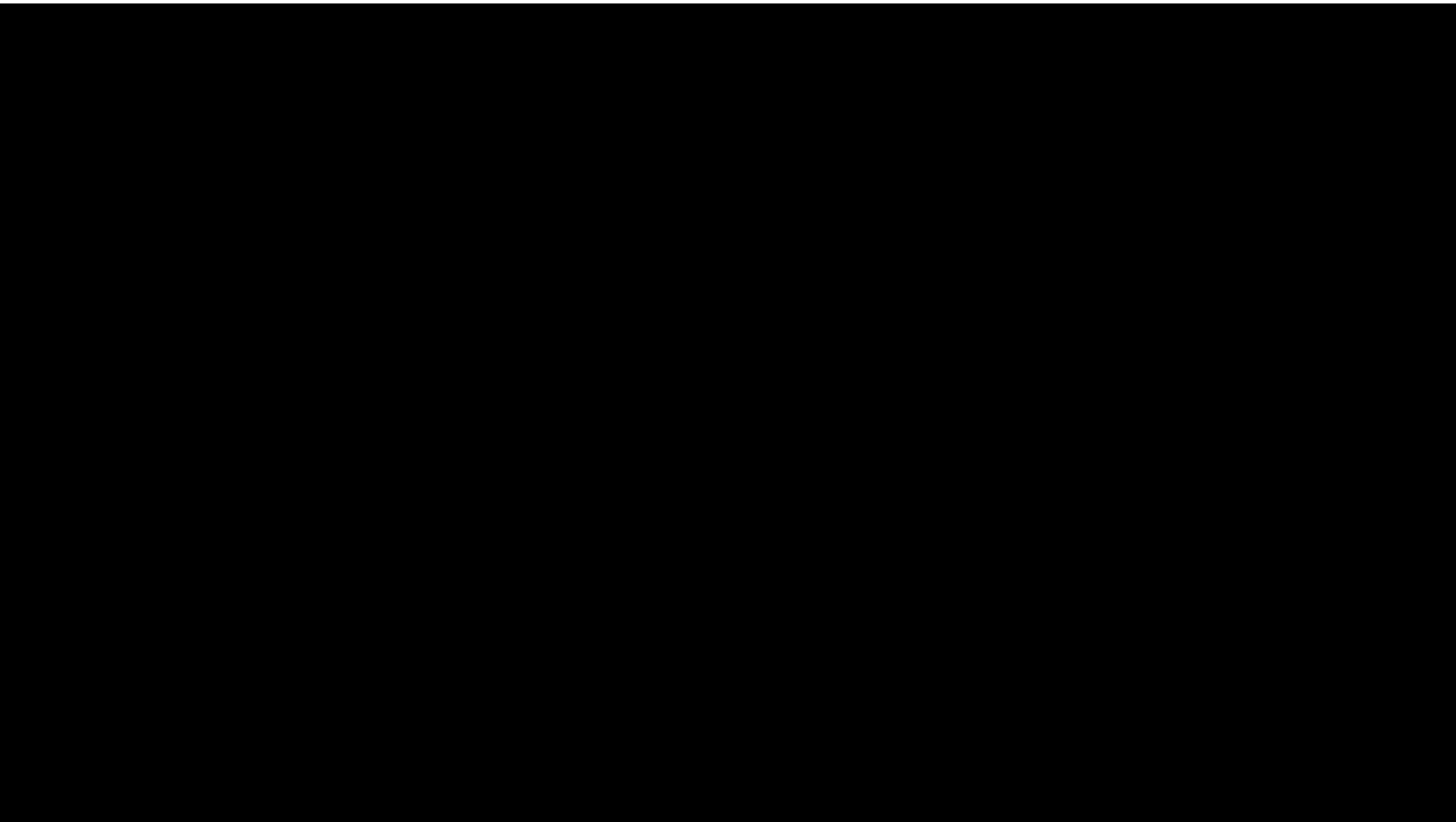
DRD [REDACTED] committed to issuing outstanding Supervisory Letters from the 2023-2024 Supervisory Cycle within 30-45 days of this meeting. RD [REDACTED]

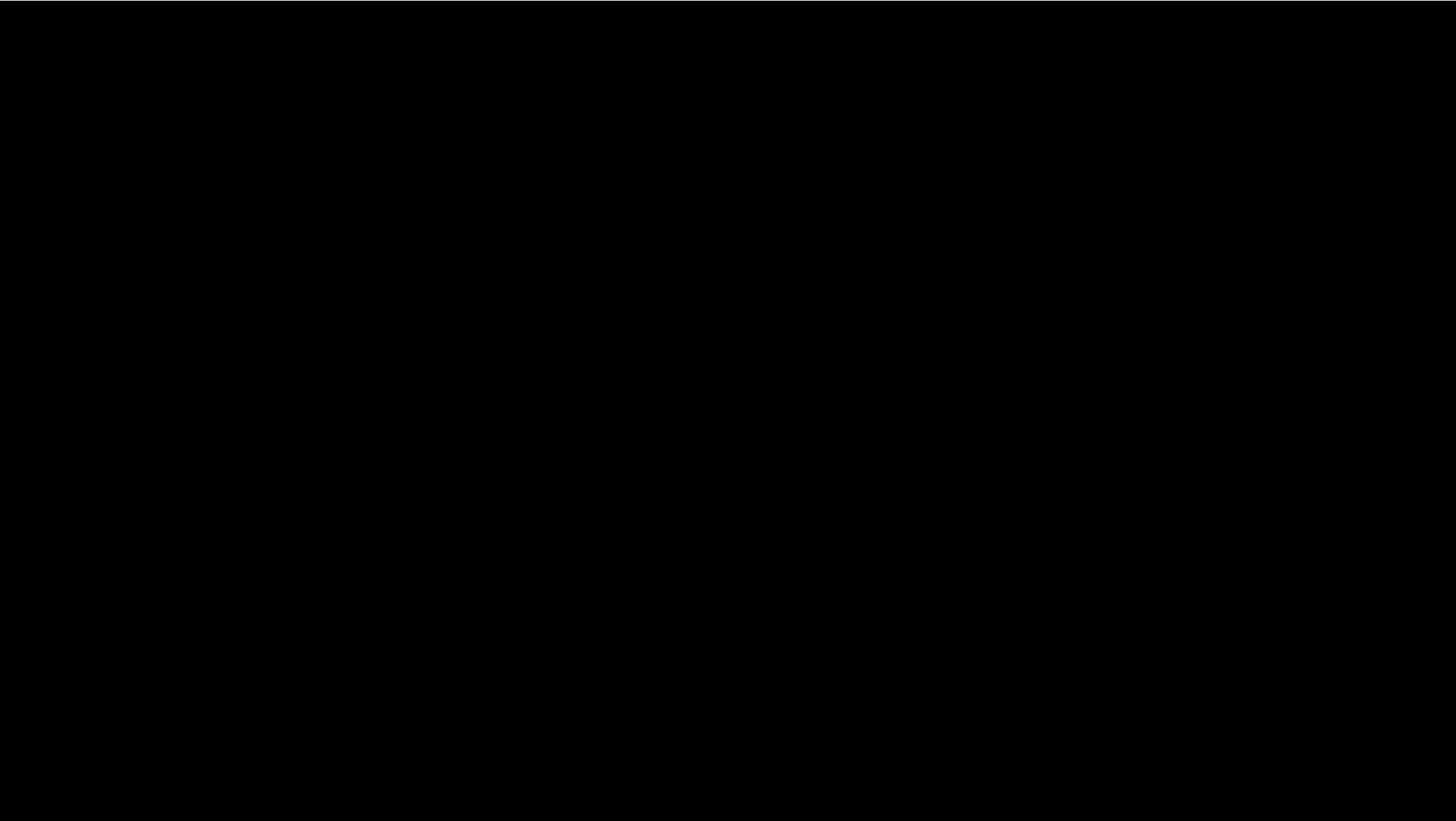
[REDACTED]

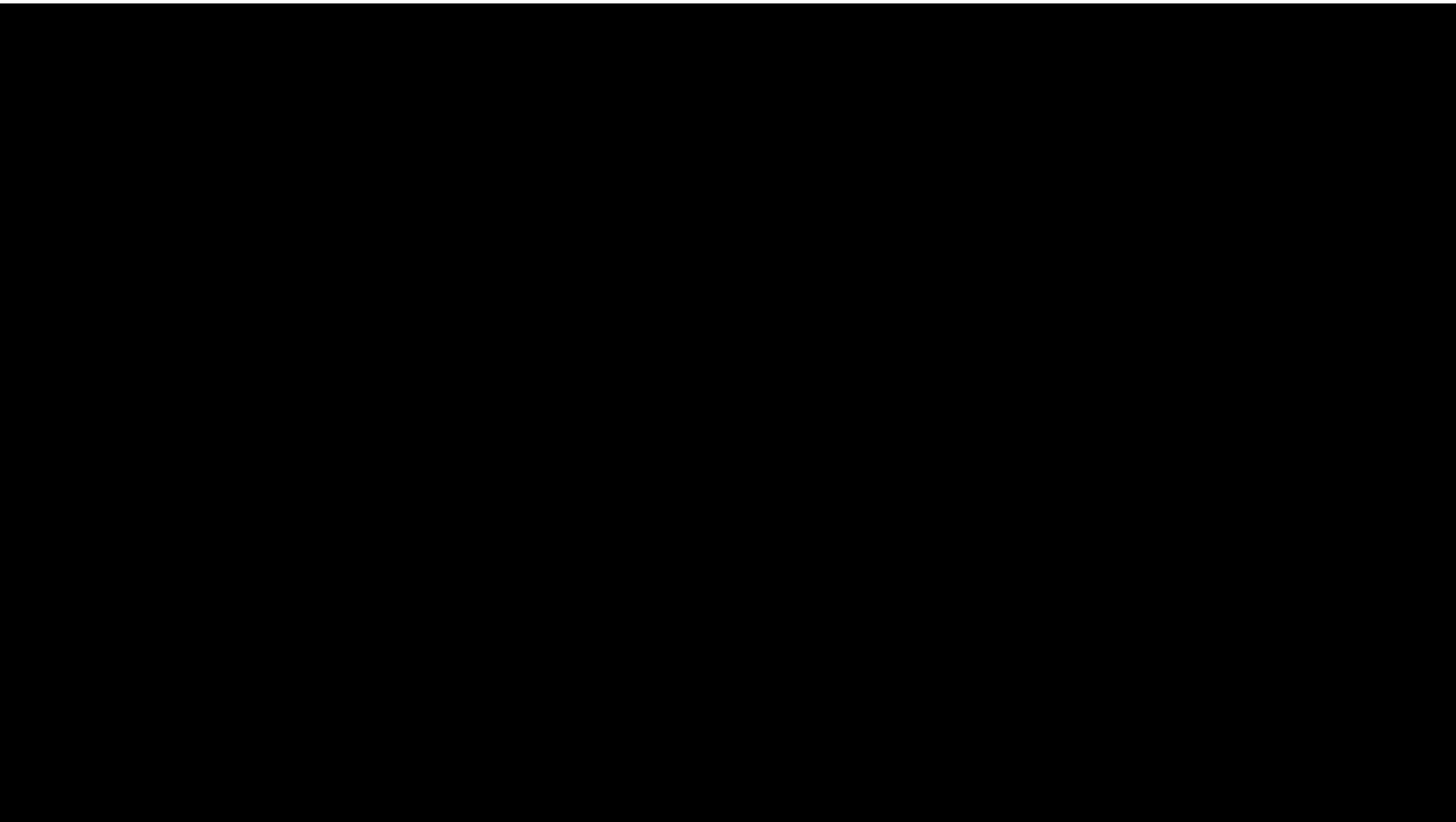
ARD [REDACTED] noted that this meeting would serve as the RO's 1<sup>st</sup> quarter touchpoint with bank management, and that a 2<sup>nd</sup> quarter meeting would be arranged by CM [REDACTED]

**Attachments:**

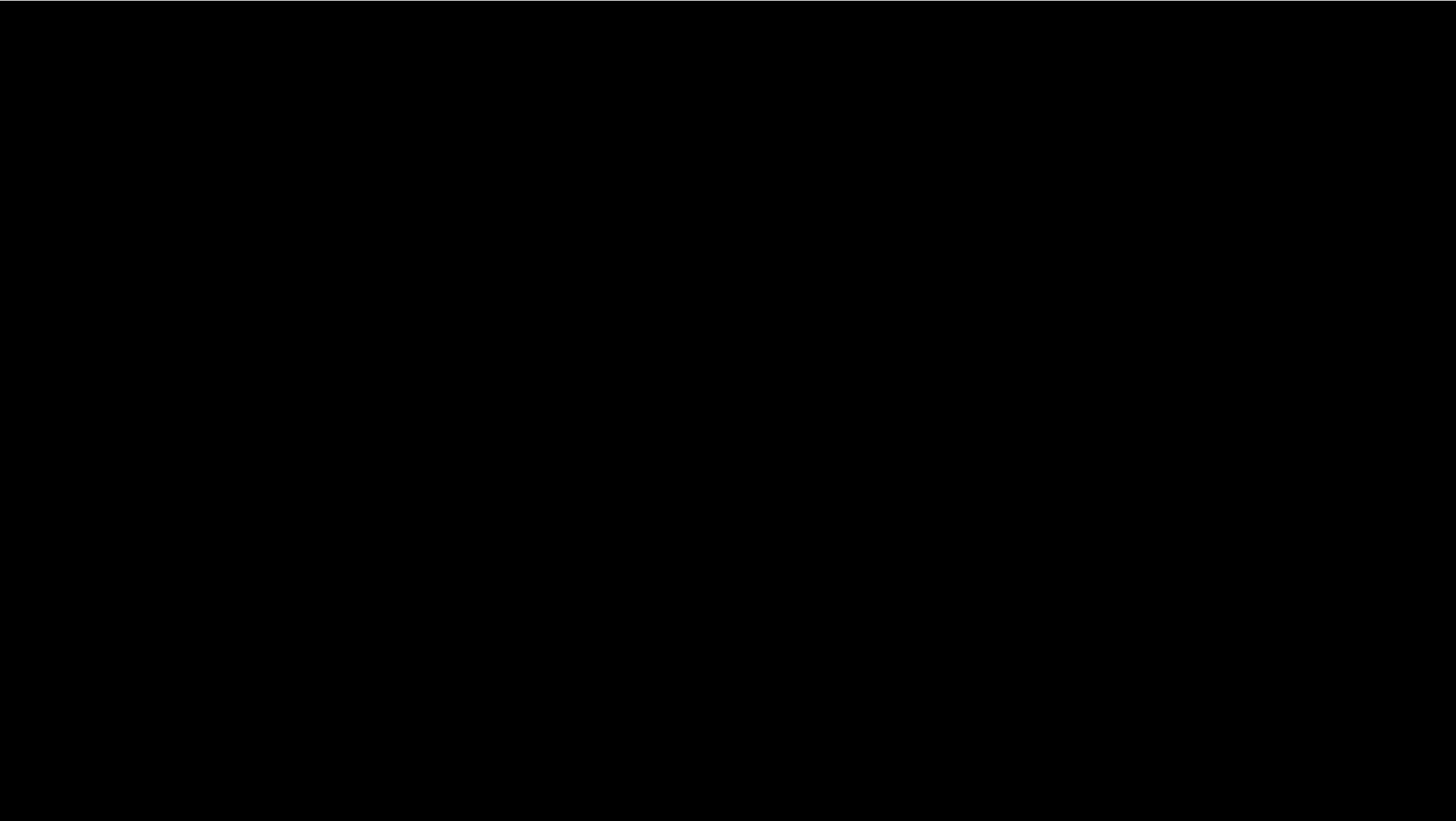
FDIC - [REDACTED] January 14 Meeting Deck.pdf

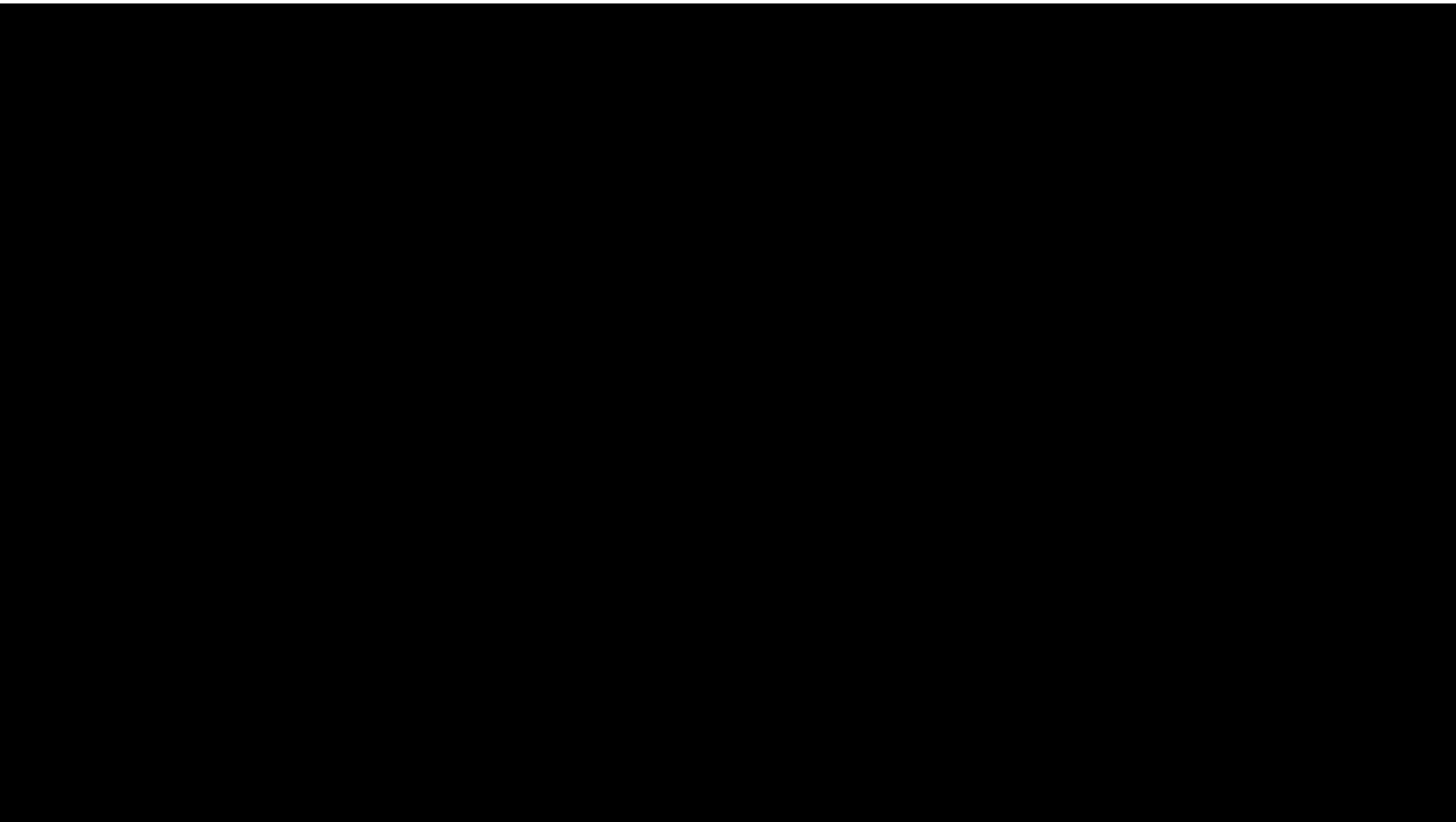


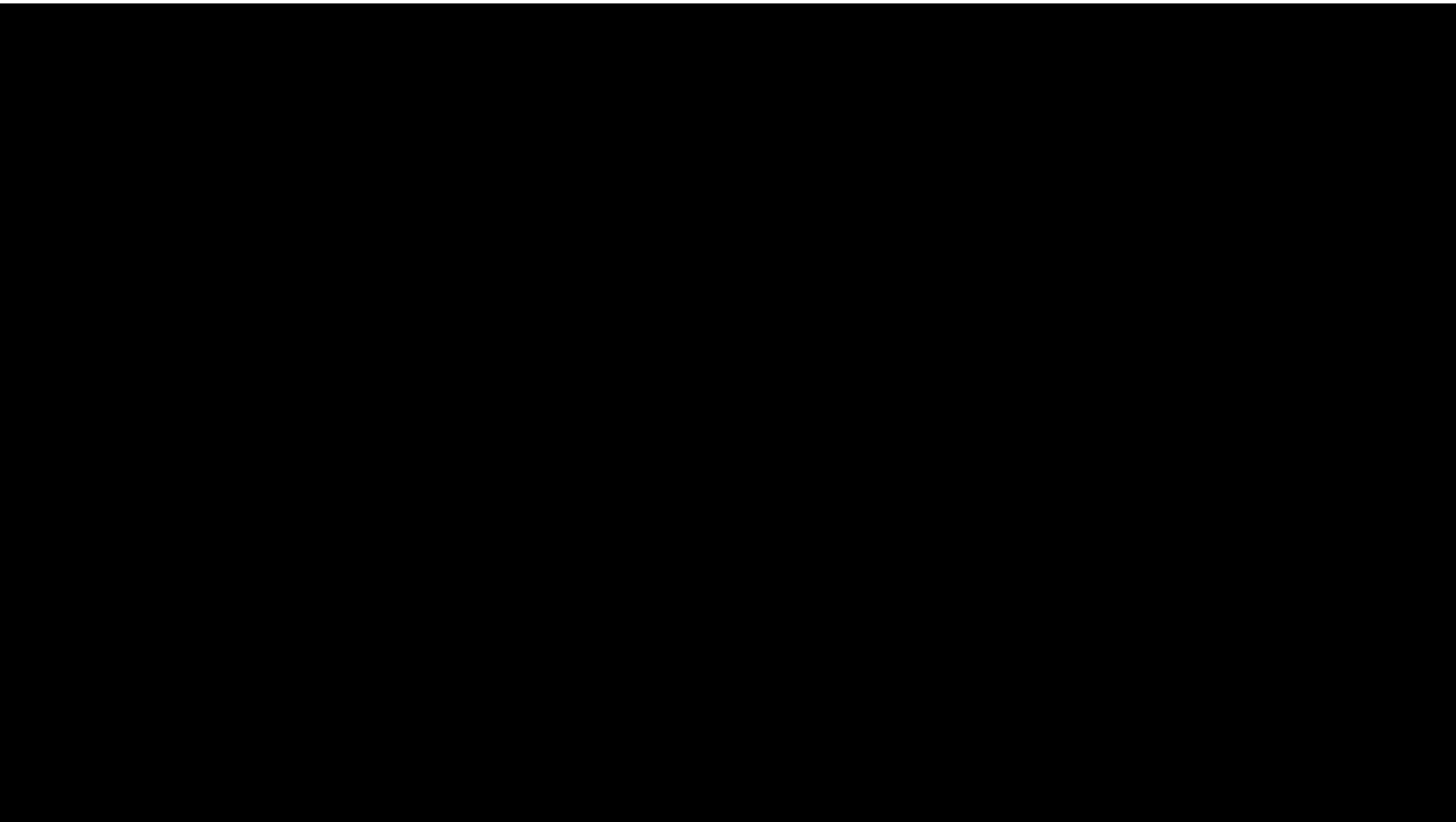








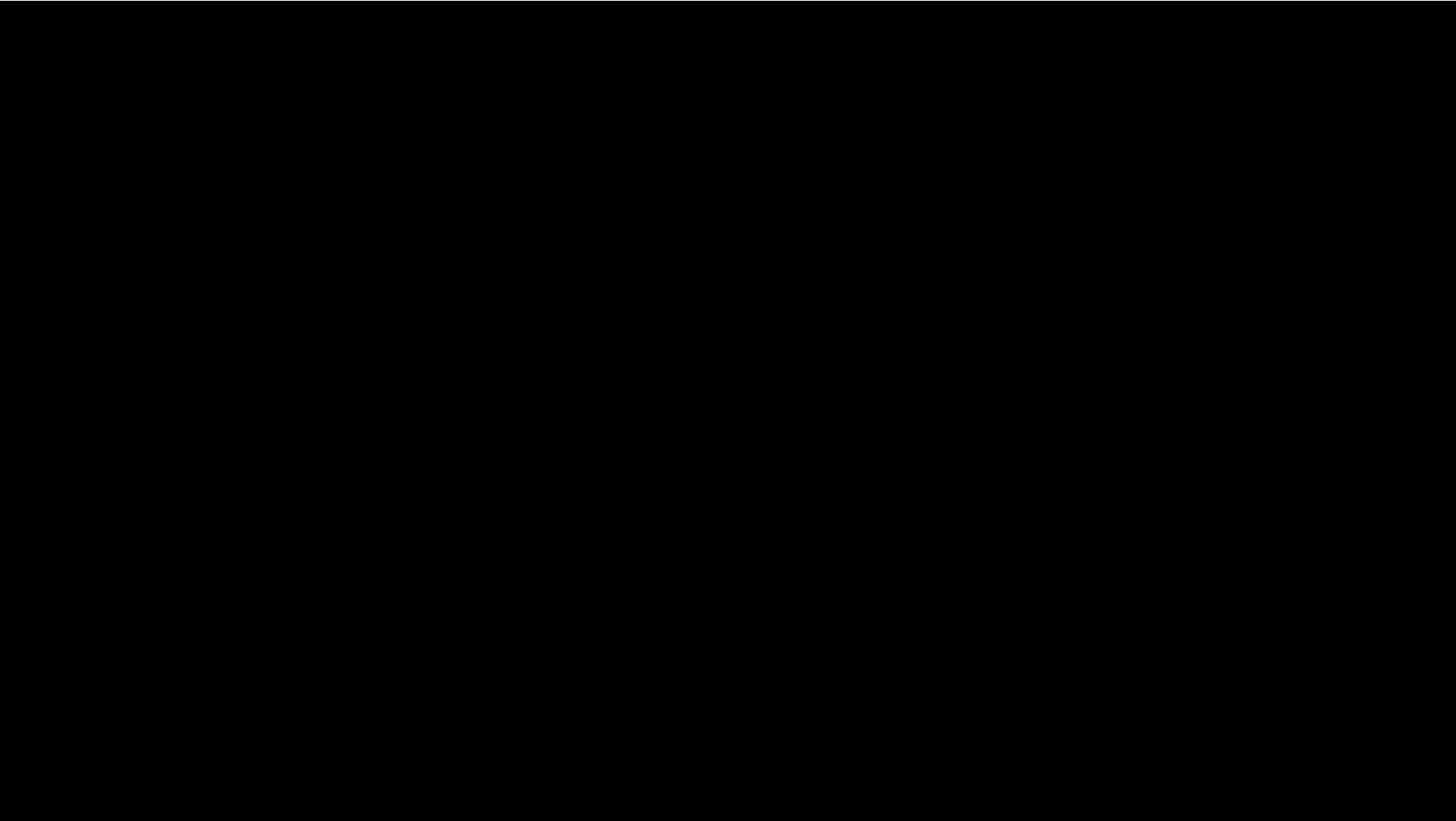


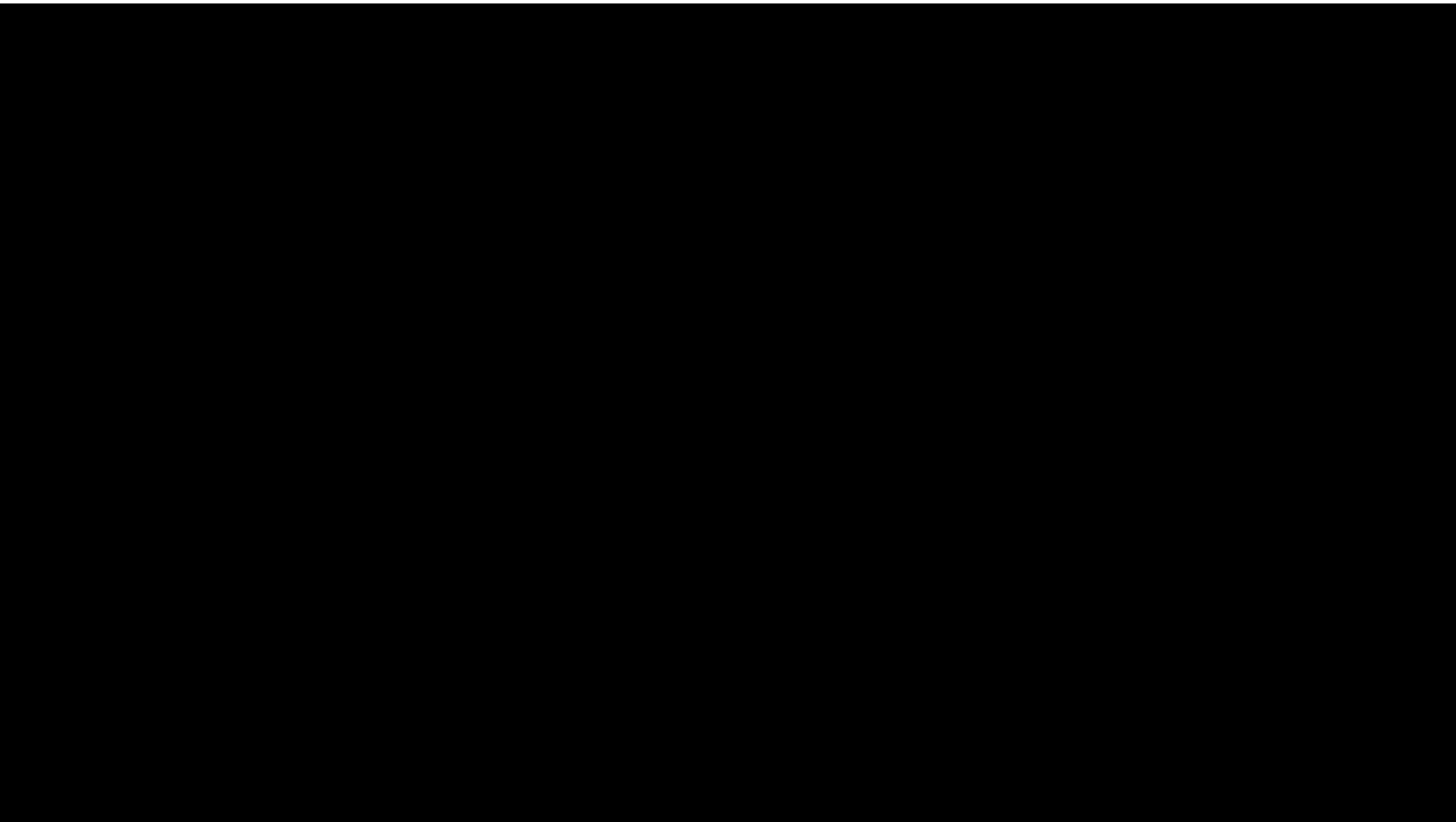


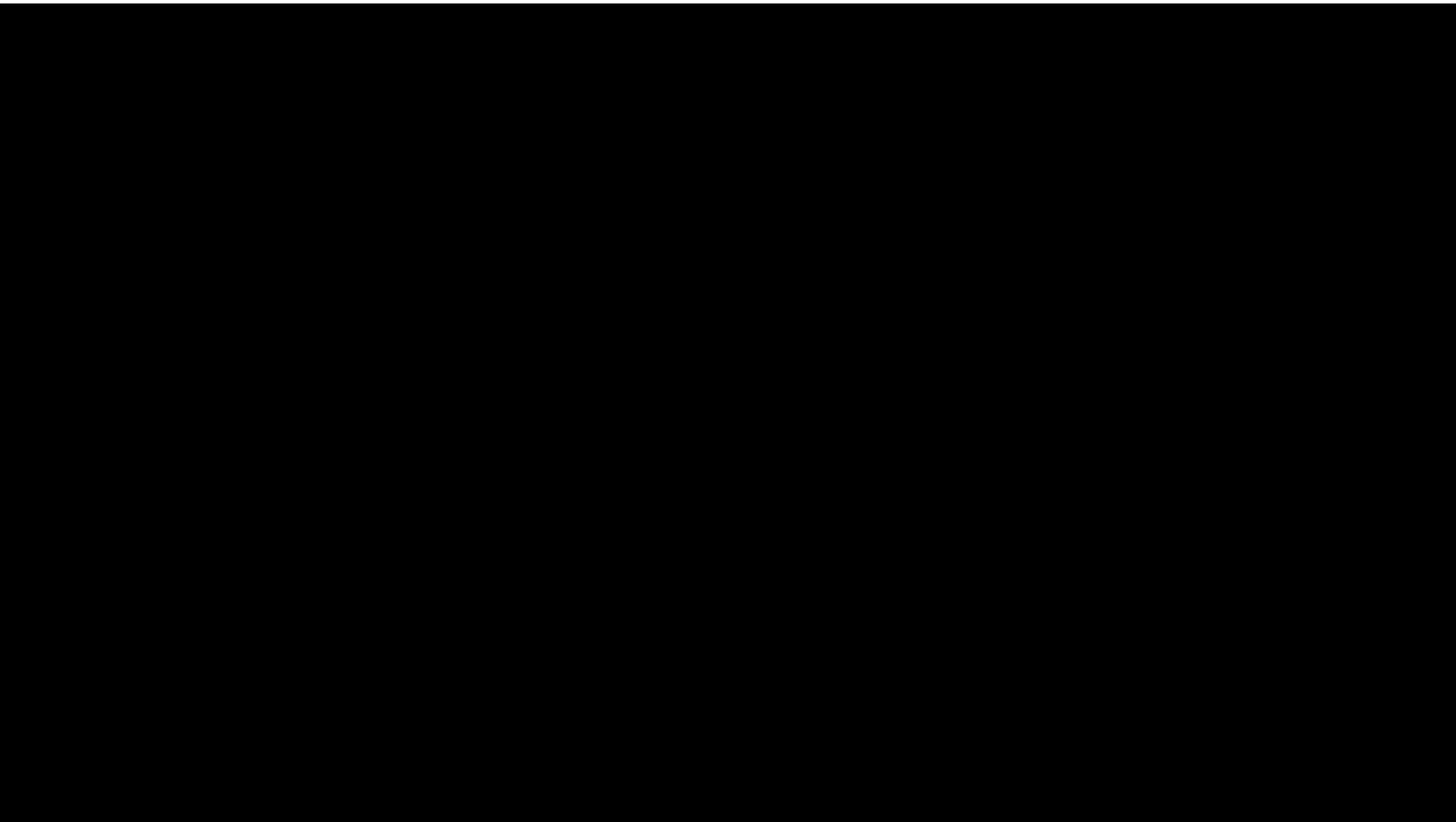
## Greatly Reduced its Risk by Terminating Client Program Relationships with Digital Assets Clients

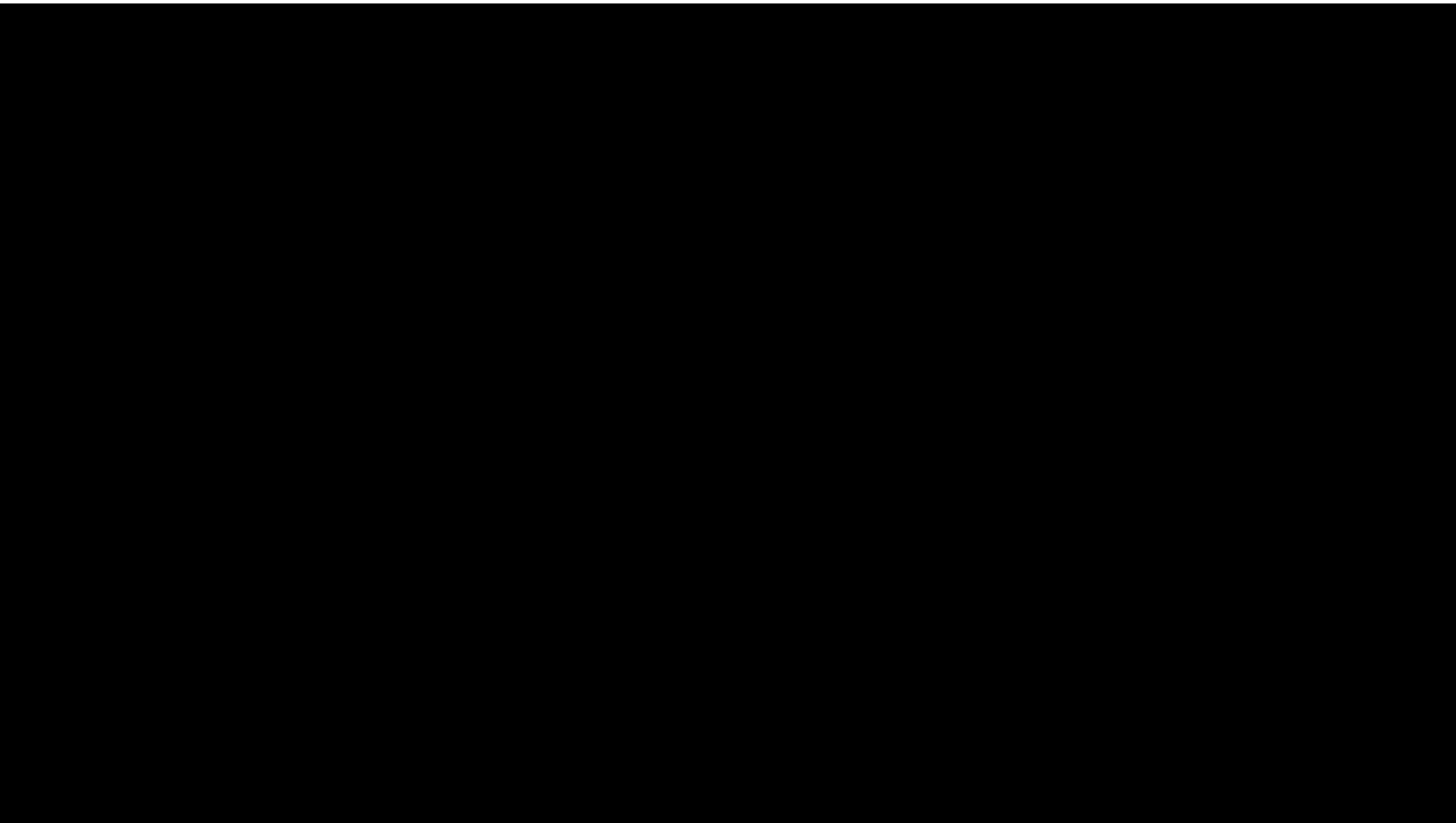
- As noted in the ROE, the deficiencies that resulted in the [REDACTED] were largely associated with [REDACTED] fintech program relationships with digital assets clients
- In [REDACTED] made the decision to exit its fintech program relationships with these clients
- Management actively chose to value prudent risk management over profit potential

Risk Mitigation Action	Status
1. Client off-boarding	<ul style="list-style-type: none"> <li>• [REDACTED] client program closed in [REDACTED]</li> <li>• [REDACTED] client program closed in [REDACTED]</li> <li>• [REDACTED] client program closed in [REDACTED]</li> <li>• [REDACTED] client program closed in [REDACTED]</li> <li>• [REDACTED] operating account closed in [REDACTED]</li> <li>• Fintech client base has decreased from [REDACTED] to approximately [REDACTED] current clients</li> </ul>
2. Discontinued onboarding of any new digital asset clients	<ul style="list-style-type: none"> <li>• As of [REDACTED] [REDACTED] is no longer onboarding digital assets clients, including basic operating accounts.</li> </ul>
3. Liquidity Risk Management	<ul style="list-style-type: none"> <li>• <u>On Balance Sheet:</u> [REDACTED] has exited digital asset program accounts which included a reduction of the balance sheet of approximately [REDACTED]. The balance sheet has experienced both a decrease in asset size and a reduction in potentially volatile liabilities. As of [REDACTED] only [REDACTED] of digital assets related operating account liabilities remain on the balance sheet.</li> <li>• <u>Funding:</u> [REDACTED] treasury team continues to manage funding/liquidity following the termination of the [REDACTED] Client Program account relationship.</li> </ul>
4. [REDACTED] risk reduction	<ul style="list-style-type: none"> <li>• No new digital assets [REDACTED] have been onboarded since March 2023. No new digital [REDACTED] will be added without Board approval.</li> </ul>









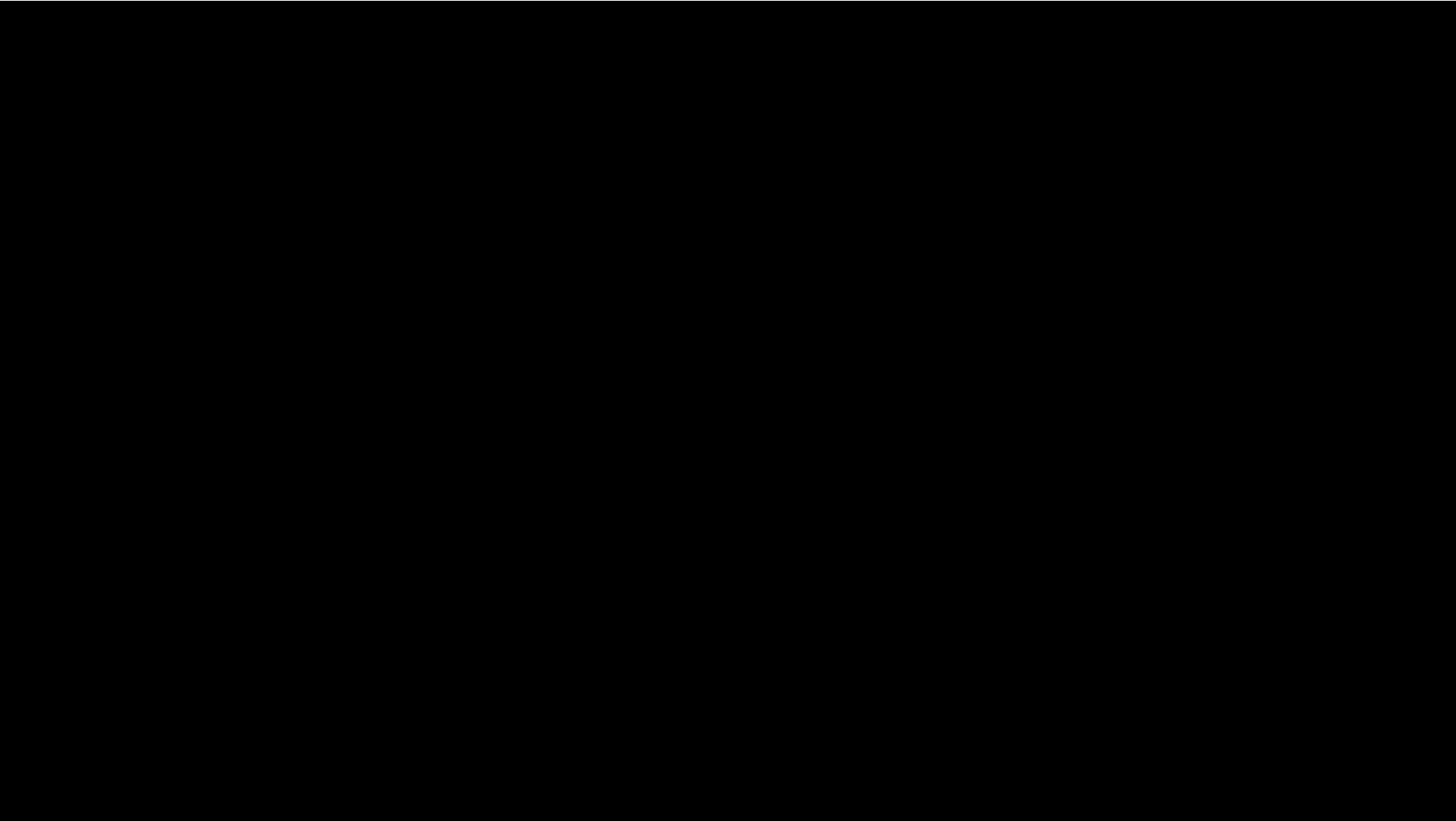


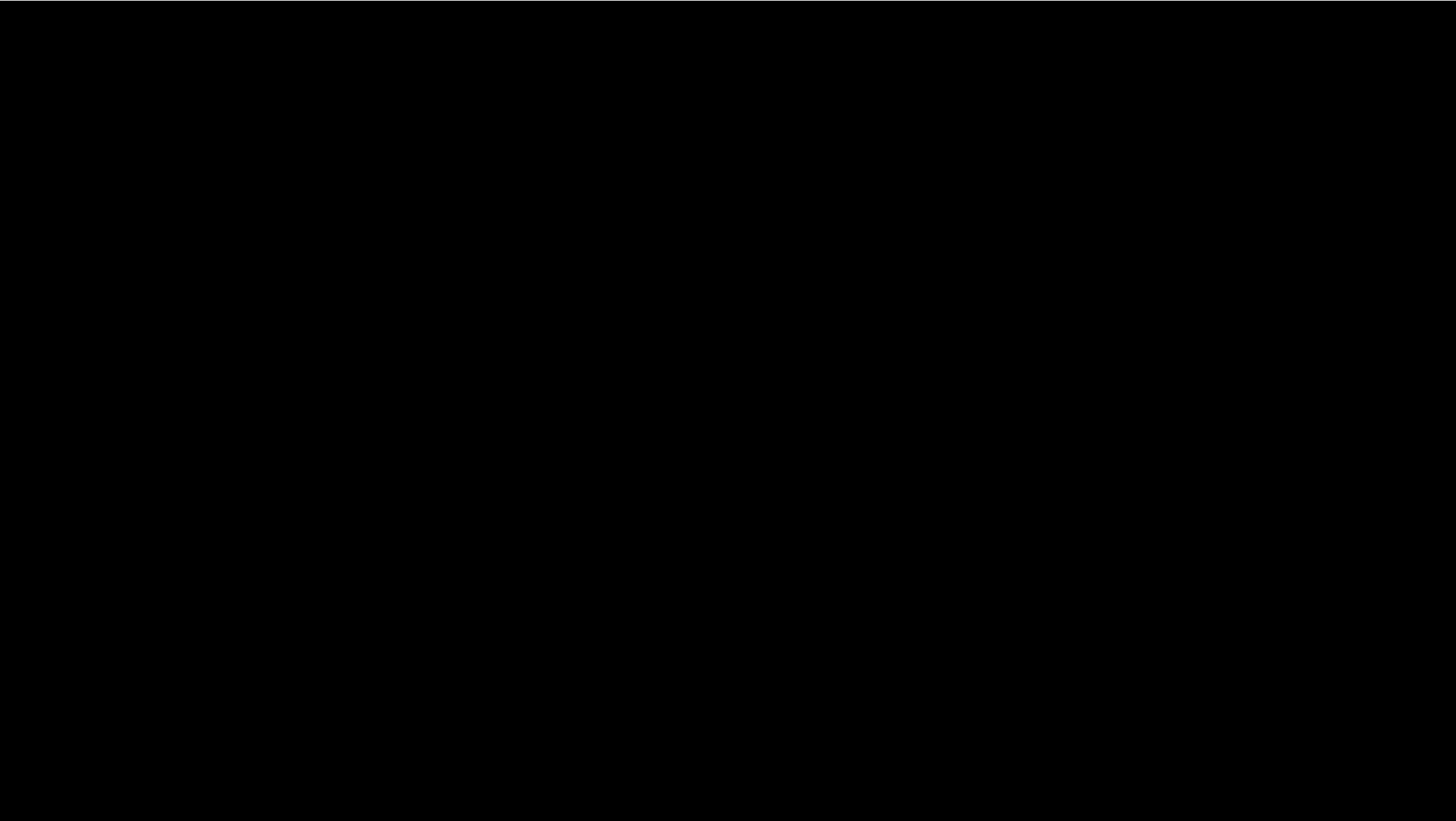
### **is in full compliance**

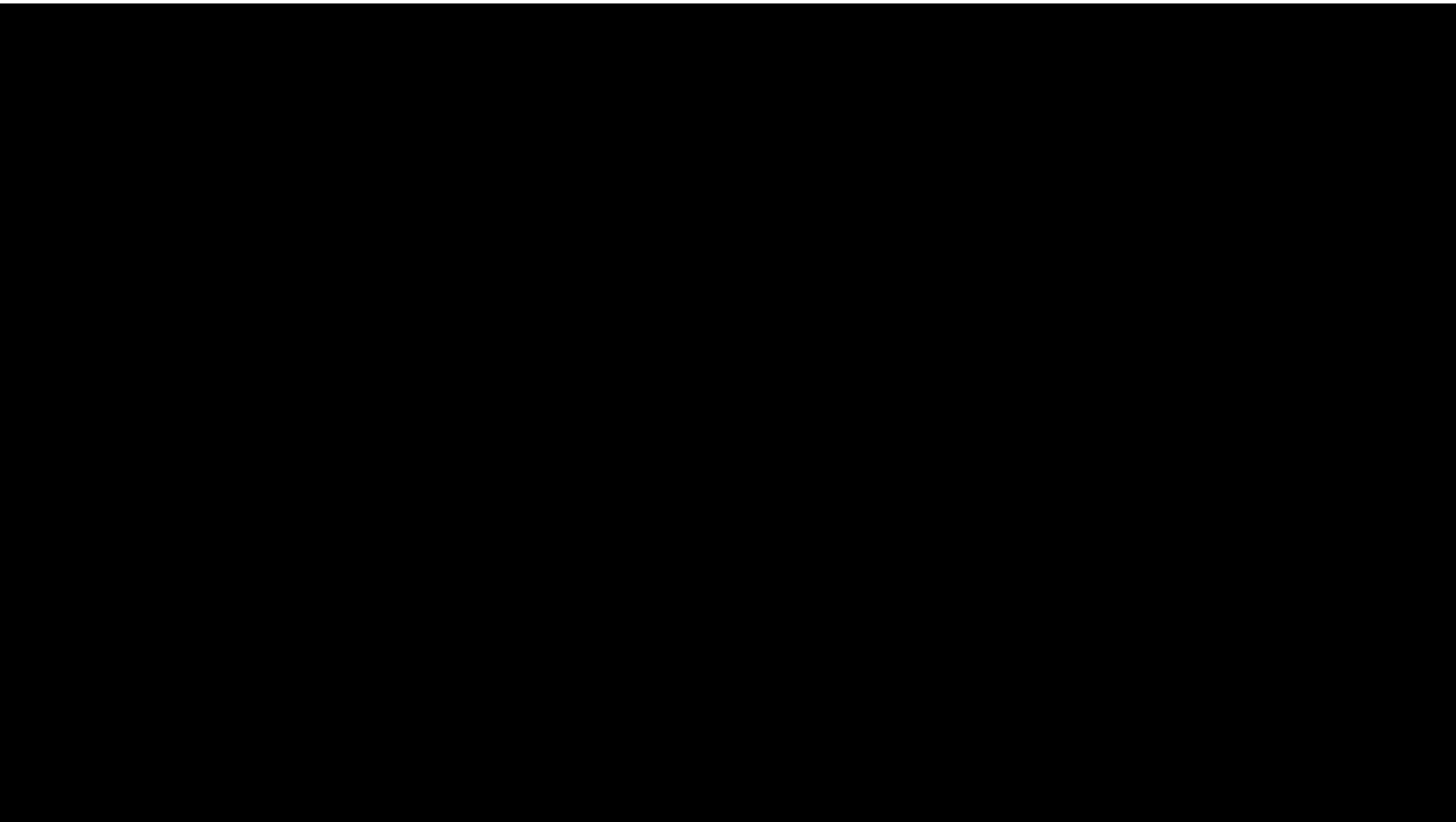
- The FDIC Enforcement Manual states orders may be considered for termination where “[t]he IDI is in full compliance with all the provisions of the order and has fully corrected the violations of laws and regulations, unsafe and unsound practices, or conditions that led to the issuance of the order”
- [REDACTED] has fully corrected the violations of laws and regulations, unsafe and unsound practices, or conditions that were identified by the FDIC

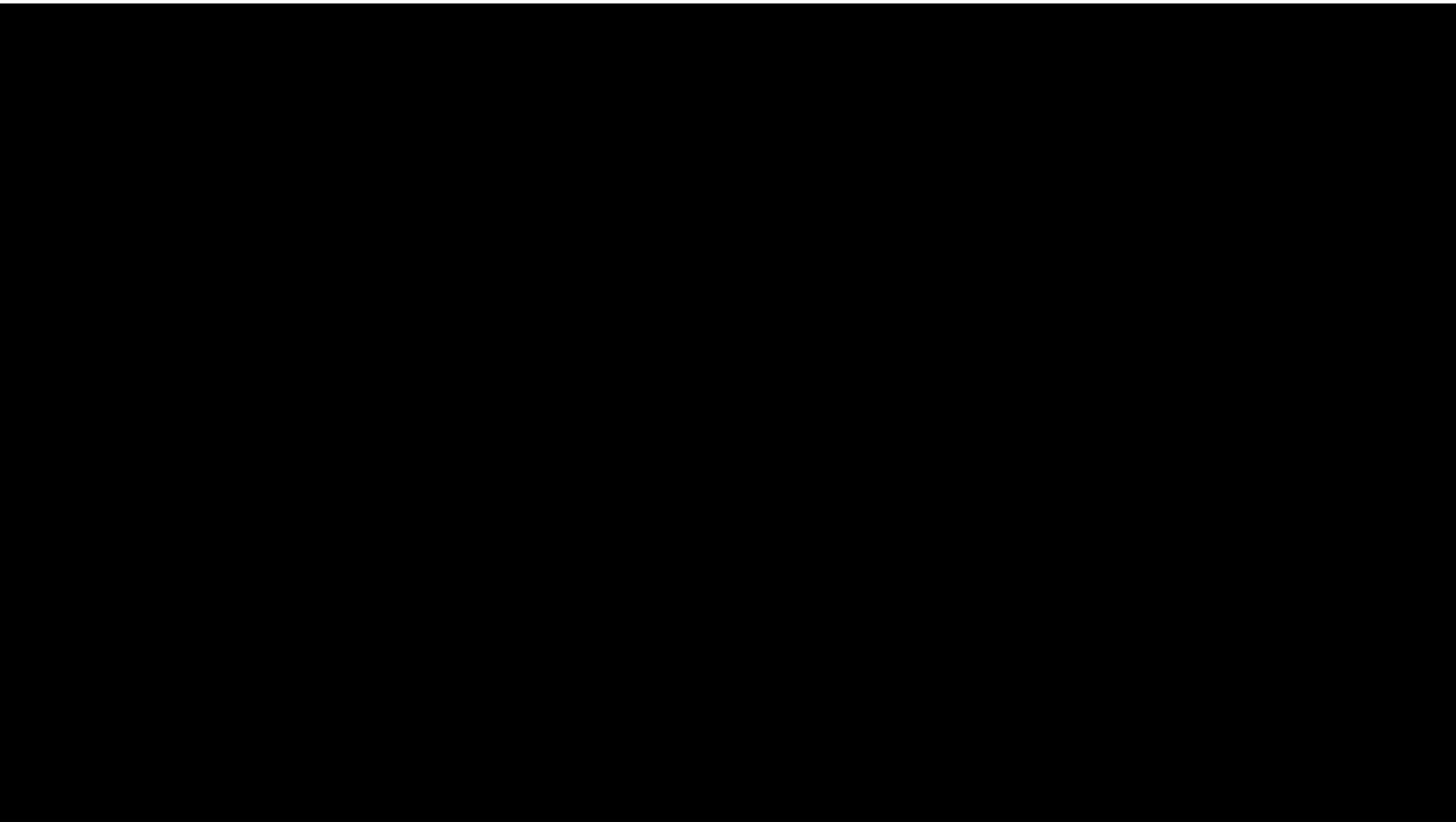
### **has dramatically reduced its risk profile**

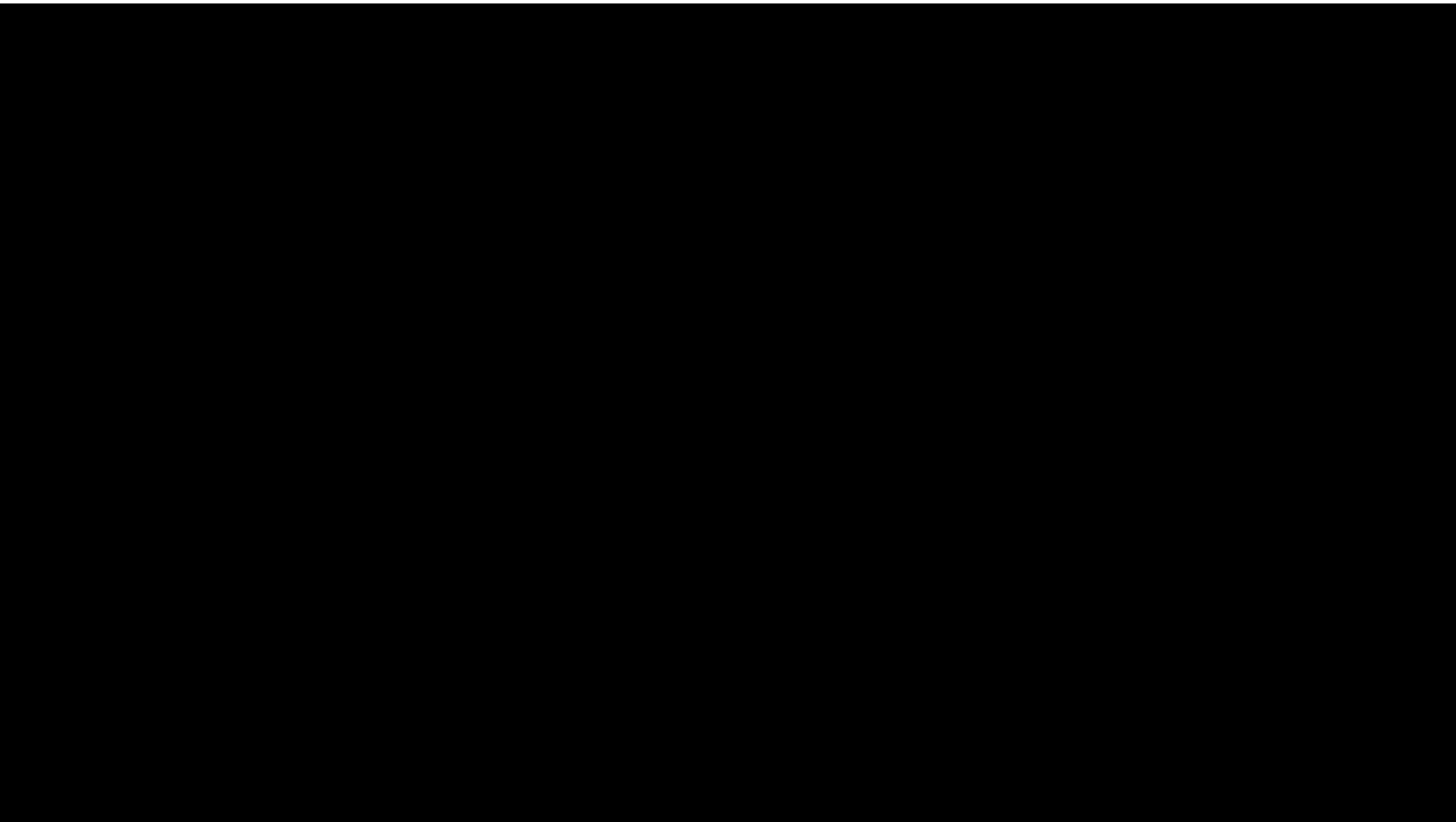
- Chapter 4-6 states that orders should be terminated where “[a]ny provisions deemed “not in compliance” have become outdated or irrelevant to the IDI’s current circumstances....”
- As [REDACTED] has terminated its relationships with digital assets clients much of the issues associated with the [REDACTED] are outdated or irrelevant to the Bank’s current circumstances

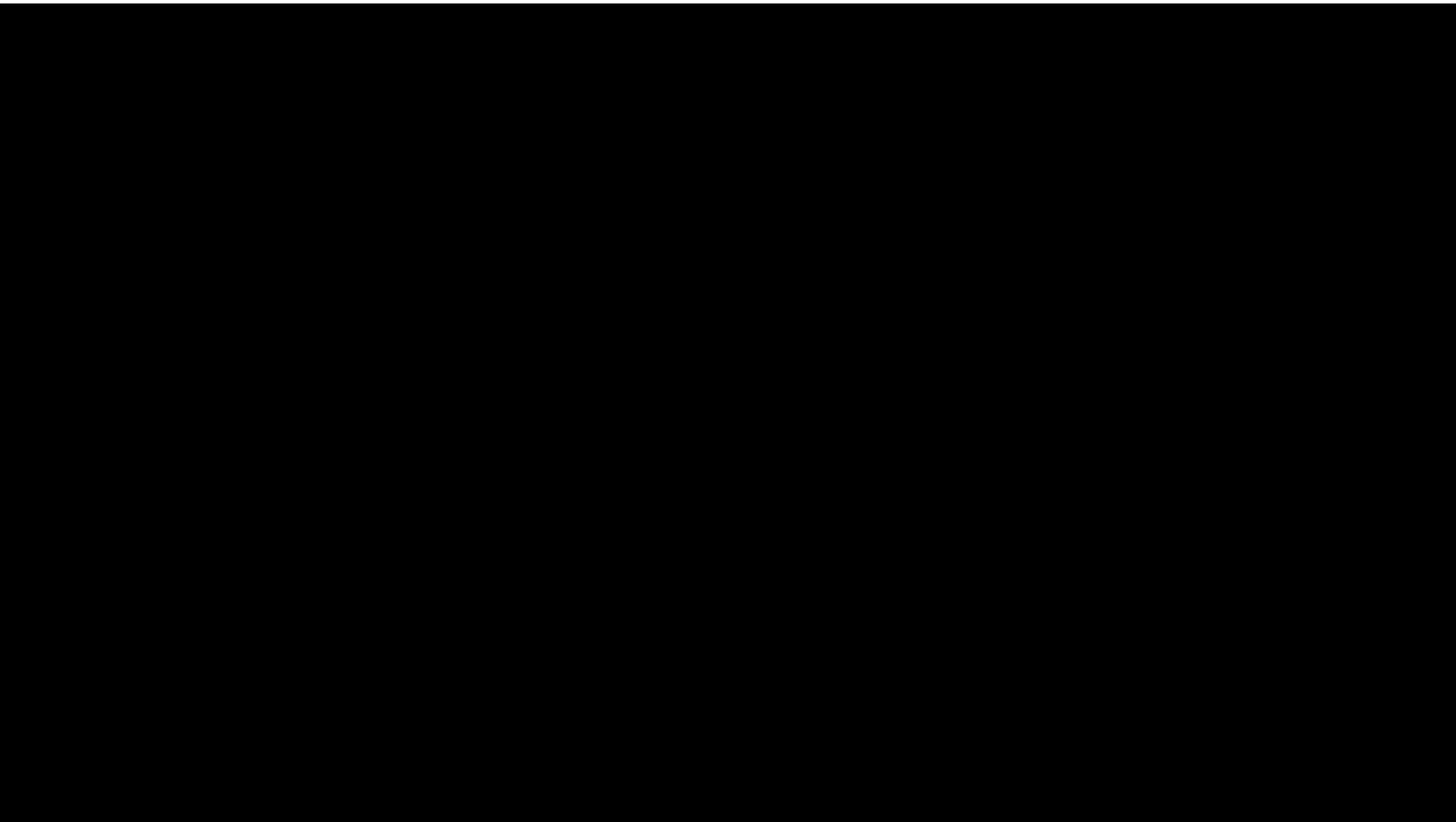


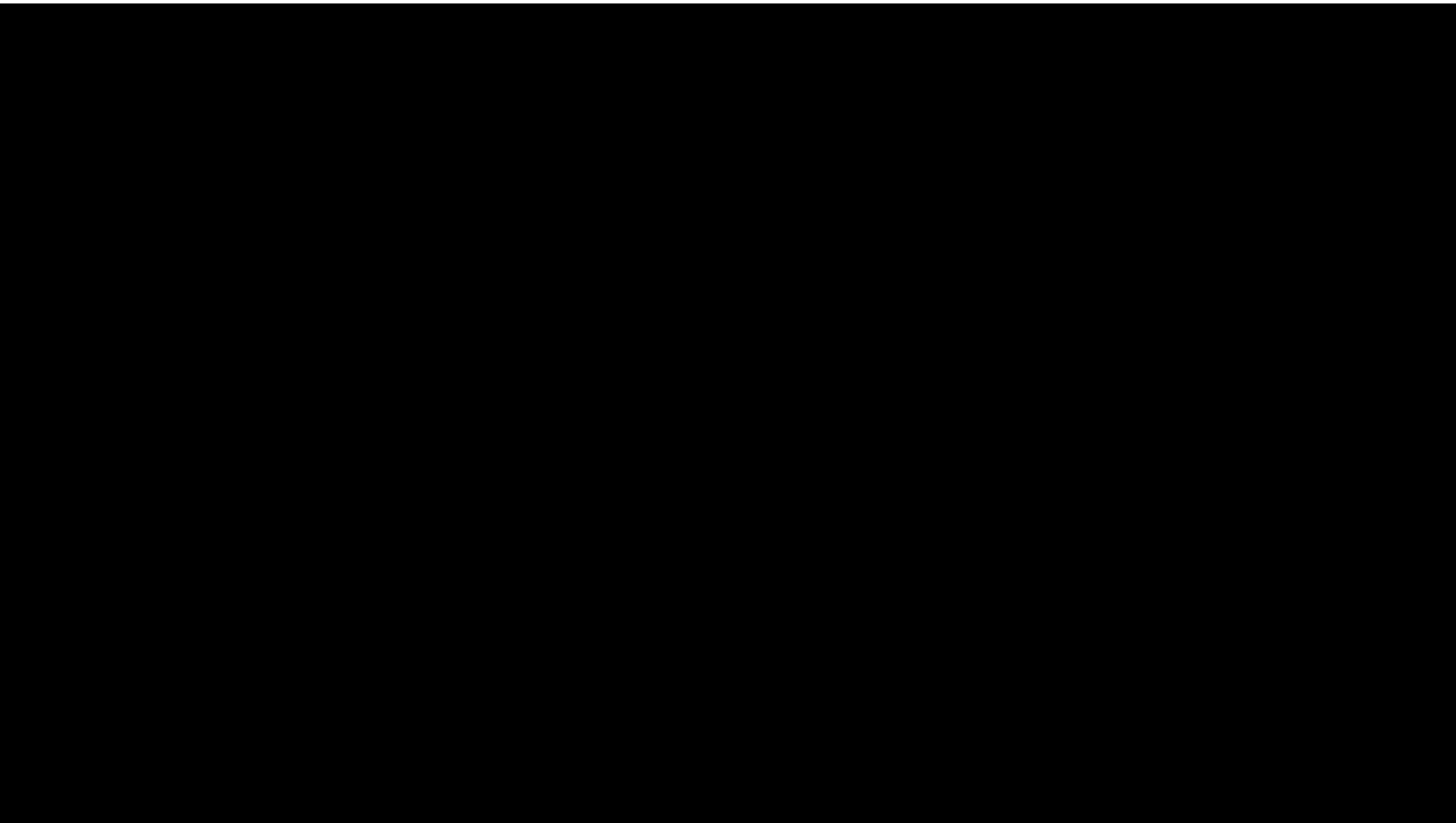










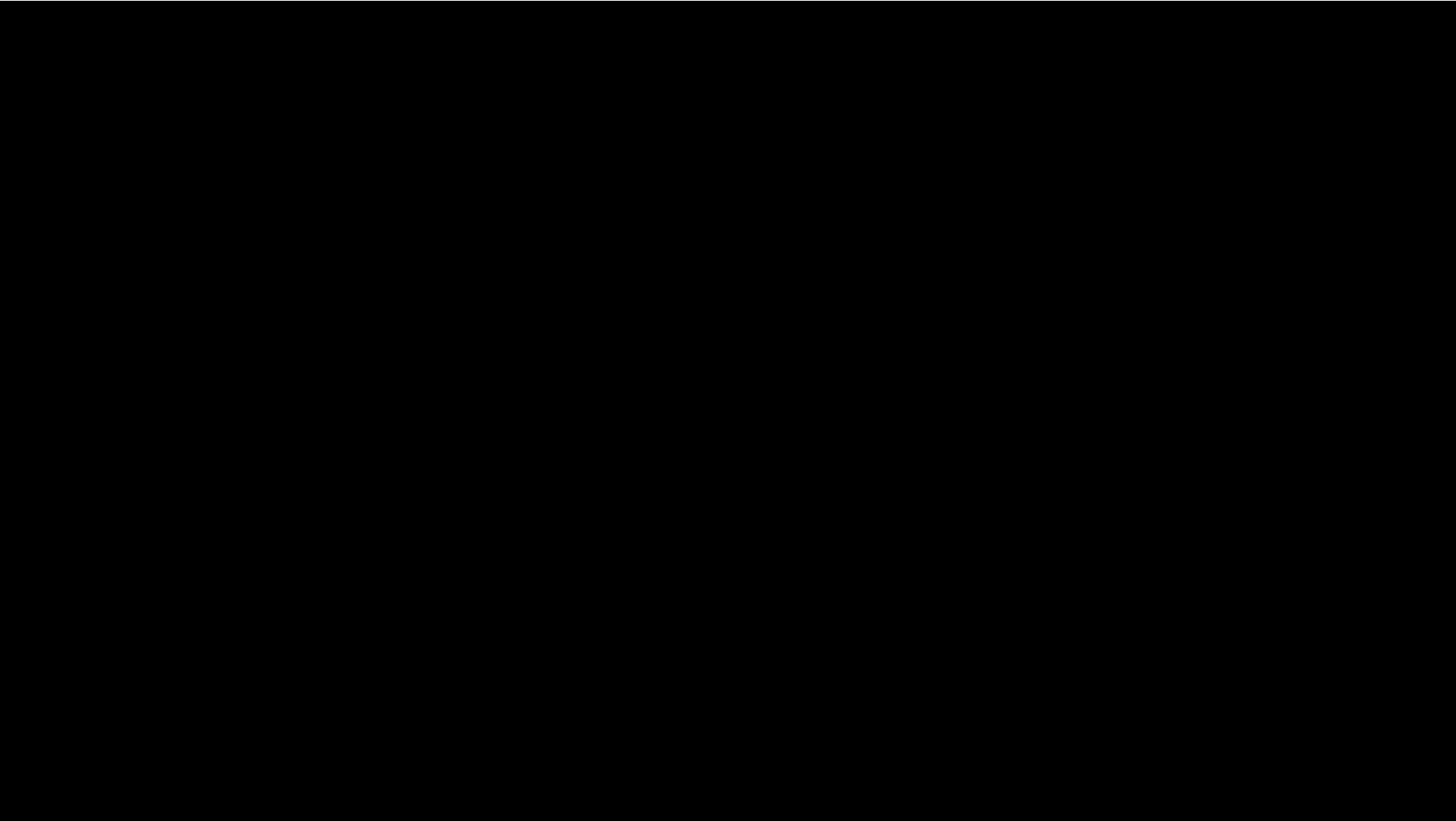


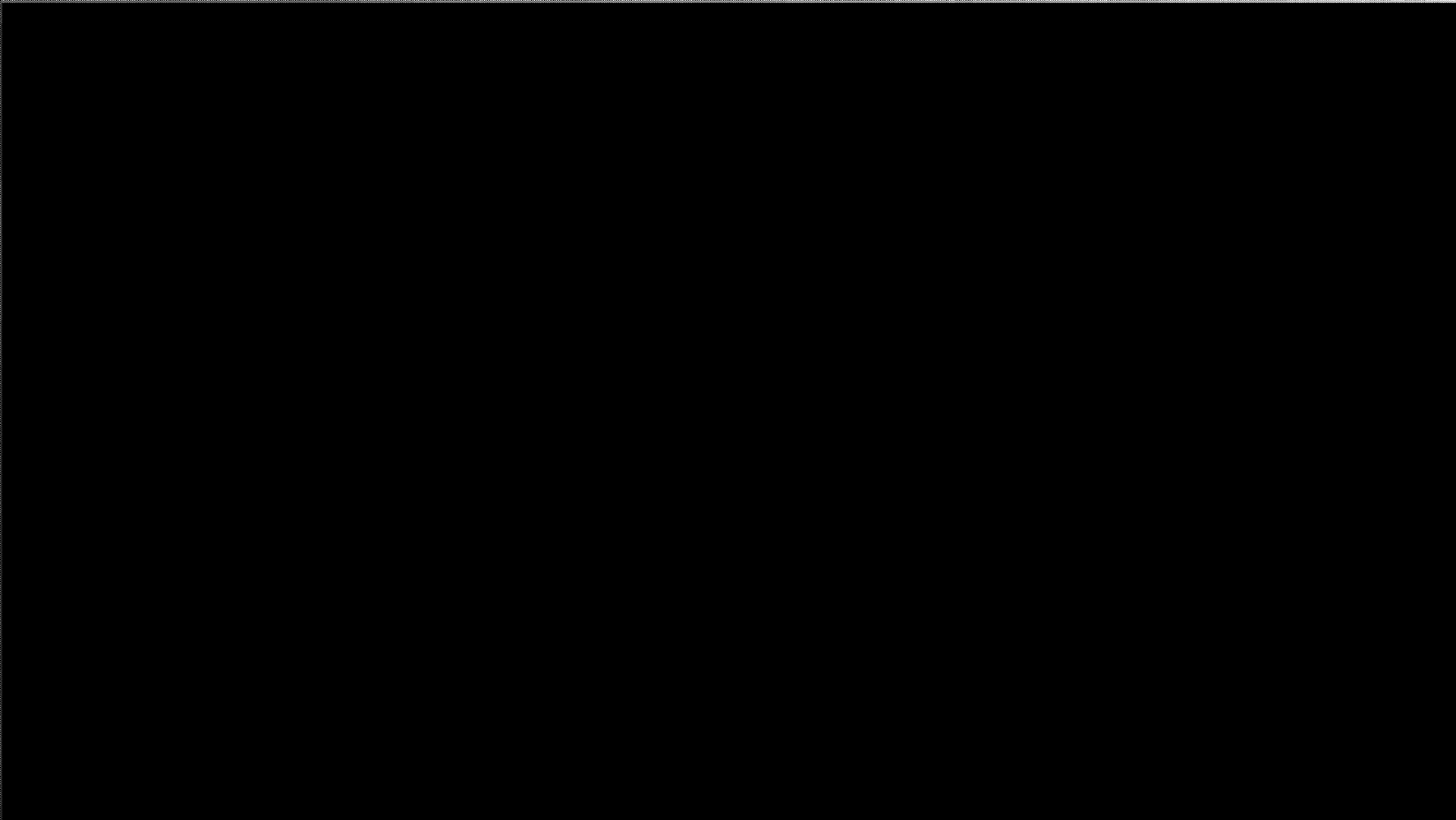


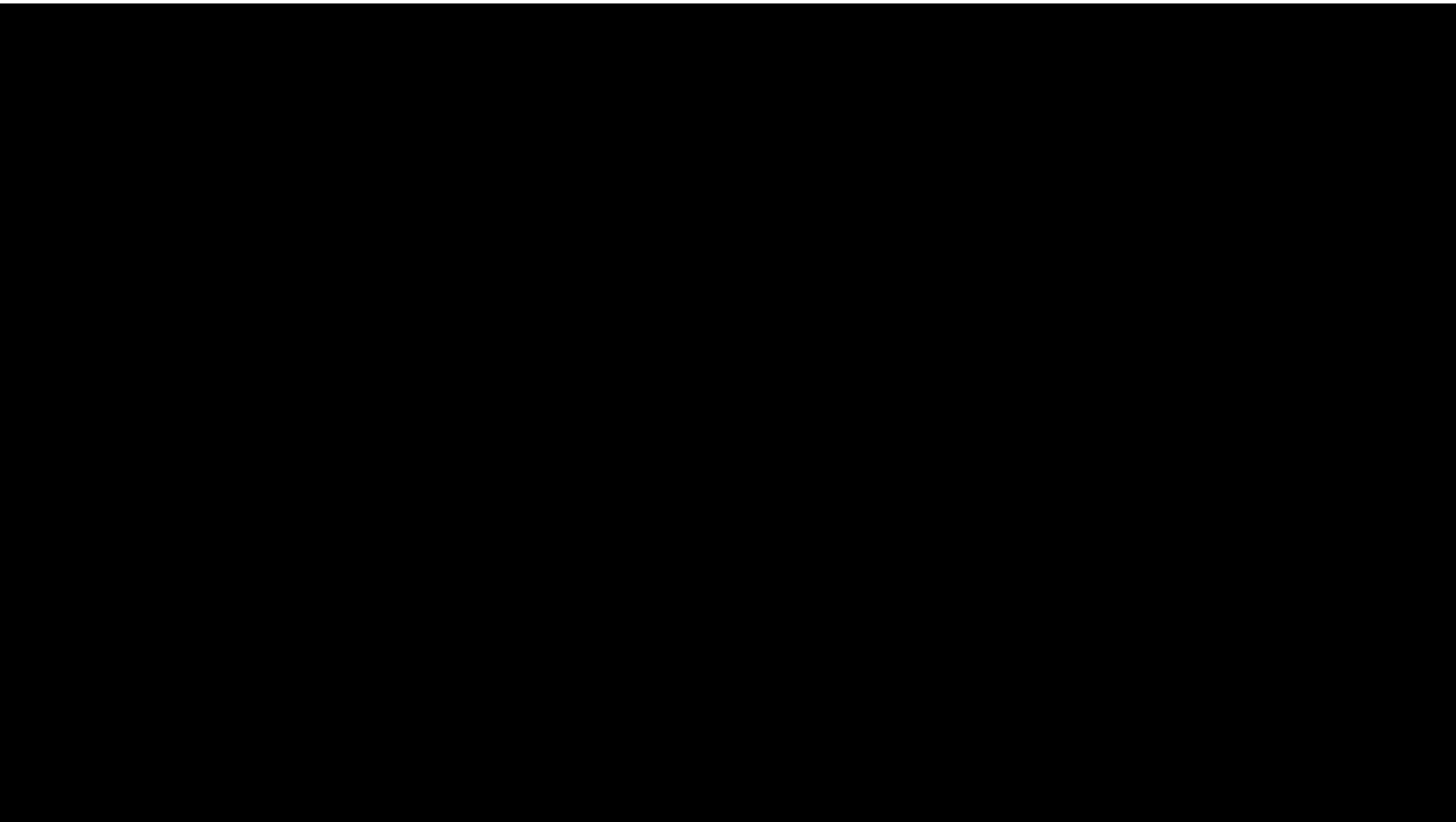
# Which has Allowed us to Weather Major Deposit Outflows

Event	Deposit Outflows
Termination of [REDACTED] relationship	[REDACTED]
Termination of [REDACTED] relationship	
[REDACTED] purchase of [REDACTED]	
[REDACTED]	
Pushed [REDACTED] funds off balance sheet due to brokered deposit discussion*	
Termination of digital asset program accounts	
Total	

With process and planning, cash and liquidity positions remain well within policy









CONTROLLED//FDIC BUSINESS



FEDERAL DEPOSIT INSURANCE CORPORATION

**DATE:** November 20, 2023

**TO:** Bank File

**FROM:** [REDACTED]  
Senior Case Manager

**SUBJECT:** Interim Bank Contact – Monthly Conference Call

Representatives of [REDACTED] the Federal Deposit Insurance Corporation (FDIC) [REDACTED] and the Federal Reserve Bank [REDACTED] (FRB) meet monthly to discuss ongoing significant activities of the [REDACTED] the bank, and [REDACTED]. This file memo summarizes attendance and discussion topics for today's meeting.

Meeting Attendees

FDIC: [REDACTED]  
[REDACTED] Senior Case Manager (RMS)  
[REDACTED], Supervisory Examiner (RMS)  
[REDACTED] Examiner-In-Charge (RMS)  
[REDACTED], Special Activities Case Manager (RMS)  
[REDACTED] Information Technology Examination Analyst (RMS)  
[REDACTED] Acting Supervisory Examiner (DCP)

CONTROLLED//FDIC BUSINESS

[REDACTED] Review Examiner (DCP)

[REDACTED] Examiner (DCP)

FRB: [REDACTED] Central Point of Contact

Discussion Topics*Implementation Plan Update*

Chief FinTech Risk & AML Officer [REDACTED] provided a brief update regarding the [REDACTED] Implementation Plan. As of 11/16/2023, the bank had completed 51% of the [REDACTED] tasks, with 23% in progress and 25% not yet started. The attached slide deck notes that data warehousing is in the [REDACTED] release and [REDACTED] tuning is in process of implementation. [REDACTED] stated that, since the deck was prepared, the data warehouse moved to the [REDACTED] release and [REDACTED] tuning is complete. She noted that 80% of the tasks will be completed by 12/31/2023 and 98% will be completed by 3/31/2024. [REDACTED] stated the team is "picking up its sea legs" with the bank now having [REDACTED] positions in risk management filled, compared to [REDACTED] in 3Q22.

*AML/CFT Program Enhancements Currently Operational*

The slide deck summarizes enhancements to the AML/CFT program. [REDACTED] stated that a number of stopgap measures have been implemented to alleviate concern until the enhancements are completed. She also pointed out that a majority of AML leadership comes from [REDACTED] companies or [REDACTED] companies. She noted the bank had [REDACTED] analysts devoted to [REDACTED] in March and today they have [REDACTED]. Most quality control staff members were in place on 8/31/2023, and she believes the bank now has a deep bench of talent. [REDACTED] stressed that a lot of cross discussion among teams is helping with succession planning and they have also implemented a formal training program. She pointed out that the seats were filled within the projected time and all are quality hires. Many of the new hires had worked together at other institutions or knew each other. [REDACTED] stated that one component of the recruiting strategy is to hire people that the bank knows. The [REDACTED] team is now dedicated to both the [REDACTED] lines, eliminating the previous silos. The bank still has [REDACTED] contracted staff members, with [REDACTED] dedicated to [REDACTED]. The goal is to roll those off as soon as possible.

*Digital Asset Risk Mitigation*

[REDACTED] briefly discussed the actions taken by management to reduce its risk in the digital assets vertical. [REDACTED] has placed a cap on digital asset-related deposits to [REDACTED] of total deposits, and the wind-down of the [REDACTED] relationship is complete. He also noted that the bank plans to reduce the number of transactions with [REDACTED] that [REDACTED] supports. Lastly, he stated that the bank has added no new digital asset clients even though several have reached out to the bank. [REDACTED] added that [REDACTED] continues to work on the [REDACTED] look-back review. They began researching alerts two weeks ago and expect to finish in January. [REDACTED] meets weekly with [REDACTED] and [REDACTED]



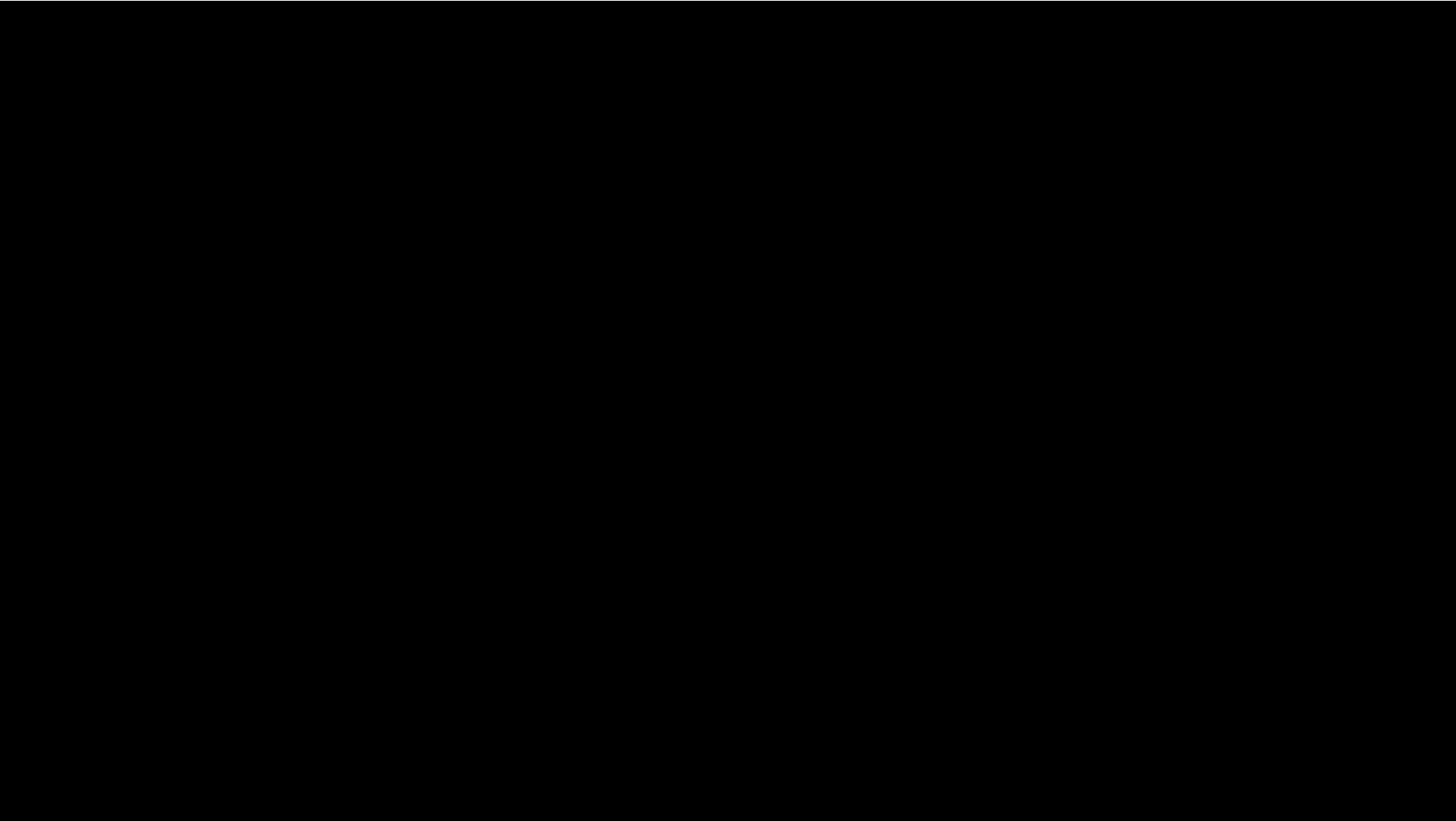
CONTROLLED//FDIC BUSINESS

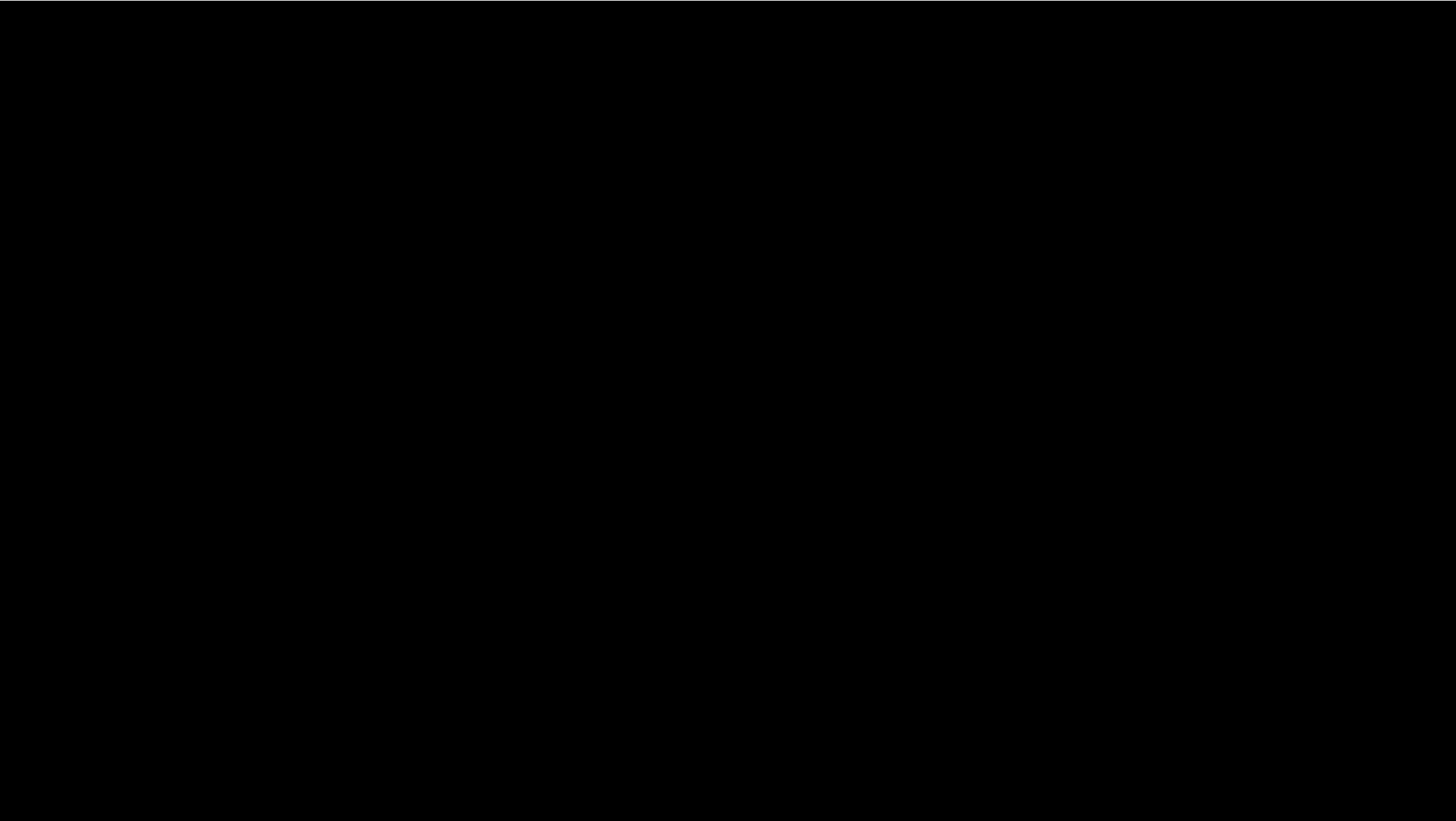
[REDACTED] and every three weeks with the Audit Committee. To date, the firm has not reported any substantial concerns.

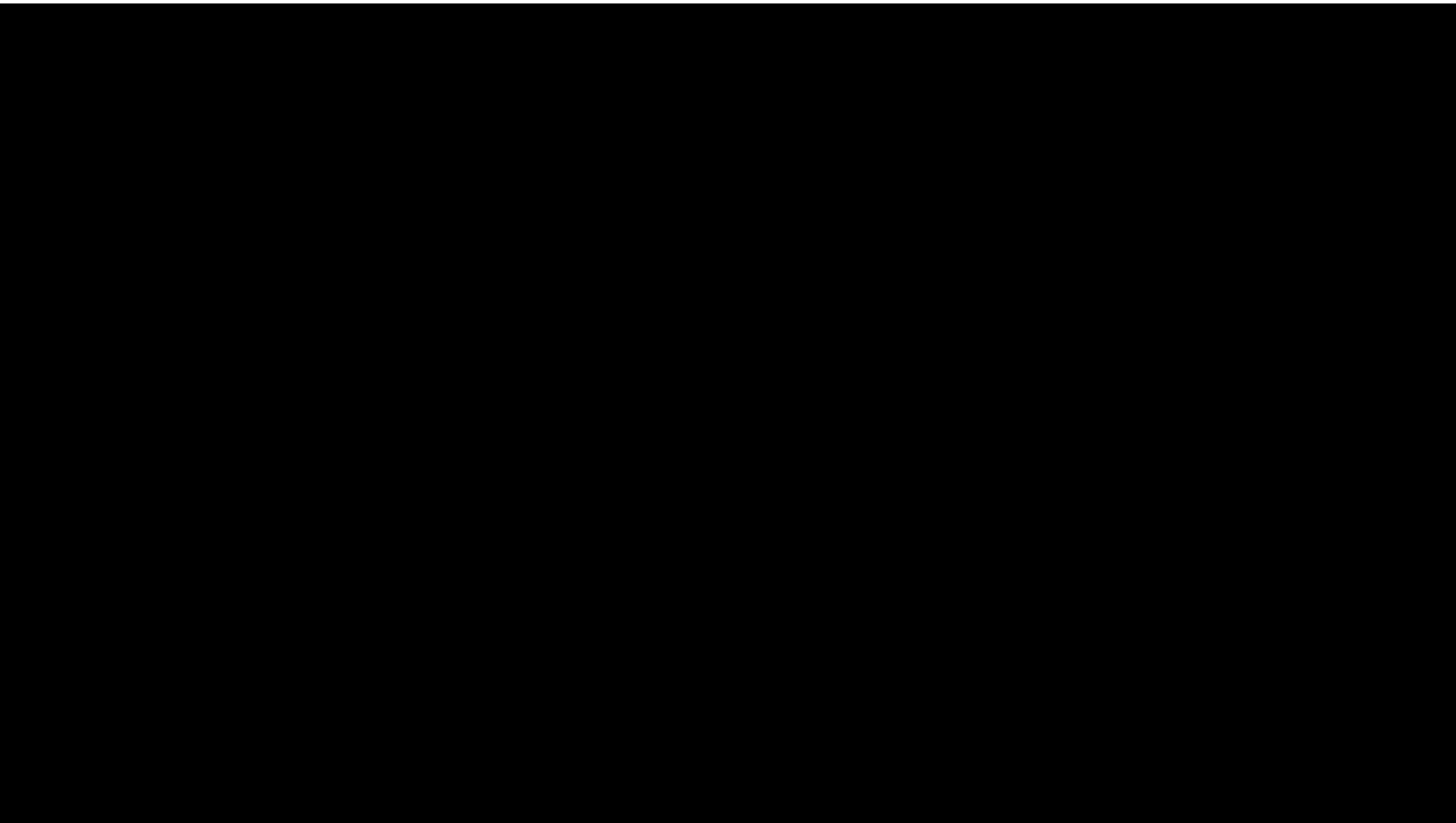
*Banking-as-a-Service*

[REDACTED] briefly discussed the bank's [REDACTED] and [REDACTED] relationships. He specifically noted that the bank is working with [REDACTED] to help them grow. The increase in [REDACTED]

[REDACTED] After one year, the bank closes accounts with a zero balance that were never funded. The bank is still working through the process of developing procedures with [REDACTED] regarding when to close dormant accounts. Regarding [REDACTED] informally notified the company in August that it did not want to renew the program and [REDACTED] should migrate to another sponsor bank. [REDACTED] is in process of getting its program reviewed by a number of other banks. [REDACTED] goal was to have the [REDACTED] program transferred by the end of the year, but [REDACTED] stated that the process will likely bleed into January. If it is not migrated by then, [REDACTED] intends to close the account. The bank has been focused on businesses that will drive profitability and exiting relationships that do not.







# Implementation Plan Update

## Executive Summary

**Overall Summary:** [REDACTED] is addressing key areas of [REDACTED] BSA/AML program across financial crimes prevention, detection and investigation. [REDACTED] (Implementation) is underway to implement Policies and Procedures, onboard and train staff, enhance monitoring systems, and complete independent testing and validation of issue remediation. Proactive improvements to the Fintech Risk program, policies, procedures and practices are also included in the scope of [REDACTED]

## Key Accomplishments & Updates

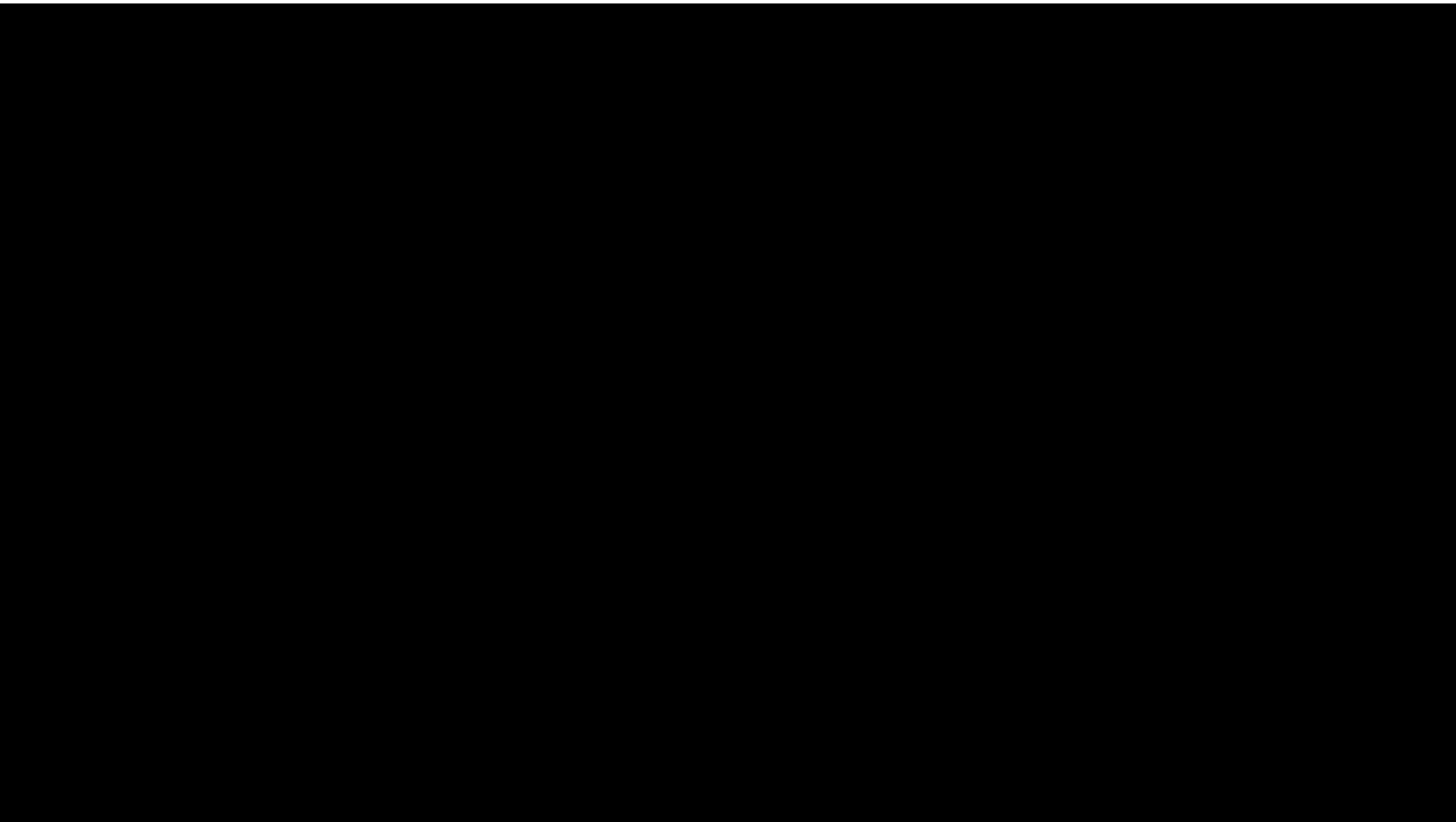
On Track	<b>People</b> <ul style="list-style-type: none"> <li><b>Completed Employee Hiring:</b> [REDACTED]</li> <li><b>Completed Temporary Staffing:</b> Engaged [REDACTED] for staff augmentation, system tuning, and [REDACTED] lookback.</li> <li><b>Training In Progress:</b> Completed policy and procedure training as of August 31, 2023. Job aid training to be completed late November.</li> </ul>	On Track	<b>Process</b> <ul style="list-style-type: none"> <li><b>Job Aids:</b> Job aids complete and ready for validation and deployment early December 2023.</li> <li><b>Lookback:</b> FDIC review of the plan is in process. [REDACTED] as begun the lookback with [REDACTED] reported completion.</li> <li><b>Risk Assessments:</b> Updated AML risk assessments for Fintech and Core are underway for completion on 11/30/23</li> </ul>
On Track		On Track	
Technology	<ul style="list-style-type: none"> <li><b>Transaction Monitoring:</b> Two rules live with [REDACTED] Live with all [REDACTED] on December 1, 2023. Business and functional requirements developed for issuing and payments</li> <li><b>New Case Management System:</b> Selected [REDACTED] as Case Management Vendor</li> <li><b>Data warehouse and orchestration:</b> Data orchestration in [REDACTED] release</li> <li><b>System tuning:</b> [REDACTED] tuning recommendations approved and in process of implementation</li> </ul>	Testing and Validation	<ul style="list-style-type: none"> <li>[REDACTED] Performing validation of management's work to address the [REDACTED]</li> <li>[REDACTED] Audit Committee approved the annual audit for the BSA/AML program</li> <li><b>Internal Audit:</b> Coordinate validation / testing work with [REDACTED]</li> </ul>
Risks and Issues	<b>Upcoming Activities</b> <ul style="list-style-type: none"> <li><b>People:</b> Job aid deployment</li> <li><b>Process:</b> [REDACTED] lookback; Fintech client risk assessments</li> <li><b>Tech:</b> Testing phase for [REDACTED] Issuing transaction monitoring for [REDACTED]</li> <li><b>Testing:</b> [REDACTED] Validation</li> </ul>		

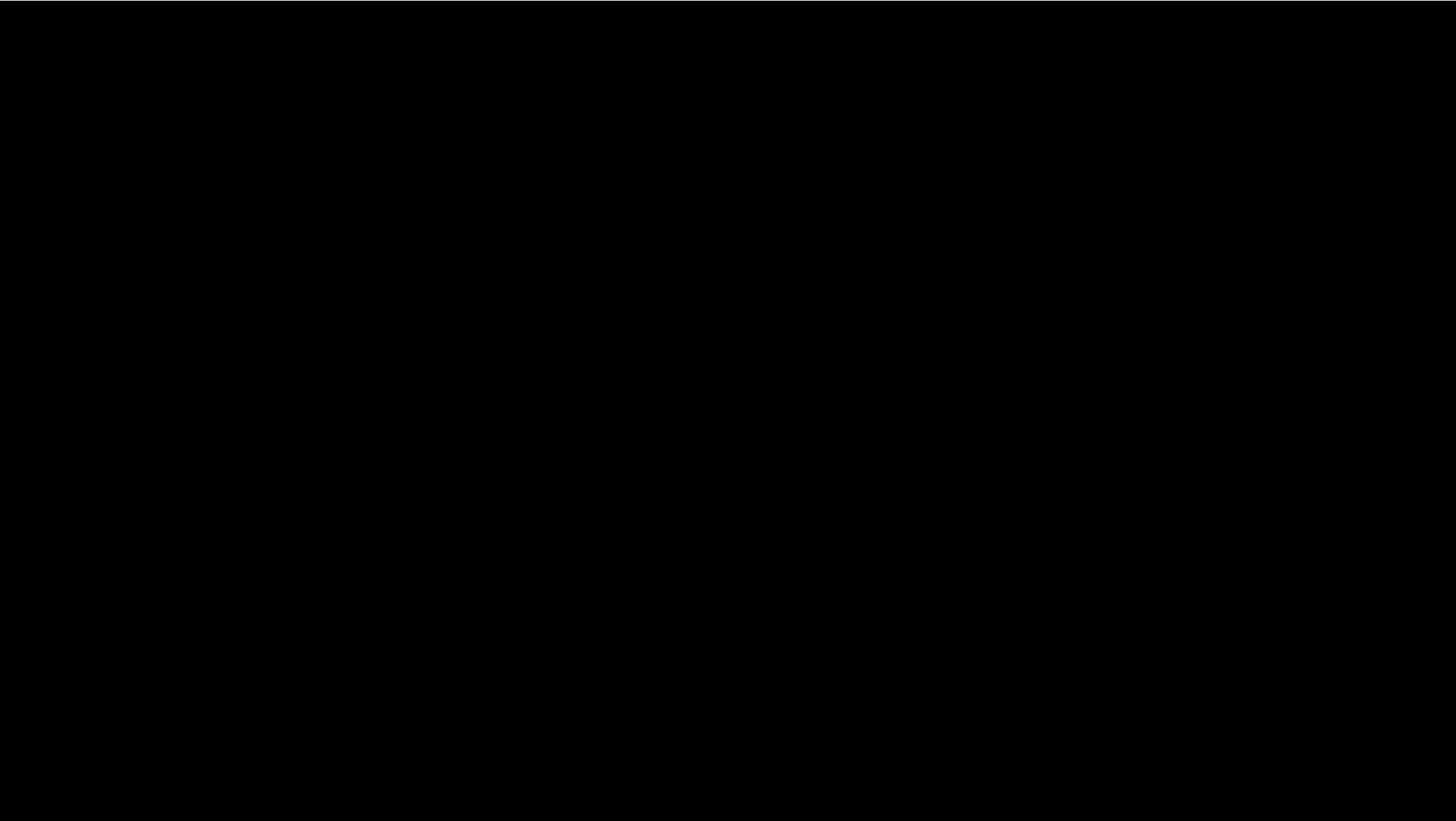
## Risks and Issues

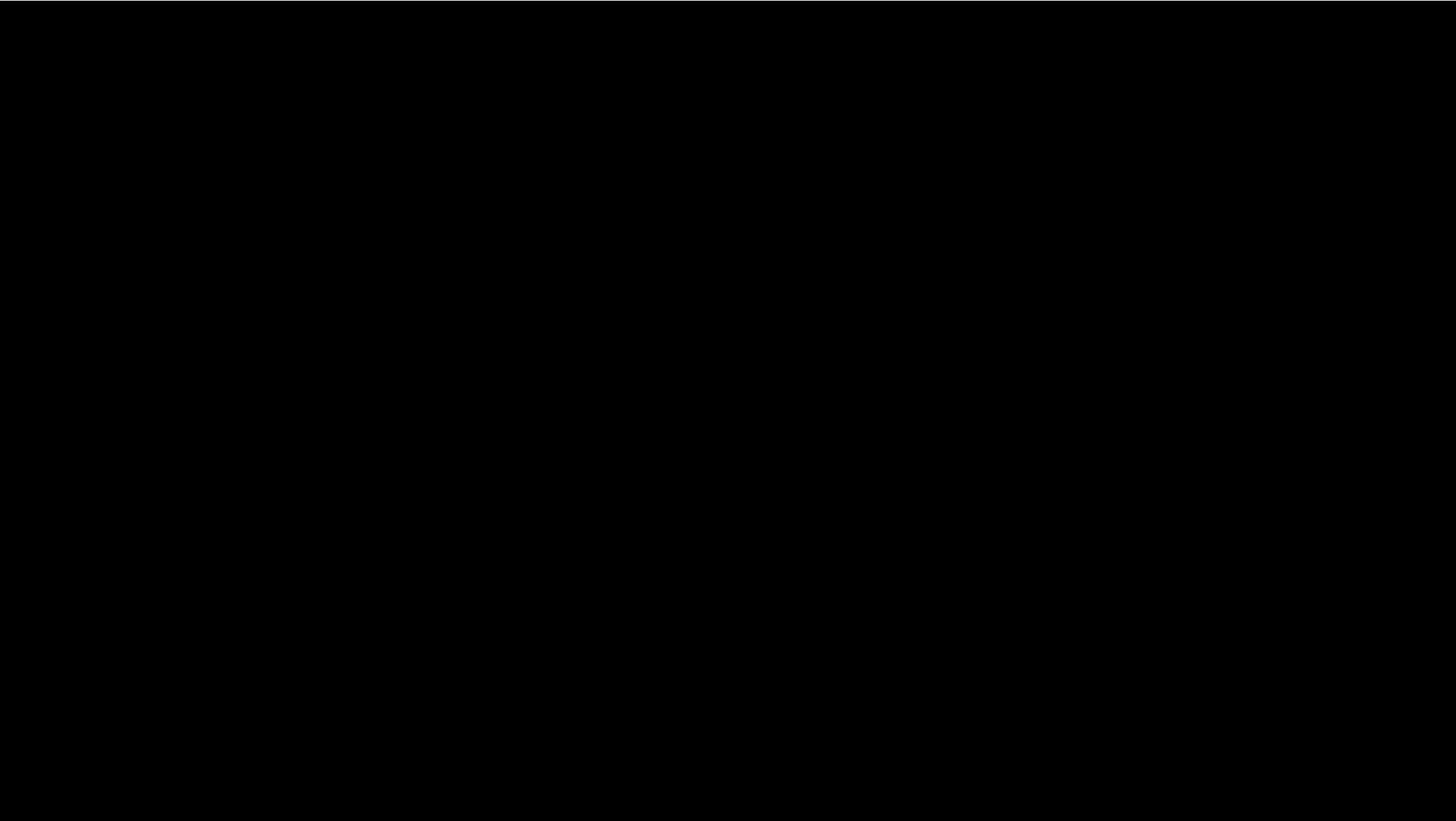
- Dependencies on vendors for implementation of new technology solutions
- Changing regulatory expectations around Bank/Fintech partnerships
- Pressure on Fintech Industry verticals, including Crypto and [REDACTED] (industry consolidation with capital pressure)

## Upcoming Activities

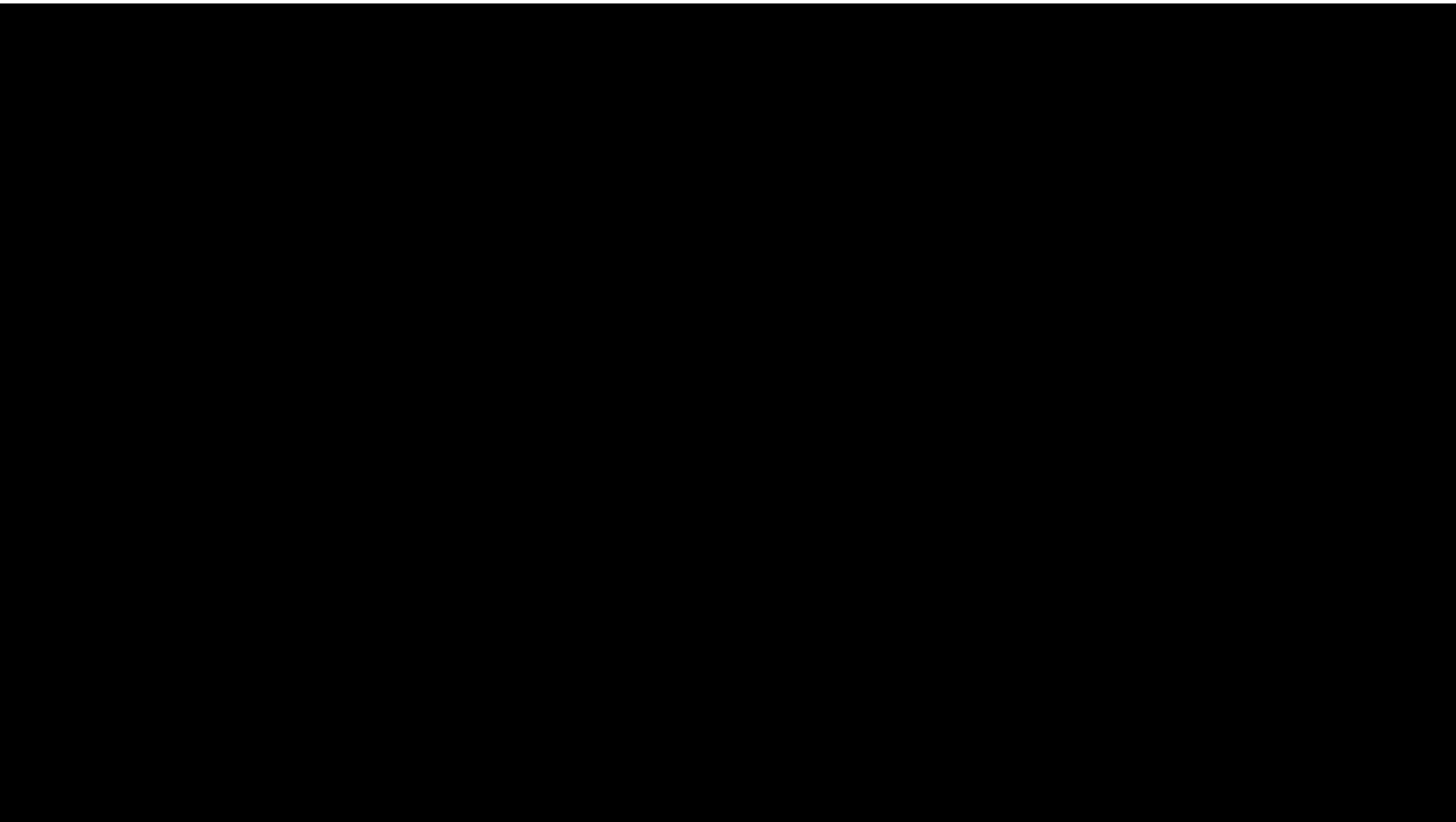
- People:** Job aid deployment
- Process:** [REDACTED] lookback; Fintech client risk assessments
- Tech:** Testing phase for [REDACTED] Issuing transaction monitoring for [REDACTED]
- Testing:** [REDACTED] Validation











## AML/CFT Enhancements Currently Operational

We have summarized the enhancements to our AML/CFT program that have been put into place and are currently operational, which include a combination of target state controls and stop-gap measures designed to enhance our monitoring until all of the target state technology and processes are implemented.

**INTERNAL CONTROLS:** Management has improved the quality of alerts reviews, case investigations and [REDACTED] through enhancements to:

- **Staffing:**
  - Full-time AML/CFT Employees: The AML/CFT function is fully staffed with employees as of September 15, and added [REDACTED] additional Compliance testers in October. The leadership team is highly qualified with over 120 years of AML/CFT experience.
  - Staff Augmentation: Increased staff monitoring for [REDACTED] activity from [REDACTED] in March 2023, to [REDACTED] today as a stop-gap measure until the target state technology is fully implemented.
  - Fintech Risk Oversight: Hired a [REDACTED] with over 30 years of combined AML experience, who created new policies and procedures, and are performing reviews of clients. Completed AML reviews of [REDACTED] clients covering [REDACTED] % of total [REDACTED] transaction volume and [REDACTED] % of high-brand-risk volume.
  - Succession: With a deep bench of talent across all of our AML/CFT functions, we now have robust succession options.
- **Policies and Procedures:** New policies and procedures were developed, and employee training has been completed.
- **Quality Control:** The quality of QC reviews has also improved with a newly formed trained team with QC experience that is dedicated to and focused only on QC.
  - New staff are focused on QC reviews of [REDACTED] and CTR's.
  - [REDACTED] and CTR's are reviewed by more than one QC analyst.

## AML/CFT Enhancements Currently Operational

**CIP Collection & Verification:** [REDACTED] target state CIP program has been fully implemented as of October 15.

- Completed the transition of certain CIP responsibilities to first-line deposit operations teams.
- Completed the transition of CIP oversight and escalation from the Fraud & Identity Team to the BSA/AML Customer Due Diligence team as of September 15.

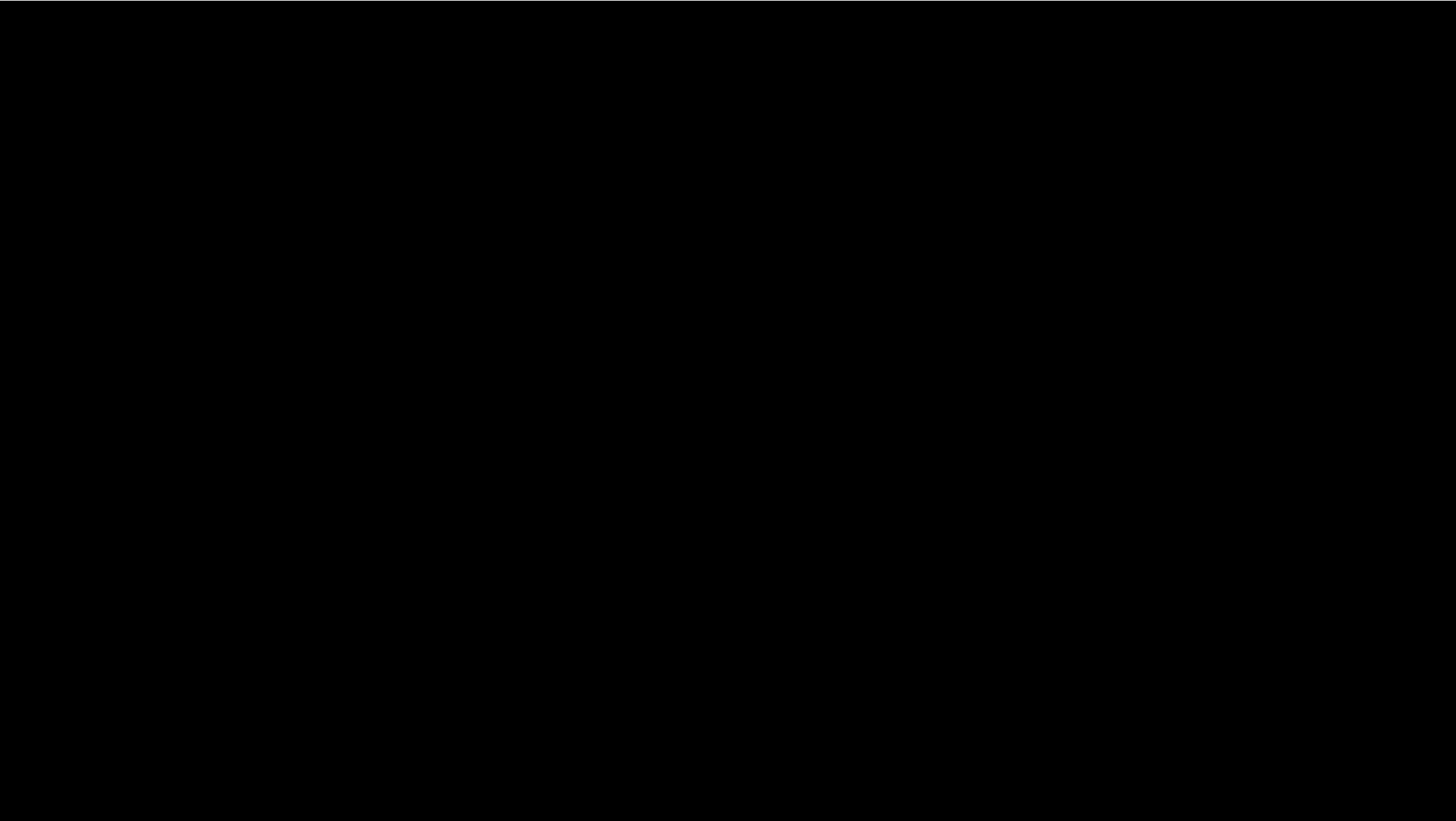
**Suspicious Activity Monitoring & Reporting:** While much of the new technology for transaction monitoring has not yet been implemented, target state enhancements for certain areas are complete, and stop-gap measures have been implemented for others, including:

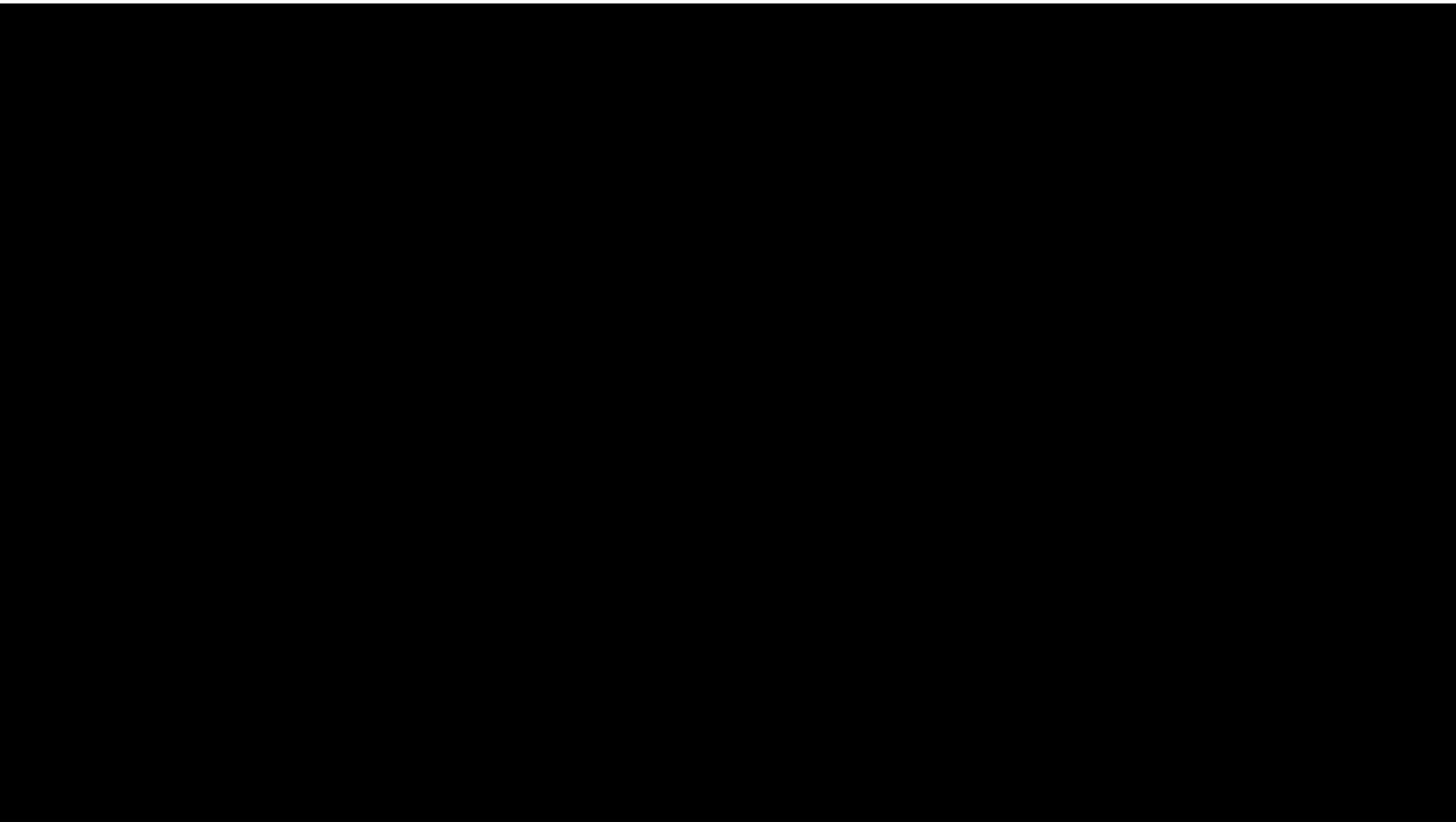
- Tuning of both the [REDACTED] and [REDACTED] instances of [REDACTED] was completed and changes were implemented as of November 1.
- Target-state AML/CFT transaction monitoring for [REDACTED] with [REDACTED] was live and in production as of November 1.
- A comprehensive review of [REDACTED] AML/CFT program was completed as of October 18 and was rated [REDACTED].
- Increased staff monitoring for [REDACTED] activity from [REDACTED] in March 2023 to [REDACTED] today as a stop-gap measure until the target state technology is fully implemented. This drove a [REDACTED]% increase in Requests for Information to [REDACTED] to facilitate investigations.
- Developed and documented [REDACTED] standards to ensure filing is completed within the required 30-day timeframe. Reporting and QC is in place to ensure compliance with the standards.

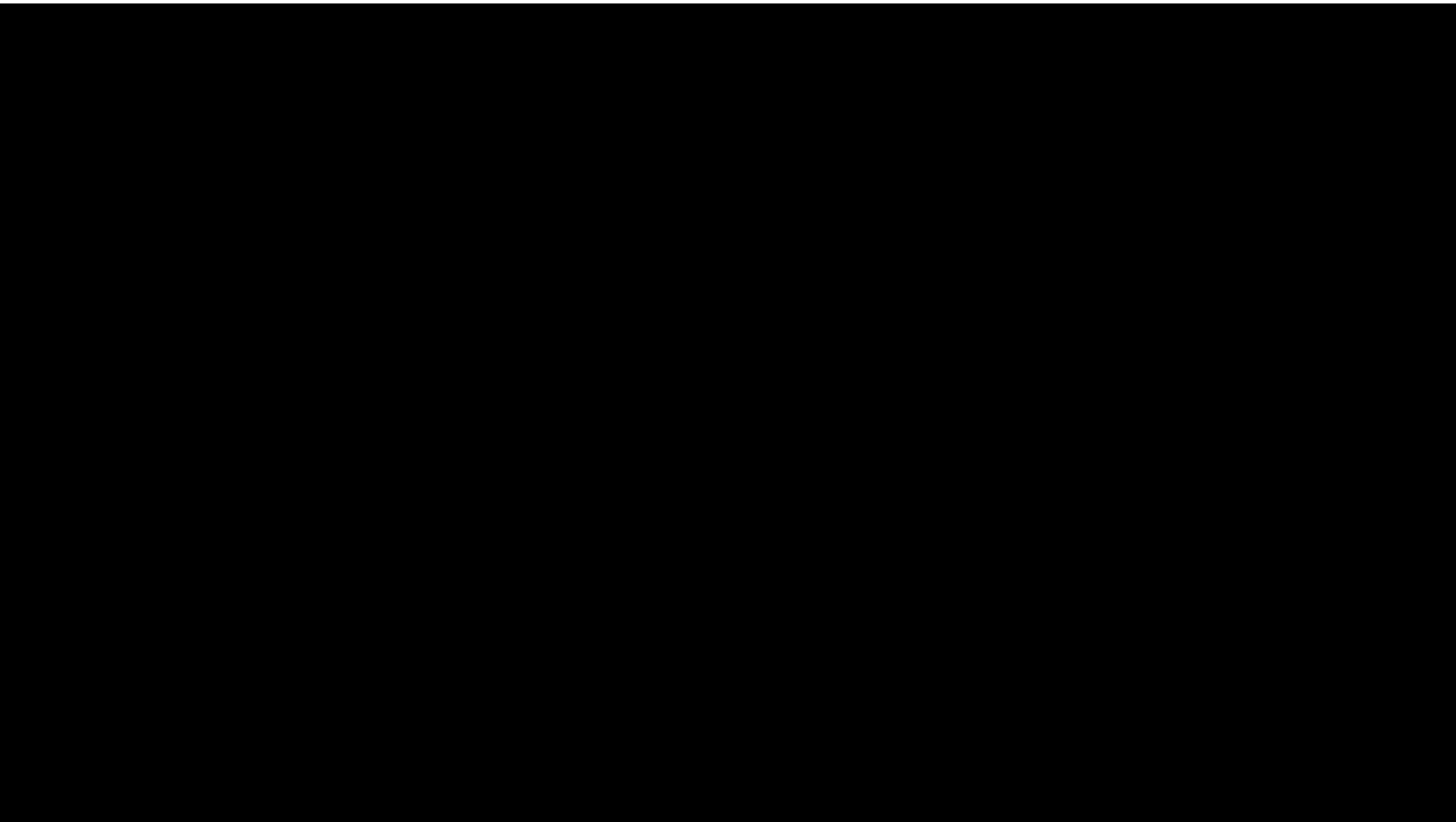
Through the combination of [REDACTED] transaction monitoring (rated [REDACTED]) and the [REDACTED] transaction monitoring that has been implemented, [REDACTED] is now at target state AML/CFT monitoring of [REDACTED] with [REDACTED].

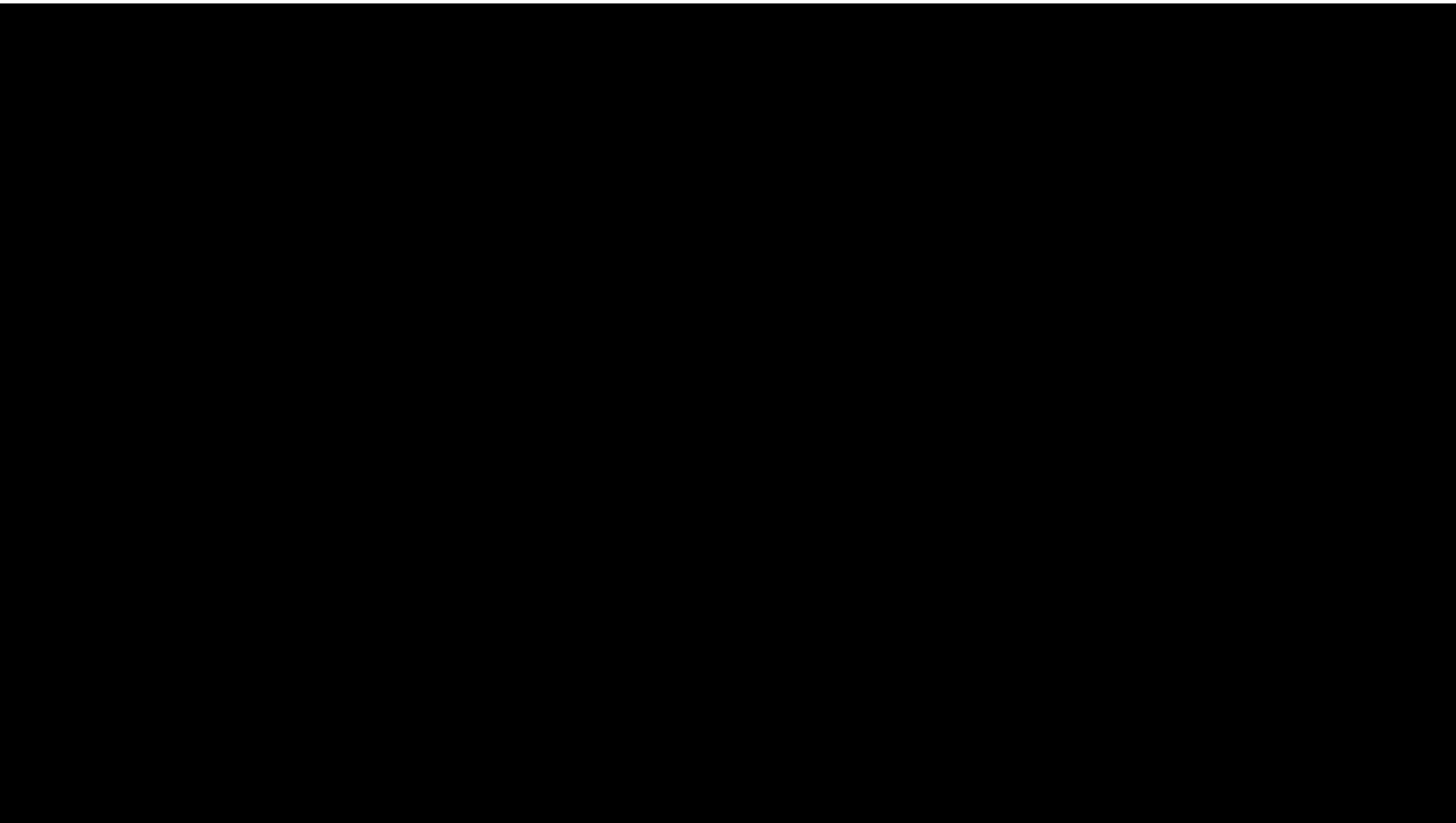
## Model Governance

- Developed and implemented a model governance framework as of August 11, 2023, including a change management process.
- Led by [REDACTED] [REDACTED] with 10 years of experience.





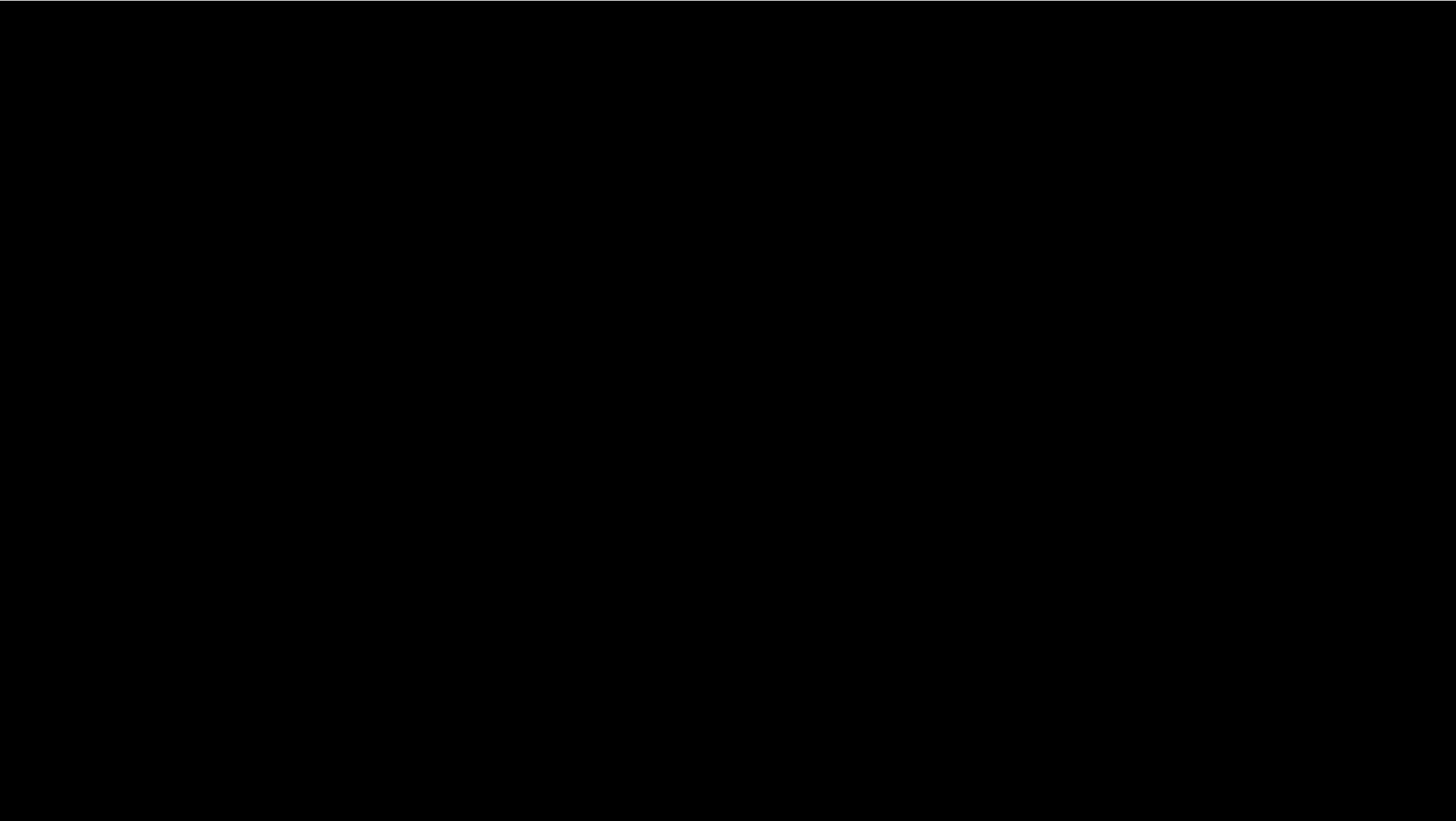


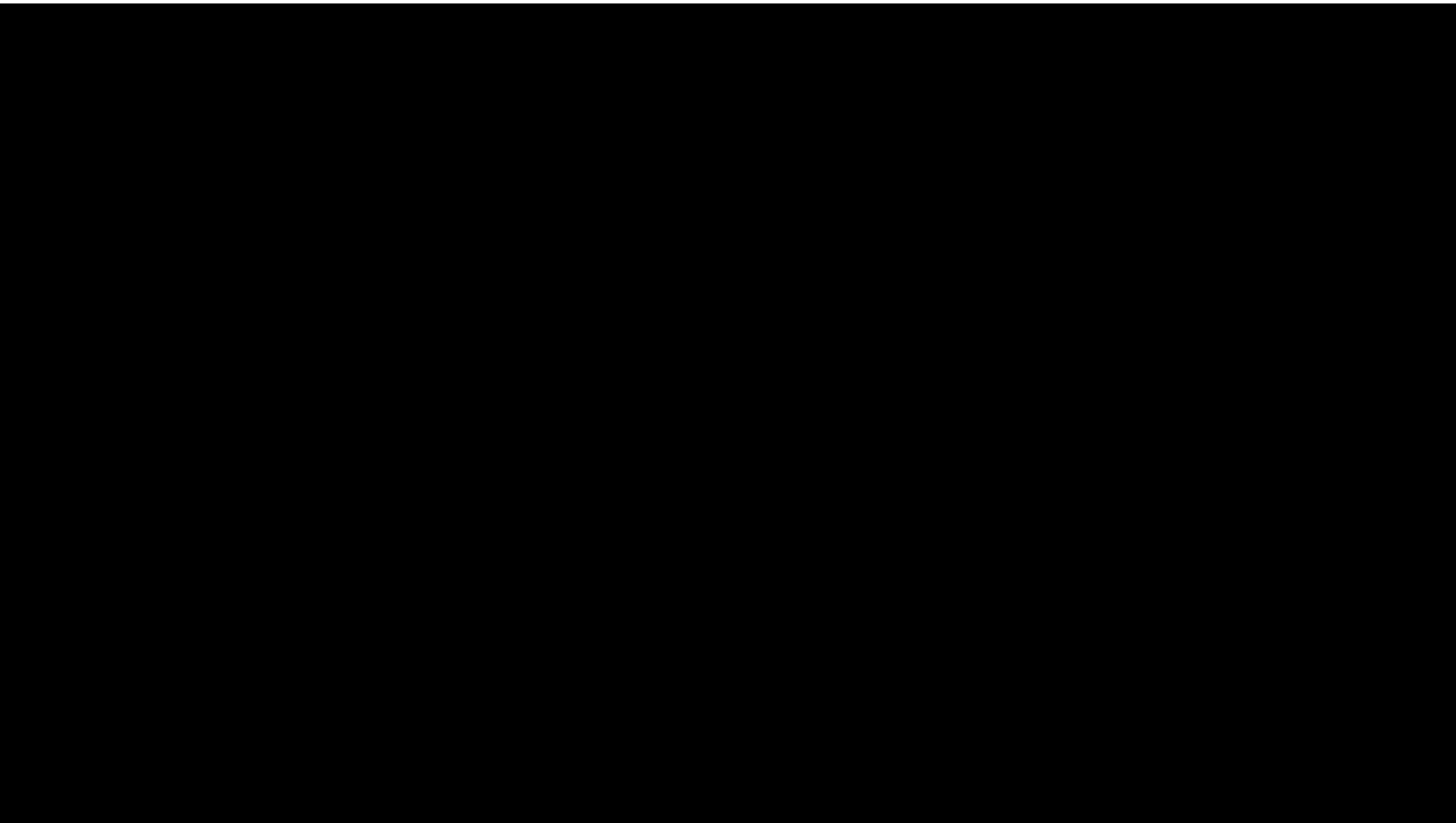


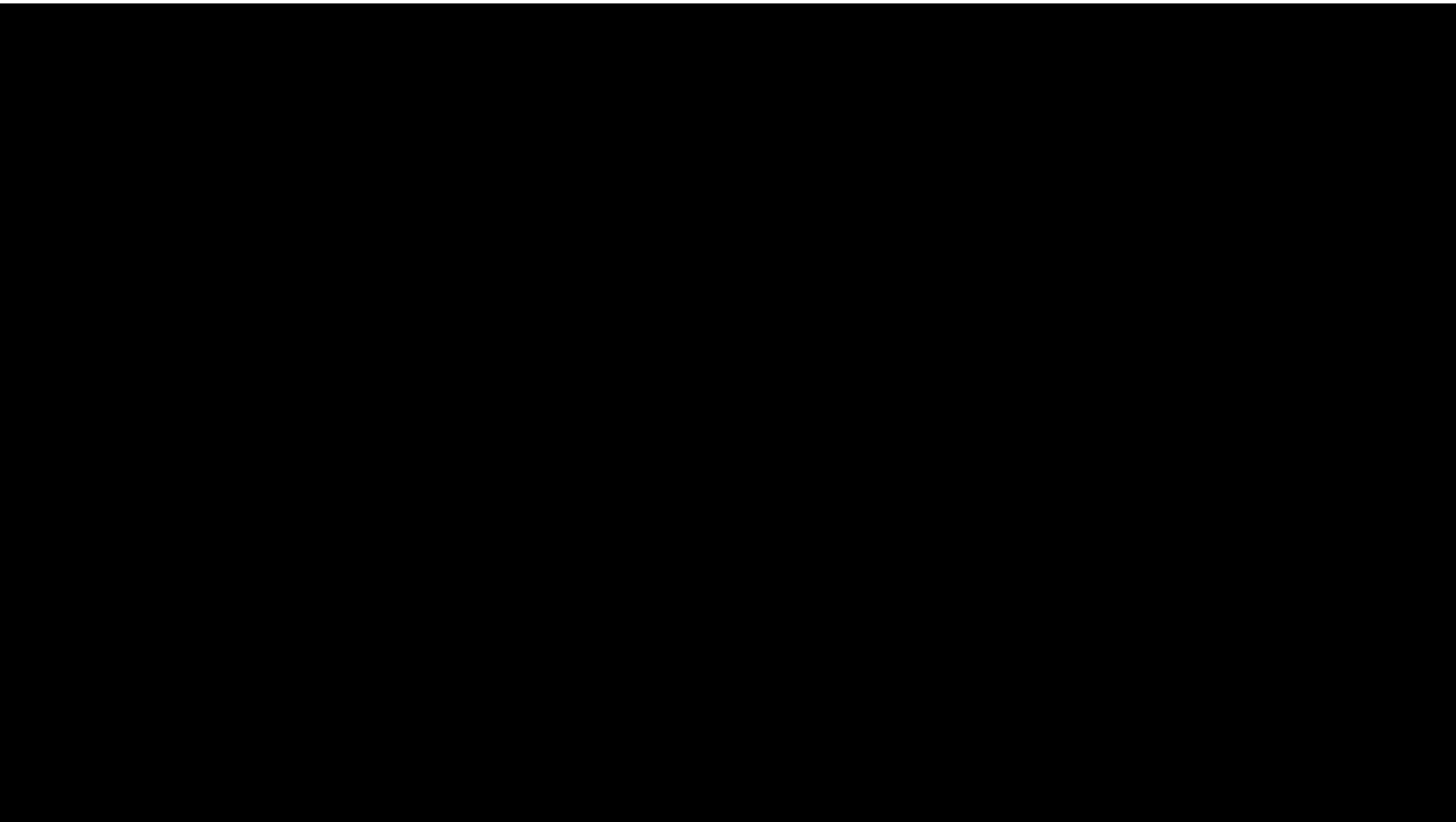
## Digital Asset Risk Mitigation

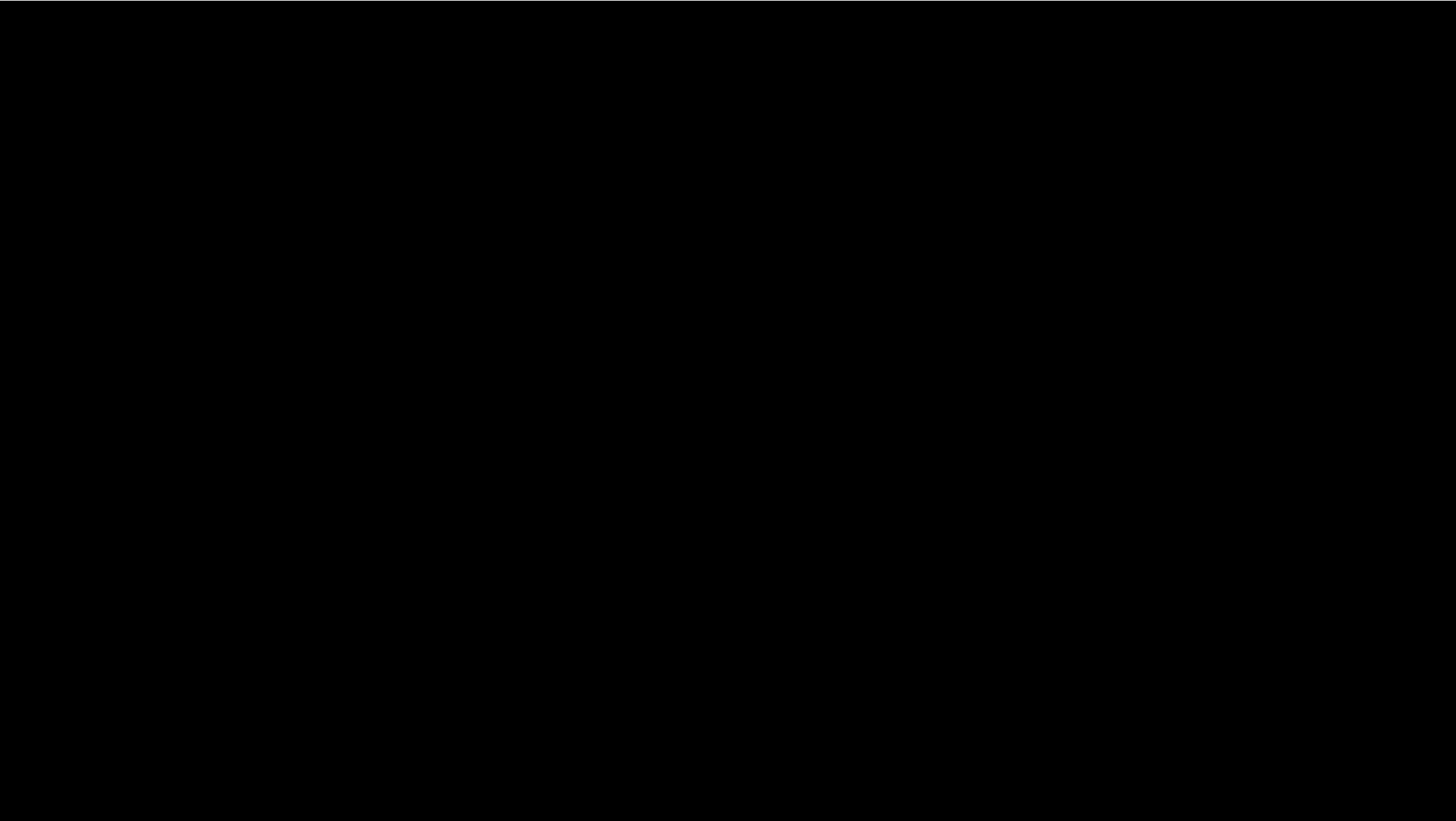
Risk Mitigation Action	Status
1. Liquidity Risk Management	<ul style="list-style-type: none"> <li>Off Balance Sheet: ██████████ are held off balance sheet as of November 15</li> <li>On Balance Sheet - ██████████ are held on balance sheet as of November 15.</li> <li>██████████ limits Digital Asset on balance sheet deposits to ██████████% of total deposits</li> </ul>
2. ██████████ Savings Terminated	<ul style="list-style-type: none"> <li>██████████ and ██████████ mutually agreed to terminate</li> <li>Wind-down is complete and all funds were returned to customers</li> </ul>
3. Exited smaller, non-strategic digital asset relationships	<ul style="list-style-type: none"> <li>Exited ██████████ and ██████████ Accounts are all closed</li> </ul>
4. ██████████ transaction monitoring	<ul style="list-style-type: none"> <li>We are evaluating options to reduce transactions processed with ██████████ by limiting the number of ██████████ that ██████████ supports</li> <li>Implemented AML stop-gap measures with increased AML resources assigned to review ██████████ transaction activity, from ██████████ in March to ██████████ currently</li> <li>Implemented additional controls to restrict international wires and wire activity with states where ██████████ does not have account relationships</li> </ul>
5. Perform lookback of ██████████ transactional activity	<ul style="list-style-type: none"> <li>██████████ is in the process of performing the lookback review</li> <li>The review of alerts and case investigations is expected to continue through January 2024</li> </ul>
6. ██████████ risk reduction	<ul style="list-style-type: none"> <li>Terminated ██████████ of ██████████ through ██████████</li> <li>In November, we declined ██████████ new Crypto ██████████ through ██████████ and no new Crypto ██████████ have been onboarded since March 2023</li> </ul>

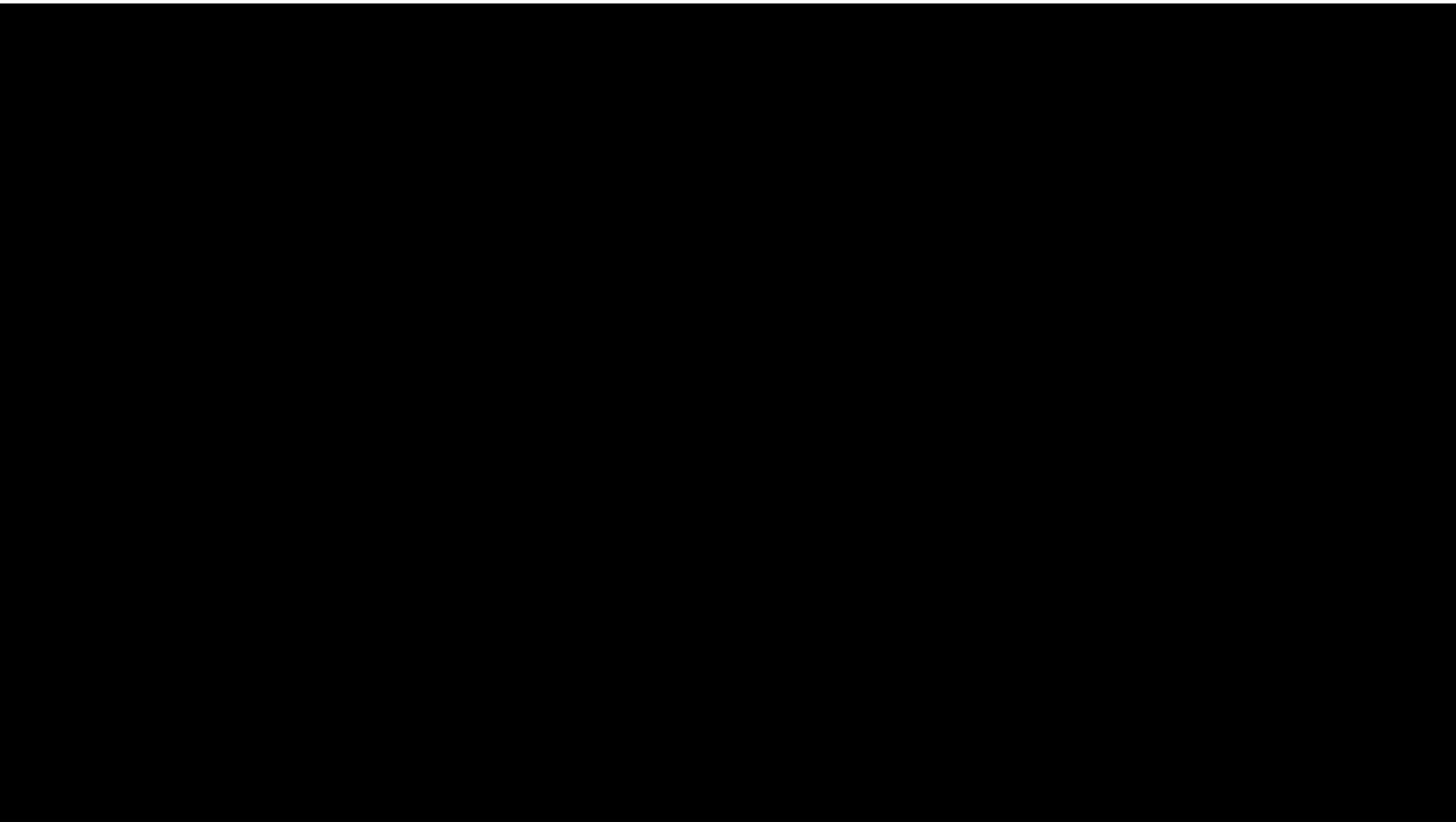
















**Federal Deposit Insurance Corporation**  
Division of Risk Management Supervision  
Chicago Regional Office  
300 South Riverside Plaza, Suite 1700  
Chicago, IL 60606  
Telephone: (312) 382-7500

February 26, 2024

Board of Directors  
[REDACTED]

Subject: Planned Banking as a Service Activity

Dear Directors:

The FDIC and the [REDACTED] recently completed the December 12, 2023 joint examination, at which examiners discussed the bank's strategic initiative to offer "Banking as a Service" (BaaS) to fintech businesses in an effort to provide another source of deposit funding. The service will provide deposit accounts used for business operations of, or processing ACH payments, via fintech organizations. Management conveyed that the bank will not be targeting any crypto-related or marijuana-related fintech businesses.

Management is in process of developing the operational and risk management framework, with implementation of the initial fintech partner targeted for second quarter 2024. Examiners identified considerable initial progress in that regard, but much still needs to be accomplished. Below are key recommendations that examiners discussed with management throughout the examination and at a post-examination meeting on January 18, 2024:

- Finalize thorough written policies and procedures commensurate with the risk and complexity of the activity. Areas identified in the draft policy that would benefit from expanded coverage include clearly defined responsibilities, duties, and authorities, including for the fintech approval processes; thorough description of processes and criteria for risk assessments, including partner-level risk assessments; and comprehensive expectations for due diligence, including required documentation. Furthermore, management should ensure that the written AML/CFT compliance program is commensurate with the risks in this overall strategy and those unique to any chosen fintech partners.
- Document comprehensive risk assessments for the program as a whole and for each underlying fintech relationship. The risk assessments should identify whether all necessary controls and practices are in place, and which enhancements are needed, to achieve the desired residual risk level. The current overall risk assessment lists several risk mitigants that have not yet been fully implemented.
- When contract negotiations with fintech partners begin, management, with appropriate

Board of Directors  
[REDACTED]

- 2 -

February 26, 2024

guidance from legal counsel, should ensure that agreements with all involved parties clearly outline relevant roles, responsibilities, and expectations; facilitate the mitigation of risks; and do not have an adverse impact on the bank.

- Ensure that the scope and degree of due diligence on critical service providers and potential fintech partners is well documented and commensurate with the level of risk and complexity.
- Ensure that ongoing monitoring practices for service providers and fintech partners are thorough and sufficiently documented. Management should specifically ensure that there are no gaps in oversight due to the unique risks of BaaS, coupled with the significant functions that service providers will be performing. Policies or procedures should also clearly identify responsibilities for performing oversight and for reporting the results.
- Expand the scope of audits to properly assess applicable risks at the bank, fintech partners, and service providers.
- Reevaluate the profitability analysis (and supporting assumptions) performed in January 2023 as the project progresses to ensure the analysis is realistic and comprehensive. Analysis should especially consider the staffing and other operational costs that will be involved with the BaaS activities.


This letter is confidential and may not be disclosed or made public in any manner under part 309 of the FDIC Rules and Regulations (12 CFR part 309) and [REDACTED]. If you have any questions, please feel free to contact FDIC Case Manager [REDACTED] at [REDACTED]@fdic.gov or [REDACTED] or [REDACTED] at [REDACTED].

Sincerely,

DocuSigned by:



Robert J. Masterson  
Assistant Regional Director  
Federal Deposit Insurance Corporation

Sincerely,  


cc: Federal Reserve Bank of Chicago







CONTROLLED//FDIC INTERNAL ONLY

**Federal Deposit Insurance Corporation**

1100 Walnut Street, Suite 2100, Kansas City, Missouri 64106

**Division of Risk  
Management Supervision**816-234-8000  
Fax 816-234-8182

January 14, 2025

**MEMORANDUM TO:** Correspondence File**FROM:** [REDACTED]  
Case Manager**SUBJECT:** [REDACTED]  
Interim Bank Contact

I discussed the bank's condition with President [REDACTED] and other members of senior management on January 13, 2025. The bank was most recently examined by the [REDACTED] on March 25, 2024, and was rated [REDACTED].

President [REDACTED] advised that 2024 was a pretty good year for the bank. From an earnings perspective, he noted that 2024 was better than 2023 when excluding a nonrecurring gain in 2023. He believes the 2024 ROAA ended slightly above [REDACTED]. At September 30, 2024, it equaled [REDACTED]. In 2023, it equaled [REDACTED]. We did not discuss the 2025 budget in detail, but he gave no indication that 2025 earnings will be significantly different than 2024. We briefly discussed the bank's STMR position. The bank has had offsites related to IRR, but the [REDACTED] rated it a [REDACTED] at its most recent examination, and the NIM has remained consistent for several quarters. It remains within the [REDACTED] percentile range among peer. The bank's CFO stated that the most recent quarterly IRR results indicated that the bank's net income remains fairly sheltered from both rising and falling rates.

Asset quality remains strong per President [REDACTED]. The ACI ratio was [REDACTED]% at the prior examination. The largest criticized credit, which accounted for more than [REDACTED]% of ACI, has improved and has been off the past due list for a few months now. It is a house loan. [REDACTED] are all doing well, and President [REDACTED] stated that most have the ability to withstand a few bad years. Overall, he has no concerns with asset quality.

There are no significant initiatives planned for 2025. Other than a few IT exceptions and two late CTR filings, the prior examination had no recommendations. We also discussed a [REDACTED] [REDACTED] within the last month or so. An individual opened a deposit account with a large amount of cash (not disclosed during our conversation but should be in the [REDACTED]). He subsequently used most of the cash that was deposited to purchase bitcoin though [REDACTED]. The [REDACTED], per CFO [REDACTED], [REDACTED] had some elements of structuring. Since that time, a few other individuals (friends of the aforementioned depositor), have established deposit accounts and deposited small amounts of cash or via check (usually around [REDACTED]), and then wired the deposit proceeds to [REDACTED] to also purchase bitcoin. Management is monitoring the activity.

The Leverage ratio was ■■■% at September 30, 2024, up from ■■■% at December 31, 2023. The September 30, 2024, FDIC Liquidity Tool reflected a Low assessment and a ■■■% ratio. Overall, there are no significant concerns noted during the review of the September 30, 2024, UBPR. The next examination will be conducted by the FDIC.



CONTROLLED//FDIC BUSINESS



FEDERAL DEPOSIT INSURANCE CORPORATION

**DATE:** December 18, 2023

**TO:** Bank File

**FROM:** [REDACTED]  
Senior Case Manager

**SUBJECT:** Interim Bank Contact – Monthly Conference Call

Representatives of [REDACTED], the Federal Deposit Insurance Corporation (FDIC), the [REDACTED] and the Federal Reserve Bank [REDACTED] (FRB) meet monthly to discuss ongoing significant activities of the [REDACTED] the bank, and [REDACTED]. This file memo summarizes attendance and discussion topics for today's meeting.

Meeting Attendees

[REDACTED]

FDIC: [REDACTED] Senior Case Manager (RMS)  
[REDACTED] Supervisory Examiner (RMS)  
[REDACTED] Examiner-In-Charge (RMS)  
[REDACTED] Senior Examiner (RMS)  
[REDACTED] Senior Examination Specialist (RMS)  
[REDACTED] Senior Examination Specialist (RMS)  
[REDACTED] Examiner (DCP)

[REDACTED]

FRB: None

### Discussion Topics

#### Implementation Plan Update

Chief FinTech Risk & AML Officer [REDACTED] provided a brief update regarding the [REDACTED] Implementation Plan. As of 11/28/2023, the bank had completed [REDACTED] tasks (53%) of the [REDACTED] tasks, with [REDACTED] (27%) in progress, [REDACTED] (18%) not yet started, and [REDACTED] (2%) overdue. The “not yet started” tasks will be initiated in January. Management expects 80% of the tasks to be completed by 12/31/2023 with the remainder (excluding independent testing) accomplished by March and April 2024.

[REDACTED] noted that the [REDACTED] which is focused on contracts and ongoing monitoring, is on track to meet the expected completion dates. However, management reopened some tasks for policies, procedures, and processes given that validation efforts revealed additional work was needed prior to closeout. While these are delayed, they are expected to be completed by 12/31/2023.

[REDACTED] stated that the BSA/AML Program workstream, which is focused on the continued development and enhancement of internal controls, remains on track. Management deployed all AML, Sanctions, and CIP first and second line job aids by 12/8/2023, and employees are using the new processes. She expects management will debut the [REDACTED] dashboard with the Board at its January meeting. Additionally, management completed its refinement of the risk assessment risk rating engine this week.

#### Digital Asset Risk Mitigation and [REDACTED] Update

CRO [REDACTED] briefly discussed ongoing digital asset risk mitigation actions, which are described in the attached slide deck. [REDACTED] highlighted that on balance sheet deposits from clients in the digital assets vertical are limited to no more than [REDACTED] % of on balance sheet deposits. Although the bank has completed the wind-down of the [REDACTED] [REDACTED] noted that [REDACTED] remains a corporate customer of [REDACTED].

[REDACTED] stated that the bank continues to plan to reduce the number of [REDACTED] transactions that [REDACTED] supports. [REDACTED] has also increased the number of analysts working [REDACTED] transactions to three in March to twelve currently. As a result of alerts generated by the Look-Back Review, the number of requests to [REDACTED] for additional information has substantially increased (approximately 10x) causing delayed response times. [REDACTED] stated that [REDACTED] has been working to add staff, which should reduce the time it takes to obtain the requested information. The delays will likely cause the timeline for the completion of the Look-Back Review to extend from 1/31/2024 to 2/29/2024. [REDACTED] has been made aware that it will need to restrain the volume of transactions flowing through the bank if it cannot get the additional resources to respond to information requests in a timely manner. [REDACTED] [REDACTED] briefly noted that the bank has completed an evaluation of which states would need to be limited and the status of their money transmission licenses. [REDACTED]

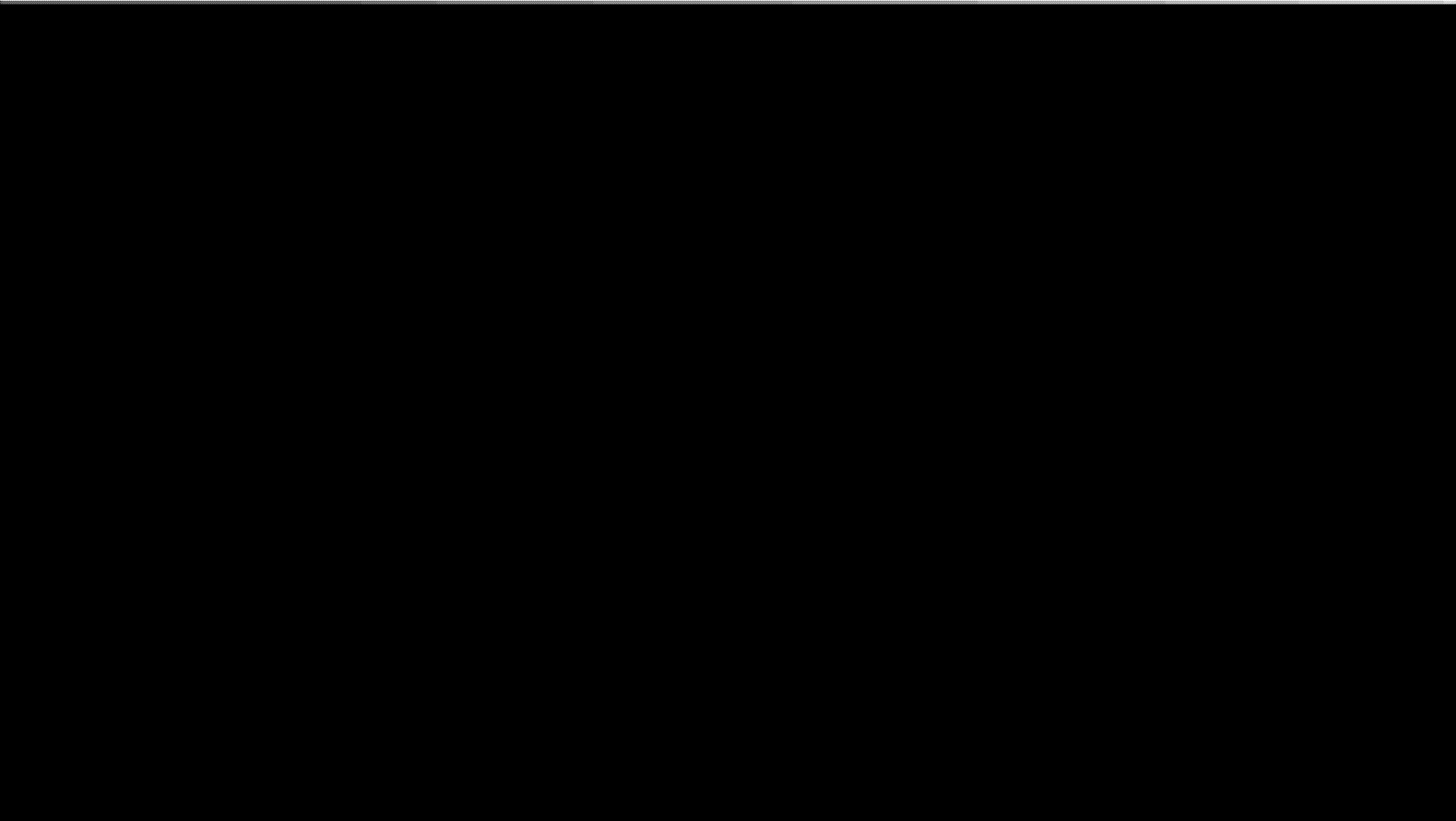
CONTROLLED//FDIC BUSINESS

██████████ has not onboarded customers in ██████████ or ██████████ is prohibited from doing business, but examiners have identified some transaction activity out of those ██████████. As an abundance of caution, the bank has implemented controls to restrict ██████████-related wires in those ██████████.

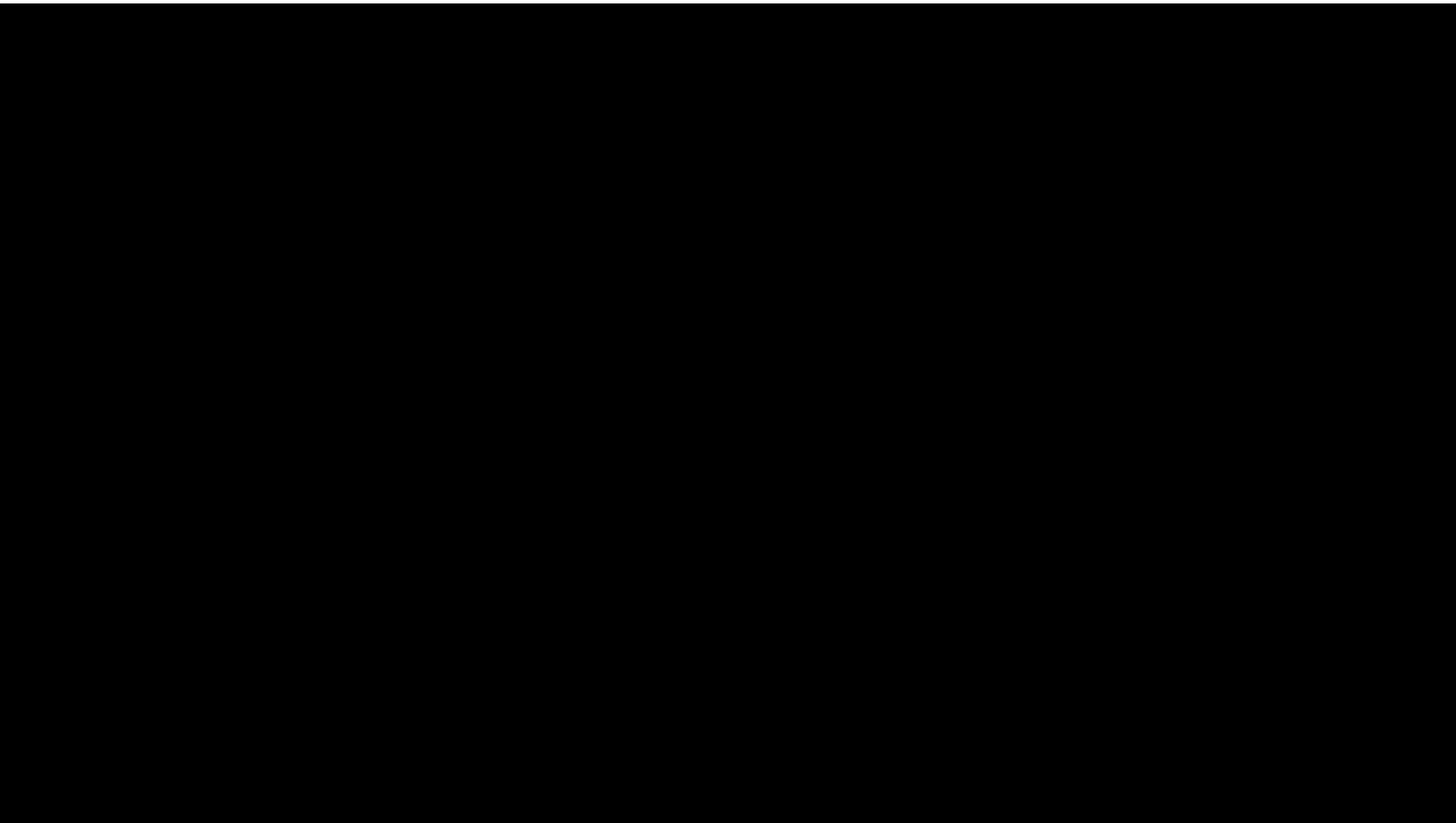
██████████ touched on the ██████████ complaint against ██████████ and ██████████, stating that ██████████ engaged ██████████ to identify any potential ██████████ of ██████████ funds with ██████████. ██████████ identified approximately 3,000 outgoing transactions sent to business entities. ██████████ did not detect any evidence of ██████████. ██████████ management intends to review ██████████ 2022 audit (and 2023, when released) to determine if the company reported any ██████████ issues. From a liquidity perspective, ██████████ noted that the bank has sufficient cash to cover all ██████████ deposits. Management has been monitoring ██████████ inflows and outflows daily since the ██████████ filing and has not observed any material changes in ██████████ deposits.

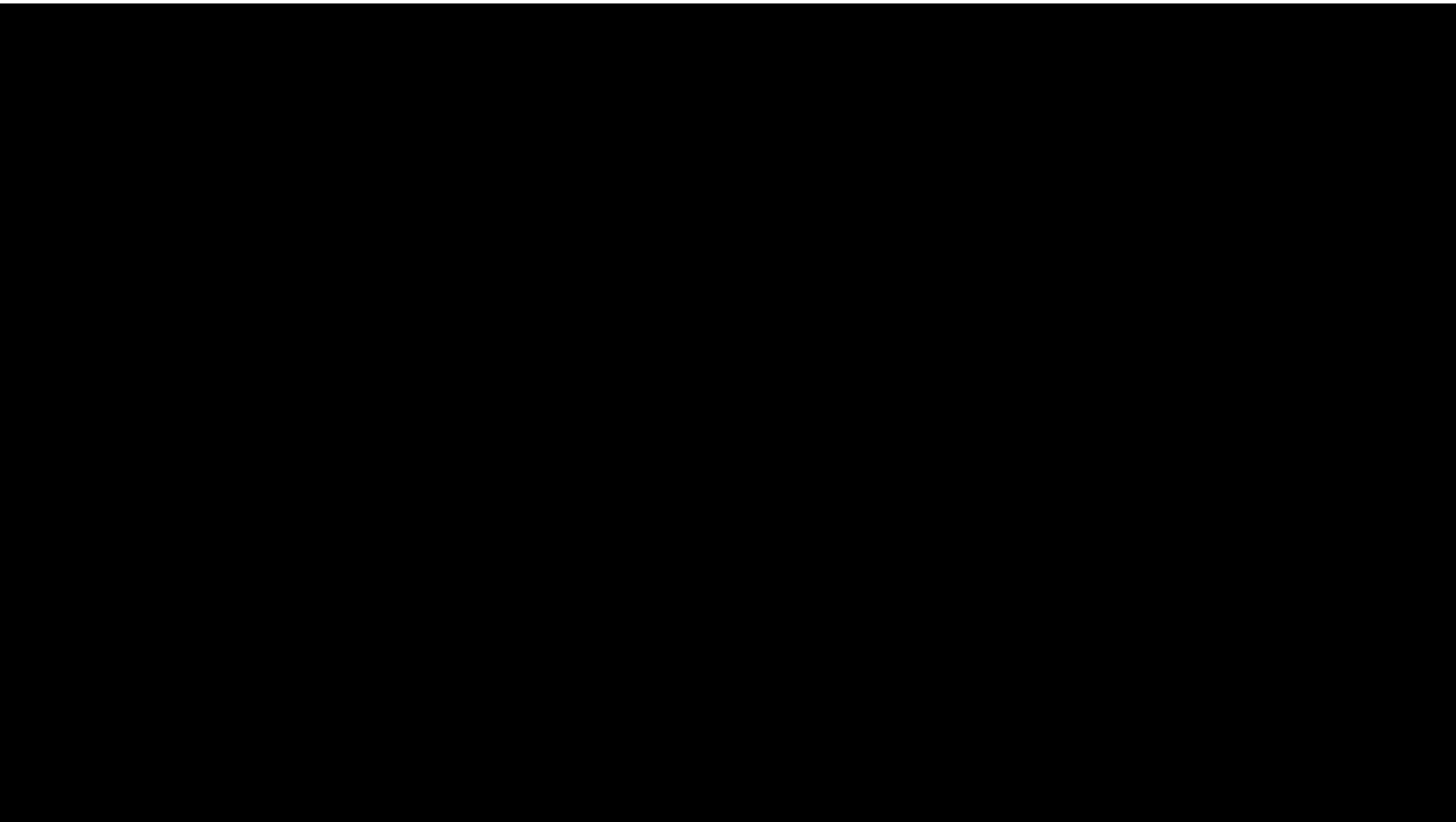
#### *Banking-as-a-Service*

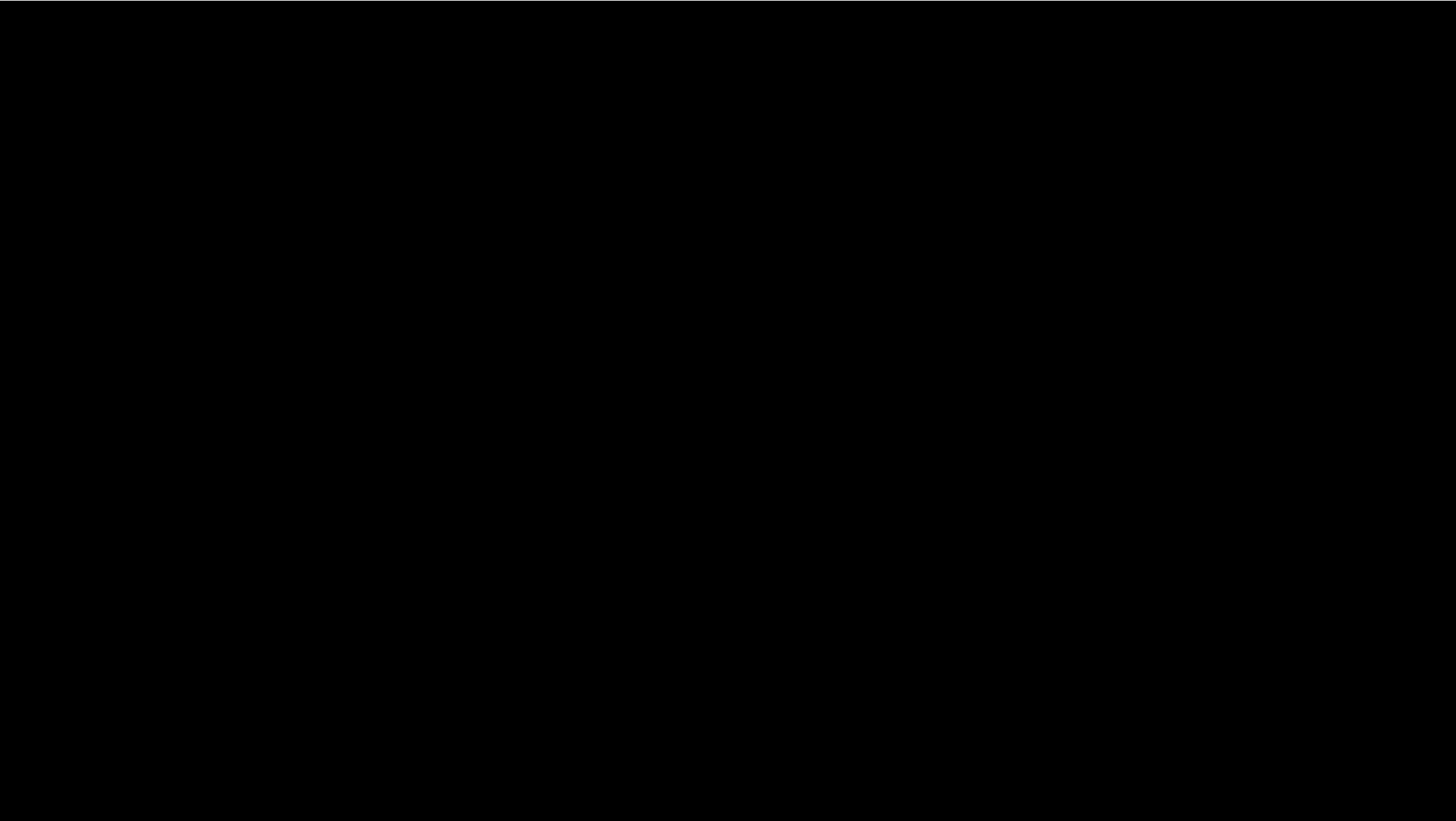
President ██████████ provided a brief update on the bank's BaaS relationships with ██████████ and ██████████. He stated that there has not been much change in activity with either company since last month, but he noted that ██████████ account positive trends continue and are aligned with expectations. ██████████ increase in ██████████ balances. ██████████ stated that ██████████ has been focused on growing the ██████████ product. The higher rate environment is very advantageous to ██████████ in marketing the program, and the increased balances benefits the bank by providing additional off balance sheet contingency funding. ██████████ management continues to work with the ██████████ executive team to negotiate the contract, which expires in ██████████. ██████████ prefers to wait until March and April for detailed discussions given the significant revenue earned ██████████. According to ██████████, ██████████ will increase the fees charged to improve the underlying margins. He expects active contract negotiations to begin in late February to early March and conclude in May. Regarding ██████████, the bank is still in the process of unwinding the contract while assisting ██████████ in finding a new banking partner. ██████████ does not want to shut down its program. The transition to another banking partner has taken additional time since there are limited banks that operate on the ██████████ core currently used by ██████████ for ██████████ transactions. Transitioning to a bank using another provider will require ██████████ to conduct a core conversion, which would likely be cost-prohibitive for the company. Nonetheless, ██████████ still expects a complete wind down of the ██████████ relationship by the end of the first quarter of 2024.

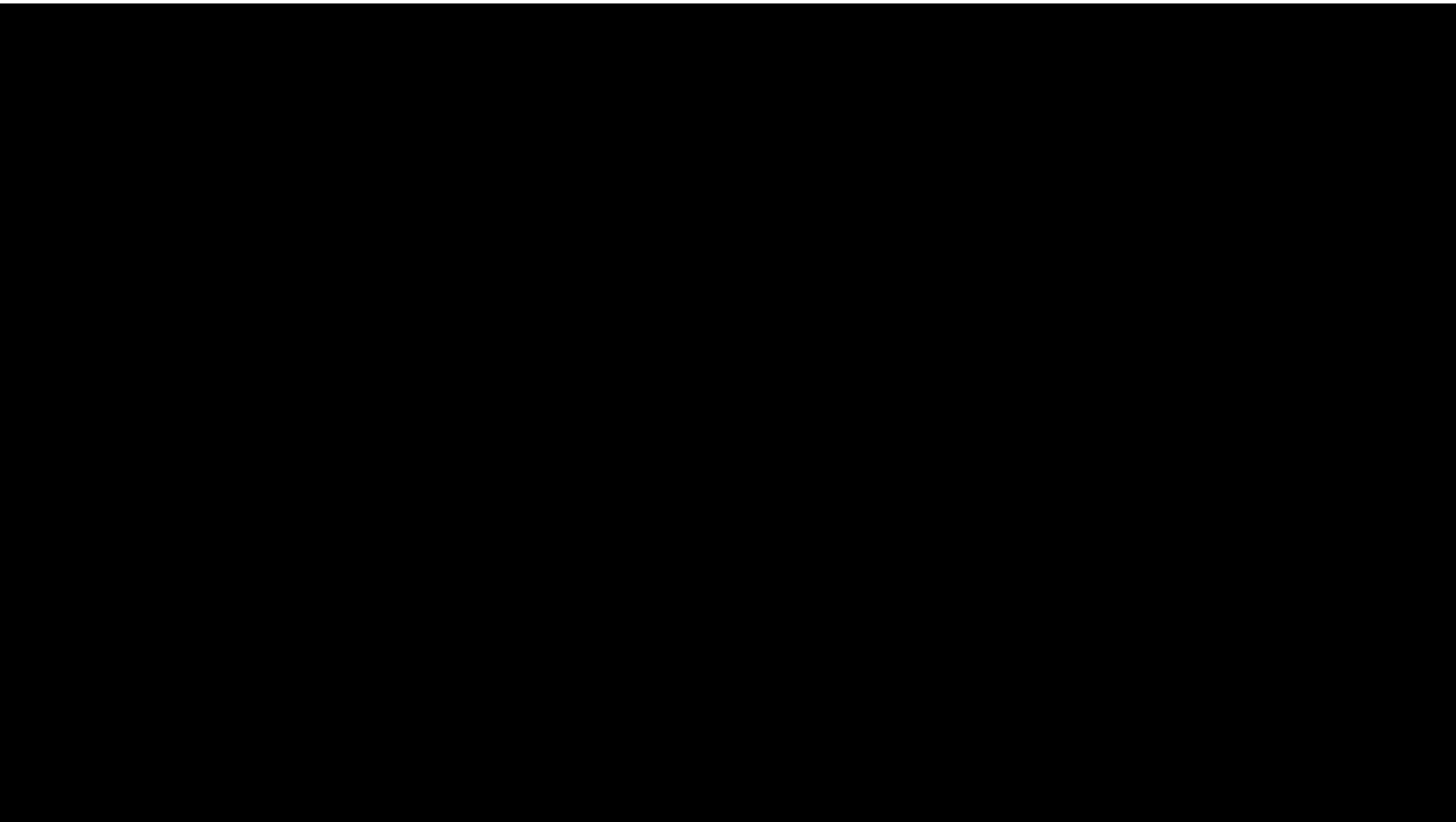


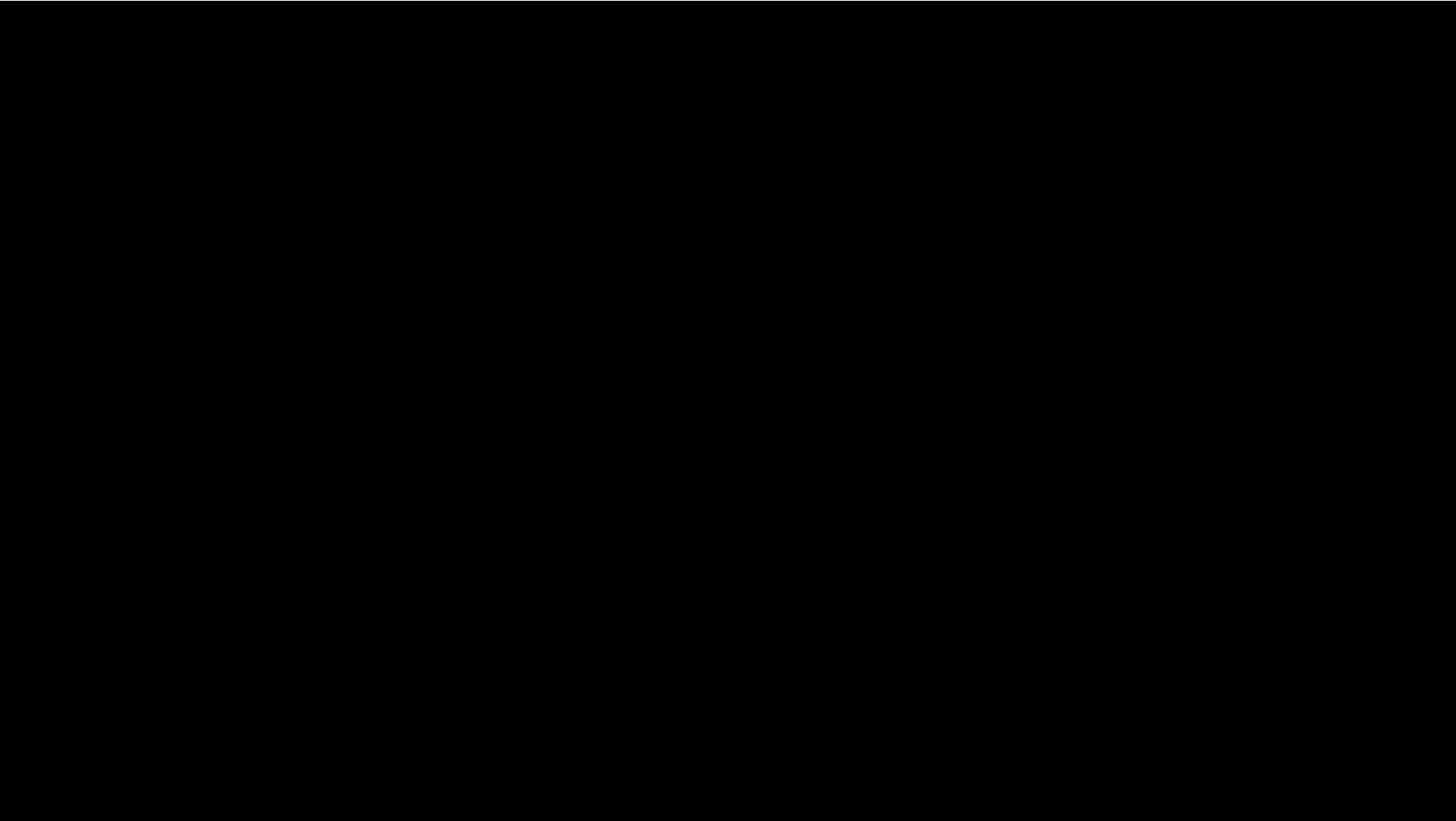












# BSA/AML Program

## Workstream Summary

**Overall Summary:** The BSA/AML Program workstream is currently [REDACTED]

This phase of the BSA/AML Program workstream is focused on the continued development and enhancement of internal controls to ensure full BSA compliance. This includes policy and procedure enhancements across suspicious activity monitoring, customer due diligence, and the bank’s customer identification program, among others.

## Key Accomplishments

- Gathered needed CIP and beneficial ownership information from fintech clients identified in gap assessment
- Deployed AML, Sanctions and CIP first- and second-line job aids
- Continued progress on Board [REDACTED] Dashboard
- Continued processing of [REDACTED] validation recommendations

## Upcoming Activities

- Review and process [REDACTED] validation recommendations
- Build out of [REDACTED] reporting dashboards
- Refine risk assessment risk rating engine
- Continued [REDACTED] lookback

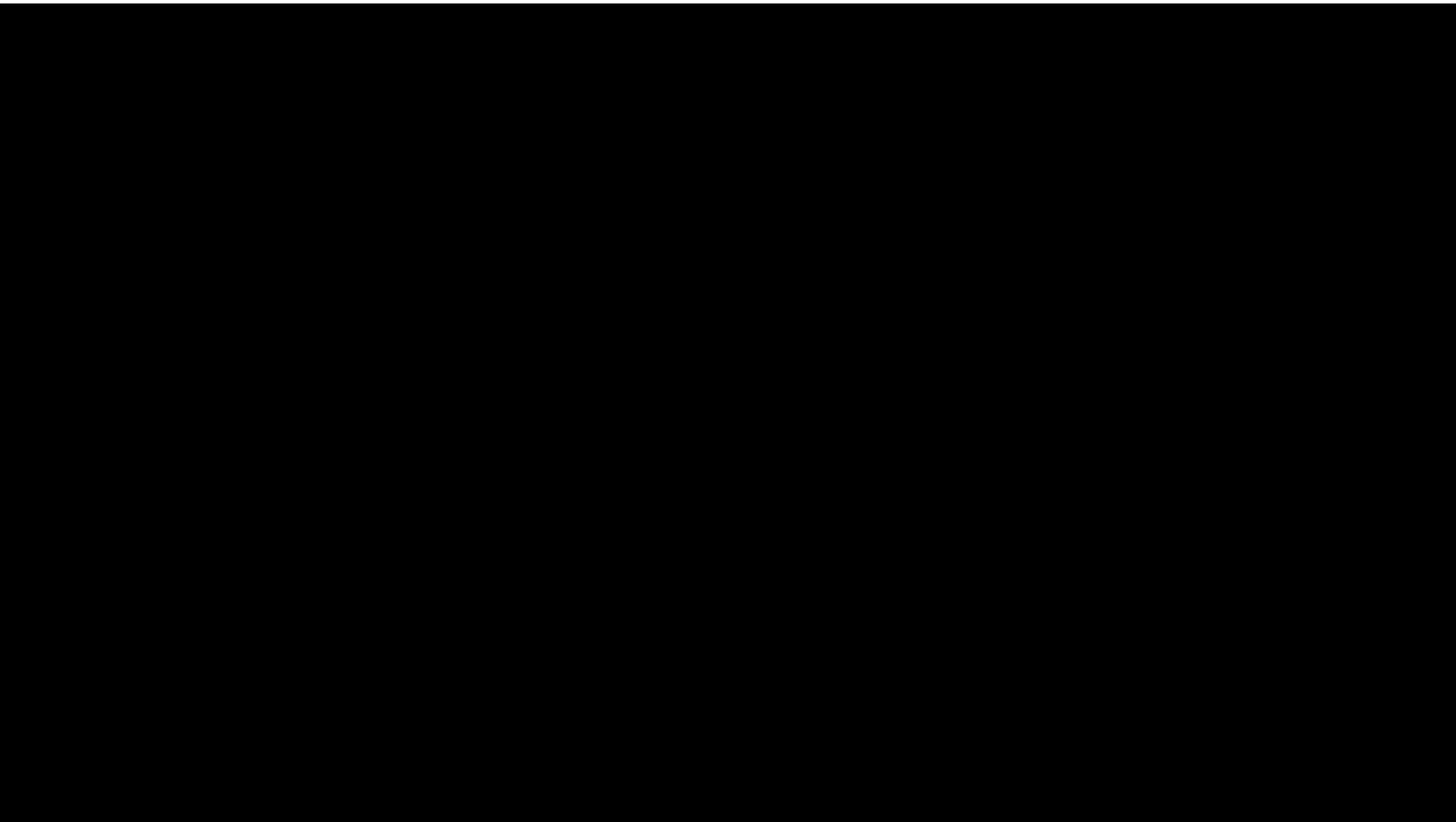
## Key Challenges / Risks / Issues

- Internal audit design assessment begins in December, which will potentially divert resources.

#	Milestone	Owner	Start Date	Target Finish	Status
1	Internal controls developed for Fintech customer oversight	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2	Suspicious Activity Monitoring and Reporting procedure development				
3	Customer Due Diligence procedure / desktop process revisions				
4	CIP procedure / desktop process update				
5	Complete [REDACTED] lookback				
6	Remediate [REDACTED] relationship				
7	Migrate [REDACTED]				
8	Validation of updates				
9	Refresh CDD/EDD on high-risk clients, under the new procedures				

## Items Requiring Executive Action

- [REDACTED]



## Digital Assets Risk Mitigation

Risk Mitigation Action	Status
1. Liquidity Risk Management	<ul style="list-style-type: none"> <li>Off Balance Sheet: \$ [REDACTED] in deposits are held off balance sheet as of November 30.</li> <li>On Balance Sheet: \$ [REDACTED] is held on balance sheet. [REDACTED] % limit for on-balance sheet [REDACTED]</li> <li>Lending Limits: Lending is restricted to [REDACTED] of on-balance sheet deposits (\$ [REDACTED] as of November 30)</li> </ul>
2. [REDACTED] Savings Program Closure	<ul style="list-style-type: none"> <li>[REDACTED] and [REDACTED] mutually agreed to terminate</li> <li>Wind-down is complete and all funds were returned to customers</li> </ul>
3. Exited smaller, non-strategic digital asset relationships	<ul style="list-style-type: none"> <li>[REDACTED] and [REDACTED]. Accounts are closed.</li> </ul>
4. [REDACTED] transaction monitoring	<ul style="list-style-type: none"> <li>We are evaluating options to reduce transactions processed with [REDACTED] by limiting the number of [REDACTED] that [REDACTED] supports</li> <li>Implemented AML stop-gap measures with increased AML resources assigned to review [REDACTED] transaction activity, from [REDACTED] in March to [REDACTED] currently</li> <li>Implemented additional controls to restrict international wires and wires activity with [REDACTED]. [REDACTED] does not have account relationships</li> </ul>
5. Perform lookback of [REDACTED] transactional activity	<ul style="list-style-type: none"> <li>[REDACTED] is in the process of performing the lookback review</li> <li>The surge in requests for addition information has put stress on [REDACTED] resources and response timeframes have extended beyond our [REDACTED] SLA (currently taking [REDACTED] days)</li> <li>[REDACTED] is working to add additional resources, but completion could be delayed by a few weeks</li> </ul>
6. [REDACTED] risk reduction	<ul style="list-style-type: none"> <li>Terminated [REDACTED] of [REDACTED] through [REDACTED]</li> <li>In [REDACTED] we declined two new Crypto [REDACTED] through [REDACTED] and no new Crypto [REDACTED] have been onboarded since March 2023</li> </ul>



## Complaint against

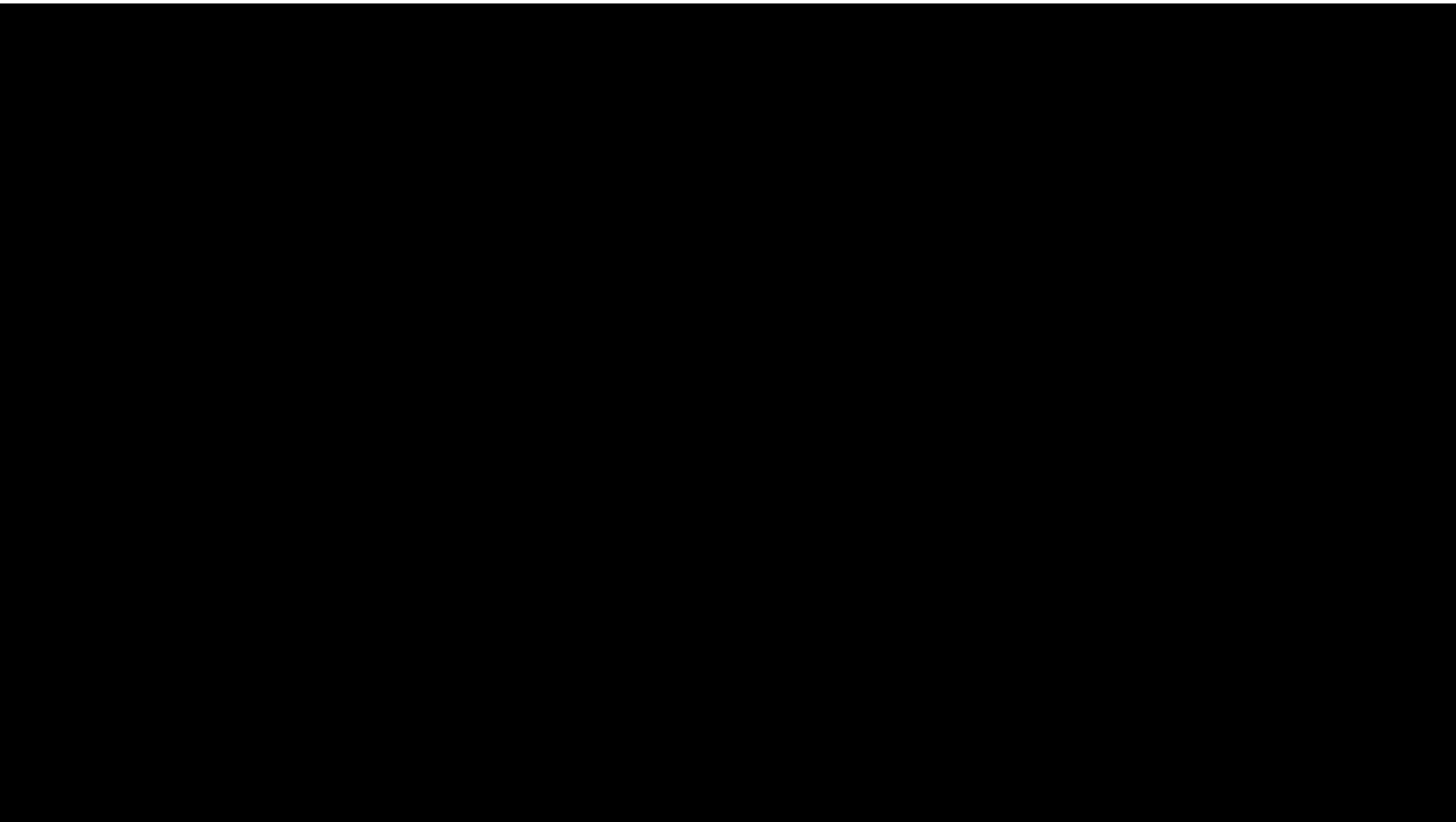
complaint against and , alleging

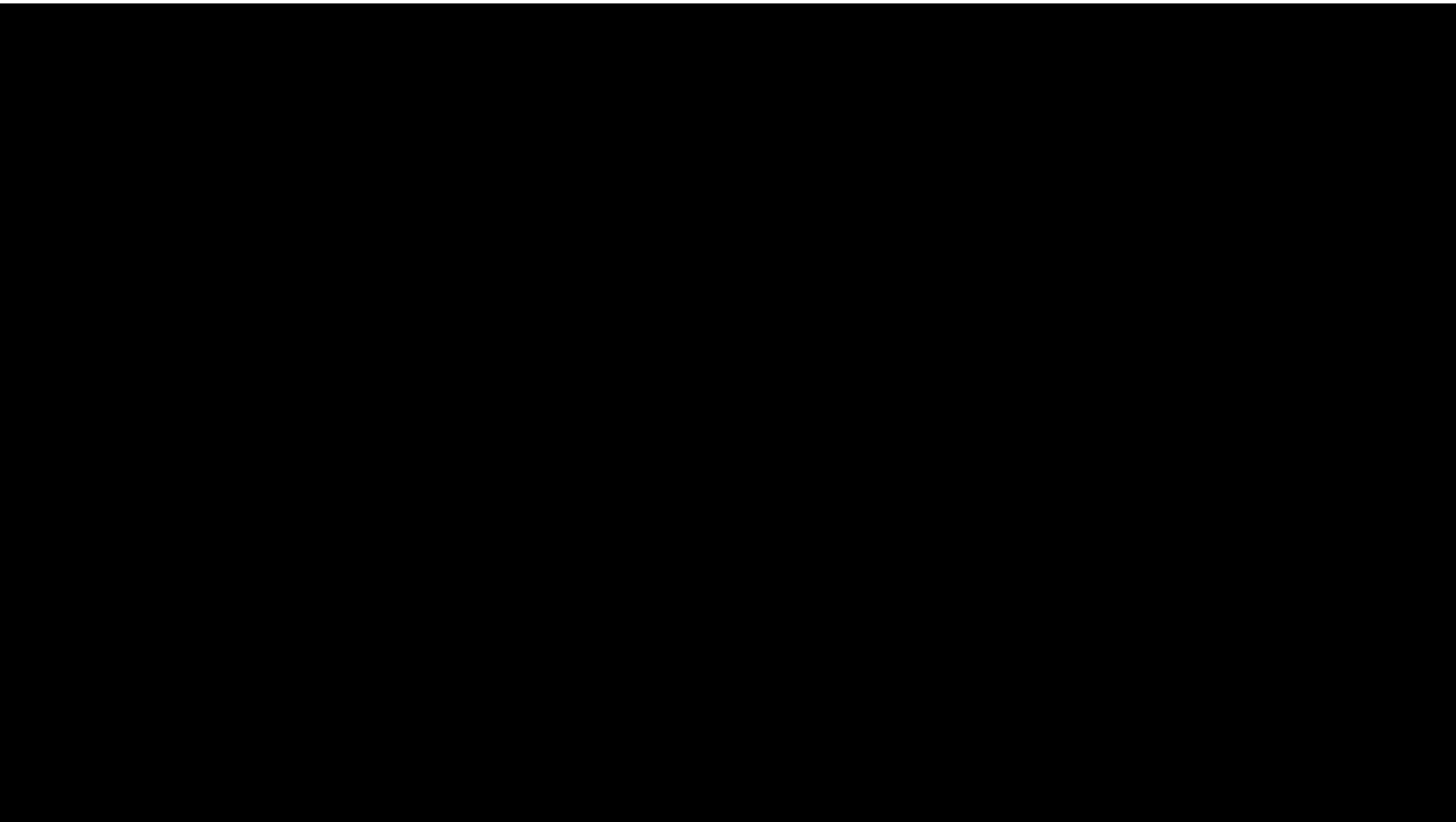
The complaint also alleges that business practices have deficient

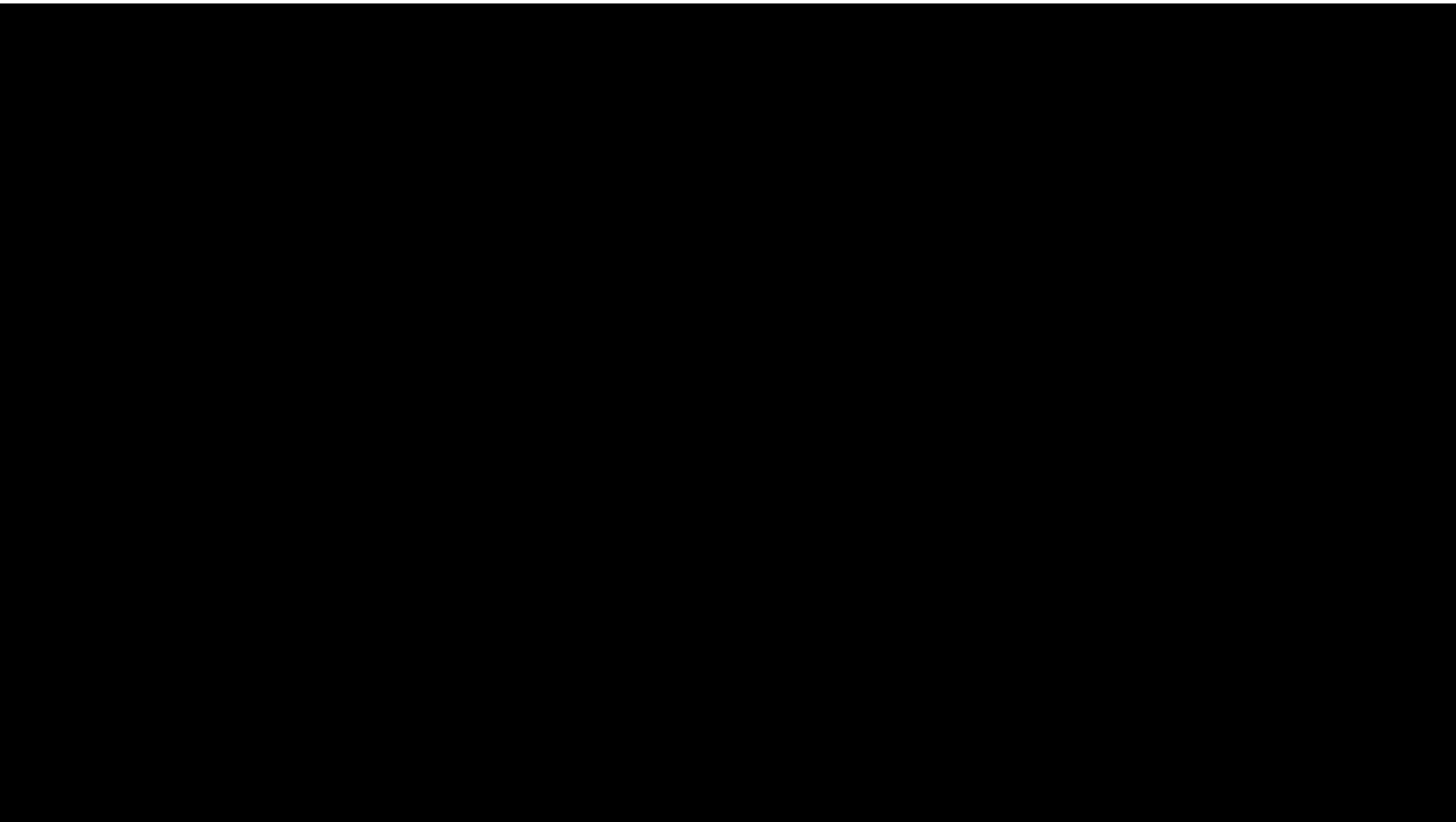
In response to these allegations, has taken certain actions, including:

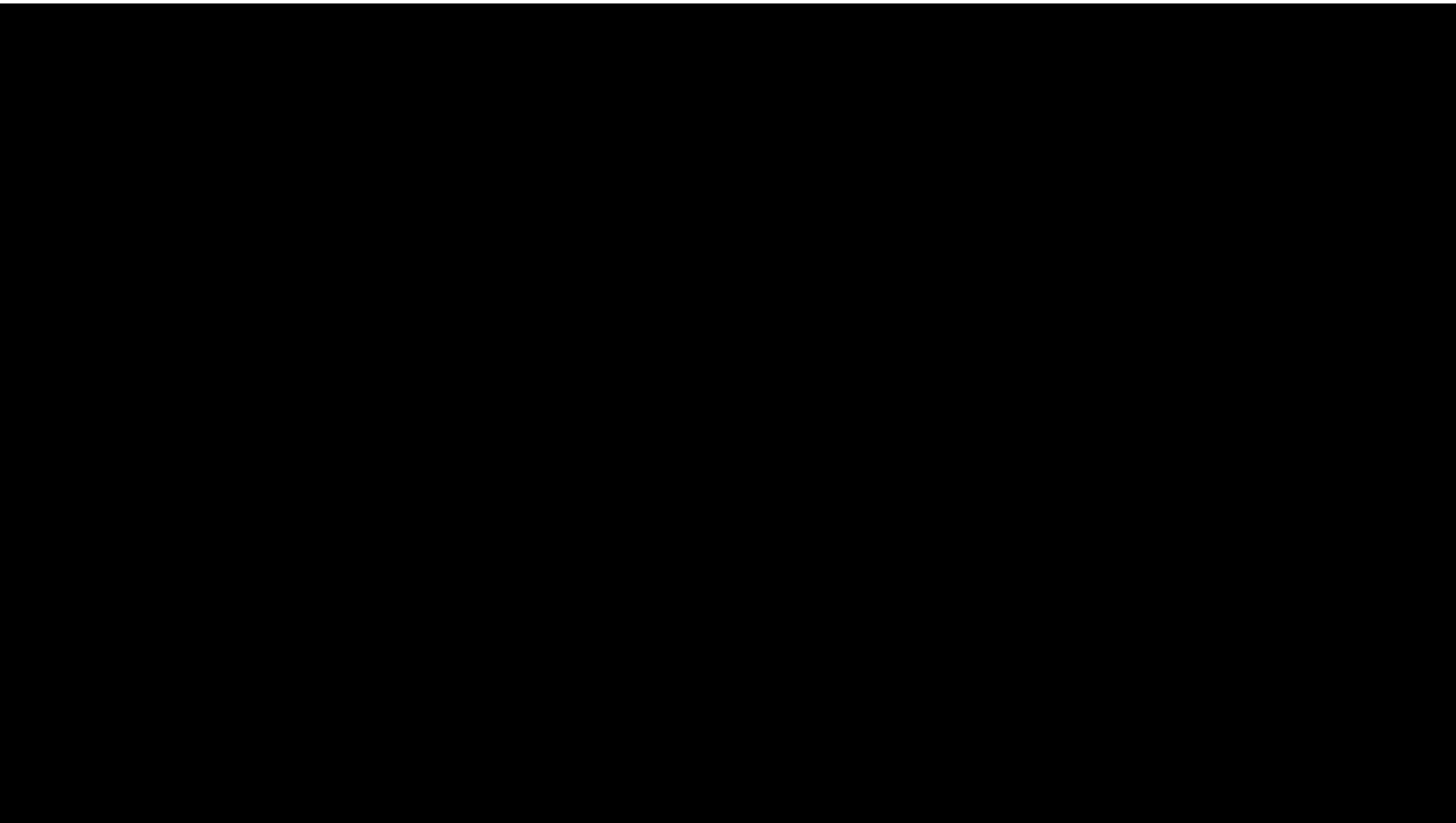
- **Evaluation of accounts for evidence** pulled all outgoing wire transactions during 2023 and reviewed those transactions sent to business entities. The beneficiaries were compared to customer information file and any that could not be confirmed as customers were investigated. No instances were identified.
- **requested Audited Financial Statements:** 2022 financials have not yet been issued, and expects them by year-end. will review the financials for any indications of and determine next steps based on the outcome of that review.

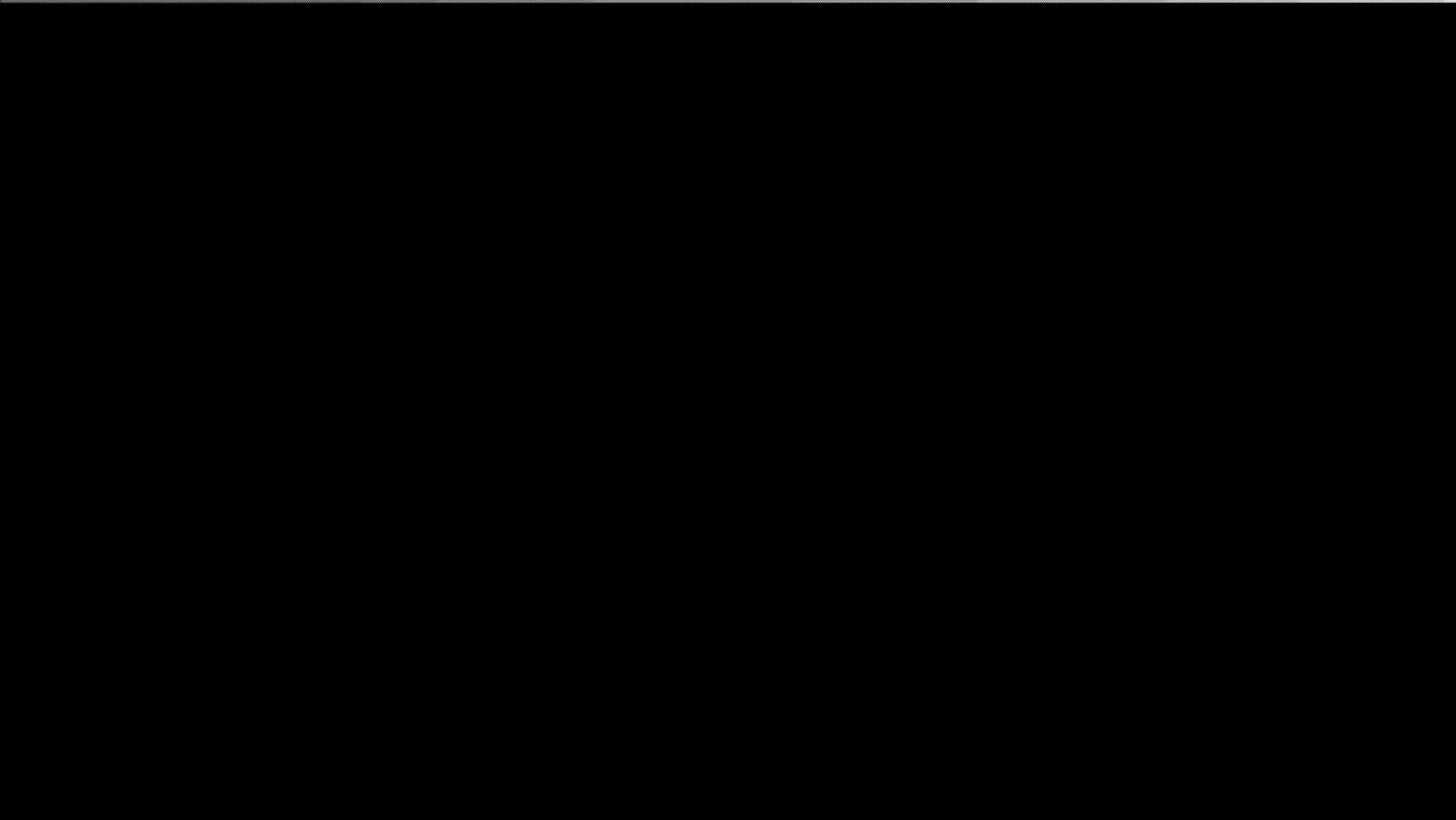
**Liquidity Risk:** In order to monitor liquidity risk associated with customer withdrawals in response to the negative news, Operations team has been providing daily reporting on inflows and outflows. To date, there have not been material changes in funds flows since this complaint was filed. limits its total Digital Asset business deposit exposure to % of total Deposits and only % of those are used to fund borrowing. Cash reserves are sufficient to cover all of the deposits (<\$ on balance sheet) leaving the Bank.











# Exhibit B

[Capital markets](#) · [News](#)

# FDIC publishes crypto 'pause' letters including USDF consortium

January 6, 2025  
by Ledger Insights



In response to freedom of information requests by Coinbase, the Federal Deposit Insurance Corporation ([FDIC](#)) [published](#) minimally redacted letters sent to banks requesting information about their crypto activities and in most cases asking them to pause activities pending feedback. Last year, the FDIC's Office of Inspector General objected that the FDIC had in most cases failed to provide feedback, leaving activities in limbo and impacting innovation.

On behalf of Coinbase, History Associates Inc asserted that the letters demonstrate the FDIC was part of "Operation Choke Point 2.0—a multi-agency effort to de-bank



the digital-asset industry.” With one important exception, these particular letters don’t appear to support the de-banking claim. They reinforce the position of blocking banks from engaging with crypto and public blockchains.

Amongst the 25 letters disclosed, most of the banks wanted to offer their customers the ability to buy Bitcoin via their mobile banking apps. Often times, this was an indirect service to be provided by a third party.

## The FDIC objects to public blockchain for USDF payments

By far the longest letter related to a planned blockchain-based fiat payment system to be operated by a consortium of banks. Despite five pages of tightly typed questions, which undoubtedly were answered, that consortium has so far only participated in Regulated Settlement Network simulations.

While the redactions removed the identities of the bank, we can confirm that the letter relates to the [USDF Consortium](#), which originally planned to launch a payment system using a private protocol on the Provenance public blockchain. On first reading, we suspected the letter related to USDF, because around this time the consortium shifted to a permissioned blockchain approach in a vain attempt to get approval. The use of the term ‘digital markers’ was the final confirmation, given this terminology is specific to USDF.

The letter indicates that the FDIC was interested in the roles of the non bank participants and their involvement in validating transactions. It also had questions about the use of the Hash cryptocurrency and whether banks would need to hold it, although the name ‘Hash’ was redacted.

Given this was before the launch of Fed Now, the FDIC asked the valid question about out of hours liability risks between banks for payments.

## SAB 121 – custody

One of the most contentious crypto issues has been the SEC’s [SAB 121](#) accounting rule, which prevented banks from providing cryptocurrency custody, although that certainly worked in Coinbase’s favor. The crypto exchange has dominated custody for ETFs. While it has been claimed SAB 121 was formulated by the SEC without

consulting other regulators, in many of the letters the FDIC asks for the bank's analysis of SAB 121 and its applicability. This is a not-so-subtle way of saying, 'you cannot provide custody'.

## **Other takeaways**

Not all letters were equal. Apart from the USDF letter, there were three that stood out. One bank was being quite pushy, saying that it planned to launch crypto services on a specific date. It had clearly provided extensive information to the FDIC already. The FDIC's list of questions was far longer than for other banks, querying every claim the bank made, asking for evidence.

Moving on, when assessing risk, there's the accounting concept of materiality. In other words, don't focus on the small, irrelevant stuff. One bank spent \$25,000 on an NFT. There were numerous detailed questions about this particular purchase.

Letter number 25 relates to a bank that wanted to provide deposit account services to a stablecoin but was told to wait for feedback. It is the only letter in the group that appears to block banking services. The New York-based bank first wrote to the FDIC a few days after Circle's USDC stablecoin lost its peg in March 2023, following the collapse of Silicon Valley Bank.

# Exhibit C

**From:** [Soni, Lina D.](#)  
**To:** [Harper, Nick](#)  
**Cc:** [Bond, Jonathan C.](#); [Dober, Andrew J.](#); [Nestor, Branton](#); [Scalia, Eugene](#); [Hauptman, Aaron](#); [REDACTED]  
**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR  
**Date:** Monday, March 3, 2025 2:04:54 PM  
**Attachments:** [image001.png](#)

---

**This Message Is From an External Sender**  
This message came from outside your organization.

Nick, thank you for your email.

The redactions in the February 21, 2025 release to the FOIA Reading Room apply to information covered by FOIA Exemptions 4, 6, and 8 and include: (1) personally identifiable information, institutions' names or information from which the institution's identity could reasonably be ascertained; (2) confidential commercial information; and (3) information from submissions by banks. We are happy to discuss these in greater detail tomorrow.

We are actively working on the seven requests in your Monday, February 24, 2025 email. We expect to have a better idea of when we'll be able to respond to these requests at the end week. If we know more before then, we'll let you know.

We are available from 10 – 10:30. We have a hard stop at 10:30. We look forward to conferring with you tomorrow.

Regards,  
Lina

Lina Soni  
Counsel  
Federal Deposit Insurance Corporation  
3501 Fairfax Drive, D7038  
Arlington, VA 22226  
[REDACTED]  
[REDACTED]



---

**From:** Harper, Nick [REDACTED]  
**Sent:** Monday, March 3, 2025 9:10 AM

**To:** Soni, Lina D. [REDACTED] Dober, Andrew J. [REDACTED]

**Cc:** Bond, Jonathan C. [REDACTED] Nestor, Branton [REDACTED]

Scalia, Eugene [REDACTED] Hauptman, Aaron [REDACTED]  
[REDACTED]

**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

**CAUTION:** External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks very much, Lina. On the redactions, could you please identify the categories of information you have redacted in the February 21 production, as you did for the January 3 production? As for the responses to our February 24 information requests, could you let us know by when you will be able to provide responses? We are happy to receive responses on a rolling basis.

We are available to meet and confer tomorrow between 10 and 12 if that window still works for you. If you could answer the questions above before the meet and confer, we think that would help facilitate the discussion.

Thanks,  
Nick

**Nick Harper**  
Partner

T: [+1 202.887.3534](tel:+1202.887.3534) | [REDACTED]  
[REDACTED]

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
1700 M Street, N.W., Washington, D.C. 20036-4504

---

**From:** Soni, Lina D. [REDACTED]

**Sent:** Friday, February 28, 2025 3:13 PM

**To:** Harper, Nick [REDACTED] Dober, Andrew J. [REDACTED]

**Cc:** Bond, Jonathan C. [REDACTED] Nestor, Branton [REDACTED]

Scalia, Eugene [REDACTED] Hauptman, Aaron [REDACTED]  
[REDACTED]

**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

Nick, thank you for your email. Yes, of course we're happy to notify you of any additional posts to the FDIC's Reading Room that may include potentially relevant material to HAI's

requests and provide you with a corresponding link. Yes, we can also confirm that these are the same eight documents referenced in the Friday, February 21, 2025 Joint Status Report.

Regarding the February 21, 2025 publication to the FDIC FOIA Reading Room, we respectfully disagree with your observations regarding the redactions. The redactions are consistent with the court's instructions and we would be happy to explain our redactions further during our meet and confer call next week.

While we are diligently working through the additional seven requests in your Monday, February 24, 2025 email, we are confronting time and resource constraints. As you are aware, one of the attorneys of record in this matter has recently withdrawn his appearance. We continue to use best efforts in this case and our primary focus remains on completing the agency's response to HAI's FOIA requests. We don't anticipate being able to provide further written responses to your February 24 email by Monday, but we look forward to discussing these topics with you next week at the meet and confer. Please let us know your availability. We are free Tuesday and Wednesday mornings from 9am through noon.

Regards, Lina

Lina Soni  
Counsel  
Federal Deposit Insurance Corporation  
3501 Fairfax Drive, D7038  
Arlington, VA 22226

[REDACTED]  
[REDACTED]



---

**From:** Harper, Nick [REDACTED]  
**Sent:** Monday, February 24, 2025 2:57 PM  
**To:** Soni, Lina D. [REDACTED] [REDACTED] Dober, Andrew J.  
<[adober@FDIC.gov](mailto:adober@FDIC.gov)>; Kurtenbach, Daniel [REDACTED]  
[REDACTED]  
**Cc:** Bond, Jonathan C. [REDACTED] Nestor, Branton [REDACTED]

Scalia, Eugene [REDACTED] Hauptman, Aaron [REDACTED]

**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

**CAUTION:** External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Lina,

Thank you for your responses to our first set of information requests. Below my signature are some additional requests. Some of these are aimed at resolving the concerns we noted in Friday's joint status report; others are aimed at continuing our investigation of the policy-or-practice claims raised in our amended complaint. If you could provide us this information by Monday, March 3, we think that will leave us enough time to meet and confer in advance of the next joint status report deadline on March 7.

Separately, we saw that the FDIC posted eight additional documents to its reading room on Friday (see [here](#)). Can you please confirm that these are the eight documents you found during your review of the 9,000 previously unsearchable documents and that you flagged in Friday's JSR as being "potentially responsive" to our FOIA request? Going forward, if the FDIC posts any additional documents to its reading room that are responsive or potentially responsive to our FOIA request, could you please promptly produce those documents directly to us as well? (Sending a link to posted versions in the FDIC's reading room is fine—we just want to be clear on what the FDIC is providing in response to our requests in connection with this litigation.)

Also, the documents in the February 21 production contain heavy redactions that appear similar in extent to the redactions in the FDIC's first production of pause letters in this case, which prompted the Court's "concern[]" in its December 12 order following in camera review "with what appear[ed] to be FDIC's lack of good-faith effort in making nuanced redactions" and its direction that the FDIC "re-review" those records and "make more thoughtful redactions." We are accordingly concerned that the redactions in the February 21 production do not appear to be consistent with the Court's directions. Can you please produce revised versions of those documents with fewer redactions consistent with the Court's instructions and explain the justifications for any remaining redactions? Among other things, can you please unredact the numerical percentage of the digital-asset-related deposit cap referenced on PDF pages 50, 66, 80, 90, and 91 of the production? There does not appear to be any FOIA-related justification for disclosing the existence of the cap but not the percentage.

Thanks,  
Nick

#### **Information Requests**

1. By what date does the FDIC expect to complete its re-review of documents that hit on crypto-related search terms (referenced in the response to question #2 below)?
2. By what date does the FDIC expect to complete its review of the 70 documents that were

deleted from RADD and recovered from its archives (referenced in the response to question #3 below)?

3. FDIC Directive 1023.01, which you provided in response to question #4 below, does not address how FOIA officers or other employees responsible for responding to FOIA requests should: (1) apply Exemption 8; (2) construe FOIA requests, or (3) ensure the preservation of documents. And it only addresses only at a very high level how (4) FOIA officers or other employees search for records. Please confirm whether the FDIC has any other written policies regarding those four issues, and provide them if they exist. If the FDIC does not have any other written policies, please provide copies of any materials used to train FOIA officers or other FDIC employees responsible for responding to FOIA requests on those four issues.
4. We do not believe that you have answered our question (#5 below) about the details of the due diligence the agency undertook to determine whether documents have been intentionally or unintentionally destroyed when the agency represented to the Court that it had done so at the February 11 hearing. Please specify who the FDIC spoke to, what information those individuals provided, what materials the FDIC reviewed, what if any forensic techniques the FDIC employed, and any other concrete actions taken to investigate this matter both before and after the February 11 hearing that constitute the due diligence the agency described to the Court. Please also let us know if you keep audit logs or other records of actions taken within FDIC databases and, if so, whether you reviewed those audit logs or other records.
5. Is it possible to permanently delete documents from the RADD database without any record of the deleted document remaining in archives? If so, does the agency maintain audit logs or other record of actions taken in RADD, and what if any other safeguards does the agency have in place to make sure that documents are not permanently deleted?
6. Please provide a list of the FDIC's databases and document repositories. For each database, please let us know if you keep audit logs or other records of actions taken within the database.
7. Please describe how the RADD database is searched. Specifically, is the full text of the entries in the database searched, or only metadata? If only metadata, what fields are searched?

**Nick Harper**  
Partner

T: +1 202.887.3534 | [REDACTED]  
[REDACTED]

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
1700 M Street, N.W., Washington, D.C. 20036-4504

---

**From:** Soni, Lina D. [REDACTED]

**Sent:** Wednesday, February 19, 2025 6:01 PM



**To:** Harper, Nick [REDACTED] Dober, Andrew J. [REDACTED] Kurtenbach, Daniel <[DKurtenbach@FDIC.gov](mailto:DKurtenbach@FDIC.gov)>; [REDACTED]  
[REDACTED]

**Cc:** Bond, Jonathan C. [REDACTED] Nestor, Branton [REDACTED]  
Scalia, Eugene [REDACTED] Hauptman, Aaron [REDACTED]

**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

Nick,

Sorry for the late hour. As per your request, our answers are below in red. We know you are supposed to draft a status report. We think this information goes beyond what would normally be included in a joint status report and would be happy to work with you on a brief submission.

1. Please confirm that you have reindexed and searched the 9,000 unsearchable documents within the RADD database discussed in your February 7 Notice and provide any additional responsive documents that you identified during that review.

Yes, we can confirm that the approximately 9,000 previously unsearchable documents have been reindexed. To ensure redundancy and in an effort to be thorough, we re-ran the previous RADD search on the entire universe of documents in the Correspondence Folders for all banks in RADD (approximately 5,200 institutions), including the 9,000 or so that previously were unsearchable. We continue to review documents and expect to be in a position to redact and publish an additional 8 documents to the FOIA reading room by the end of this week.

2. Please provide the status of the ongoing “quality control review of RADD” described in your February 5 email and whether it has revealed any additional responsive documents.

We have undertaken several quality control measures to ensure the accuracy of our production. First, we leveraged a copy of RADD’s Correspondence Folders on another FDIC platform. We ran searches on that platform and cross-compared them to the RADD searches using purview searches. This gave us confidence using the RADD search function.

Second, we are currently re-reviewing documents that hit on crypto-related search terms but did not necessarily contain the word pause or similar language in the RADD Correspondence Folders for all FDIC-supervised institutions that were not in the FDIC’s tracking system. Again, this is being done to demonstrate the FDIC’s commitment to

enhanced transparency, beyond what is required by the Freedom of Information Act (FOIA), while also attempting to fulfill the spirit of the FOIA request. If there are any responsive documents, we intend to redact and publish to the FOIA reading room. We will endeavor to produce promptly and will keep you posted as we work together to prepare future joint status reports.

3. Please confirm whether the RADD database keeps records of deleted documents. If so, please describe the nature of those records, how long they are preserved, whether any such records currently exist, and whether they were searched in response to our FOIA request and the Court's orders.

Yes, the RADD database keeps records of "deleted" documents from the Correspondence Folder. All supervisory business records, including "deleted" documents, are retained in the RADD or archived for 30 years pursuant to the FDIC's Record Retention schedule (with some exceptions not relevant here).

The Court did not require the FDIC to review archived documents. *See* February 11, 2025 Transcript, 15:24-16:1. Nevertheless, in an effort to assuage any concerns you may have, we undertook a search of all archived documents for over 100 Banks from 11.8.23 – 1.23.25 from RADD's Correspondence Folder and found approximately 160 archived documents. The more than 100 banks include the 24 banks that received "pause letters" as detailed in the FDIC's Office of Inspector General's (OIG) October 2023 report entitled "FDIC Strategies Related to Crypto-Asset Risks" (FDIC OIG EVAL-24-01 Oct. 2023), as well as approximately 80 FDIC-supervised banks from our internal tracking system that were not the 24 banks discussed above. Approximately 90 are duplicates or rescans. We are in the process of pulling the other approximately 70 documents for review. If any are responsive, we will redact and publish them in the FOIA reading room. However, based on the known coding and metadata, we believe that the likelihood that documents are responsive is very low. Please note this is a laborious and time-consuming effort on a legacy system. We are happy to discuss this further with you.

4. Please provide copies of any written policies regarding how FOIA officers or other employees responsible for responding to FOIA requests: (1) apply Exemption 8; (2) construe FOIA requests; (3) search for records responsive to FOIA requests; and (4) ensure the preservation of documents responsive to FOIA requests both upon filing of the request and a lawsuit challenging the FDIC's decision on the request.

We refer you to FDIC Directive 1023.01 – Freedom of Information Act Requests, *see* [FDIC Directive 1023.01, Change 1, Freedom of Information Act Requests](#). FOIA officers are

guided by the law to conduct a reasonable search, which is determined on a case-by-case basis. FOIA responses are retained for 6 years after the Corporation's final determination or 3 years after court's final determination of appeal, whichever is longer.

5. Please describe the measures the FDIC has had in place since January 1, 2022, as well as the additional "safeguards" described during the February 11 status conference that the FDIC implemented during this litigation, to ensure that documents are preserved and are not intentionally or unintentionally destroyed.

The RADD is backed up every 24 hours and, pursuant to the FDIC's Record Retention schedule, all supervisory business records are retained for 30 years (with some exceptions not relevant here). Notwithstanding these measures, the agency has placed over 300 FDIC employees as well as the RADD Correspondence Folders for over 100 banks on hold.

6. Please describe any known instances since January 1, 2022, of documents within FDIC repositories or databases having been intentionally or unintentionally destroyed.

We note that your February 14 email clarified that you were requesting "details of any due diligence the agency undertook to determine whether documents have been intentionally or unintentionally destroyed." As stated before, RADD is the central repository for supervisory business records and therefore is the most reasonable place for the agency to search for records relevant to the FOIA requests and the court's orders. Pursuant to the FDIC's Record Retention schedule, supervisory business records are (with some exceptions not relevant here) retained for 30 years. Therefore, all relevant documents are stored in RADD. Also, please see our Response to #3 above.

Regards,  
Lina

Lina Soni  
Counsel  
Federal Deposit Insurance Corporation  
3501 Fairfax Drive, D7038  
Arlington, VA 22226





---

**From:** Harper, Nick [REDACTED]  
**Sent:** Friday, February 14, 2025 8:01 PM  
**To:** [REDACTED] Soni, Lina D. [REDACTED]; Dober, Andrew J. [REDACTED]; Kurtenbach, Daniel <[DKurtenbach@FDIC.gov](mailto:DKurtenbach@FDIC.gov)>; [REDACTED]  
**Cc:** Bond, Jonathan C. [REDACTED]; Nestor, Branton [REDACTED]; Scalia, Eugene [REDACTED]; Hauptman, Aaron [REDACTED]  
**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

**CAUTION:** External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks Herb; we appreciate it. On Request #6, Ms. Soni mentioned at this week's hearing that the FDIC had done some "due diligence into whether or not any [document] destruction took place" (see attached transcript at 11). If you could let us know the details of any due diligence the agency undertook to determine whether documents have been intentionally or unintentionally destroyed, that would be great.

**Nick Harper**  
Partner

T: [+1 202.887.3534](tel:+12028873534) | [REDACTED]  
[REDACTED]

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
1700 M Street, N.W., Washington, D.C. 20036-4504

---

**From:** [REDACTED]  
**Sent:** Friday, February 14, 2025 2:43 PM  
**To:** Harper, Nick [REDACTED]; Soni, Lina D. [REDACTED]; Dober, Andrew J. [REDACTED]; Kurtenbach, Daniel [REDACTED]  
**Cc:** Bond, Jonathan C. [REDACTED]; Nestor, Branton [REDACTED]; Scalia, Eugene [REDACTED]; Hauptman, Aaron [REDACTED]  
**Subject:** RE: [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

Nick, thank you for your email regarding the February 21 Joint Status Report. As the Court urged, we look forward to working cooperatively with you and your team to resolve this litigation. In that vein, we are diligently working on providing answers to your questions and, per your request, will provide responses by February 19. To the extent that we need additional time to track down answers, we will also let you know that by February 19. While we are diligently working on answers to all your requests, please understand that we are prioritizing and concurrently working to complete our document review and any necessary production in response to your client's FOIA requests.

We are concerned, however, with the breadth of Request No. 6. To the best of our present knowledge and belief, there has been no intentional or unintentional destruction of relevant documents. If you have any credible evidence to the contrary, please let us know and we'd be happy to do our due diligence to investigate.

Regards,

Herb

[REDACTED]  
Counsel, Corporate Litigation Unit  
**Federal Deposit Insurance Corporation**

[REDACTED]  
[fdic.gov](https://www.fdic.gov)



---

**From:** Harper, Nick [REDACTED]  
**Sent:** Wednesday, February 12, 2025 11:53 AM  
**To:** [REDACTED]; Soni, Lina D. [REDACTED]; Dober, Andrew J. [REDACTED]; Kurtenbach, Daniel [REDACTED]  
[REDACTED]  
**Cc:** Bond, Jonathan C. [REDACTED]; Nestor, Branton [REDACTED]; Scalia, Eugene [REDACTED]; Hauptman, Aaron [REDACTED]  
**Subject:** [EXTERNAL MESSAGE] History Associates v. FDIC, No. 1:24-cv-1857-ACR

**CAUTION:** External email. Do not click links or open attachments unless you

recognize the sender and know the content is safe.

Counsel:

Per the Court's instructions at the status conference that we work collaboratively to investigate the claims raised in our amended complaint, below is an initial list of information we would like you to provide. If you could provide this information by Wednesday, February 19, so that we can draft a status report updating the Court by the February 21 deadline, we would appreciate it.

1. Please confirm that you have reindexed and searched the 9,000 unsearchable documents within the RADD database discussed in your February 7 Notice and provide any additional responsive documents that you identified during that review.
2. Please provide the status of the ongoing "quality control review of RADD" described in your February 5 email and whether it has revealed any additional responsive documents.
3. Please confirm whether the RADD database keeps records of deleted documents. If so, please describe the nature of those records, how long they are preserved, whether any such records currently exist, and whether they were searched in response to our FOIA request and the Court's orders.
4. Please provide copies of any written policies regarding how FOIA officers or other employees responsible for responding to FOIA requests: (1) apply Exemption 8; (2) construe FOIA requests; (3) search for records responsive to FOIA requests; and (4) ensure the preservation of documents responsive to FOIA requests both upon filing of the request and a lawsuit challenging the FDIC's decision on the request.
5. Please describe the measures the FDIC has had in place since January 1, 2022, as well as the additional "safeguards" described during the February 11 status conference that the FDIC implemented during this litigation, to ensure that documents are preserved and are not intentionally or unintentionally destroyed.
6. Please describe any known instances since January 1, 2022, of documents within FDIC repositories or databases having been intentionally or unintentionally destroyed.

Thanks very much,  
Nick

**Nick Harper**  
Partner

T: +1 202.887.3534 | [REDACTED]  
[REDACTED]

**GIBSON DUNN**  
Gibson, Dunn & Crutcher LLP  
1700 M Street, N.W., Washington, D.C. 20036-4504

---



This message may contain confidential and privileged information for the sole use of the intended recipient. Any review, disclosure, distribution by others or forwarding without express permission is strictly prohibited. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

Please see our website at <https://www.gibsondunn.com/> for information regarding the firm and/or our privacy policy.

---

This message may contain confidential and privileged information for the sole use of the intended recipient. Any review, disclosure, distribution by others or forwarding without express permission is strictly prohibited. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

Please see our website at <https://www.gibsondunn.com/> for information regarding the firm and/or our privacy policy.

---

This message may contain confidential and privileged information for the sole use of the intended recipient. Any review, disclosure, distribution by others or forwarding without express permission is strictly prohibited. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

Please see our website at <https://www.gibsondunn.com/> for information regarding the firm and/or our privacy policy.

---

This message may contain confidential and privileged information for the sole use of the intended recipient. Any review, disclosure, distribution by others or forwarding without express permission is strictly prohibited. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

Please see our website at <https://www.gibsondunn.com/> for information regarding the firm and/or our privacy policy.

---