# United States Court of Appeals for the Second Circuit

August Term, 2025

(Argued: January 26, 2026 Decided: September 9, 2026)

Docket No. 25-567-bk

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IN RE: SVB FINANCIAL GROUP,

*Debtor*.

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SVB FINANCIAL TRUST,

*Debtor-Appellant*,

OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

*Creditor*,

v.

FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR SILICON VALLEY BANK AND SILICON VALLEY BRIDGE BANK, N.A.,

*Appellee*.

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Before:

LOHIER, *Chief Judge*, CHIN and MENASHI, *Circuit Judges*.

When SVB Financial Group ("SVB Financial") filed for Chapter 11 bankruptcy in the Southern District of New York, its reorganization plan proposed to extinguish the defensive setoff rights that the Federal Deposit Insurance Corporation ("FDIC") asserted in SVB Financial's separate federal lawsuit against the FDIC in the Northern District of California. According to the reorganization plan, the FDIC forfeited its right to assert a defensive setoff by failing to file a proof of claim in the bankruptcy proceeding. The FDIC objected to the plan, and the United States Bankruptcy Court for the Southern District of New York (Glenn, *B.J.*) sustained the FDIC's objection. Chief Judge Glenn concluded that the FDIC's defensive setoff rights are not "claims" that require the filing of a proof of claim. *See* 11 U.S.C. § 101(5)(A). On direct appeal, we hold that the FDIC was not required to file a proof of claim in the bankruptcy proceeding to preserve its defensive setoff rights in the California proceeding. The FDIC's defensive setoff rights, which are here asserted under California law, are not claims within the meaning of the Bankruptcy Code. **AFFIRMED**.

GREGORY G. GARRE (Eric J. Konopka, Christina R. Gay, Timothy J. Borgerson, *on the brief*), Latham & Watkins LLP, Washington, DC, *for Debtor-Appellant*.

MICHELLE OGNIBENE, Counsel (Dominic A. Arni, Assistant General Counsel, J. Scott Watson, Senior Counsel, *on the brief*), Federal Deposit Insurance Corporation, Arlington, VA, *for Appellee*.

LOHIER, *Chief Judge*:

The creditor of a debtor in bankruptcy typically files a proof of claim to participate in the distribution of the estate. *See* 11 U.S.C. § 501; Fed. R. Bankr. P. 3003(c)(2). With some exceptions not relevant to this appeal, "[a] creditor who fails to do so will not be treated as a creditor for that claim for . . . distribution." Fed. R. Bankr. P. 3003(c)(2). The requirement that a creditor file a proof of claim applies to a "claim," which, as relevant here, the Bankruptcy Code defines simply as a "right to payment." 11 U.S.C. § 101(5)(A). "The right of setoff . . . allows entities that owe each other money to apply their mutual debts against each other, thereby avoiding the absurdity of making A pay B when B owes A." *Citizens Bank of Md. v. Strumpf*, 516 U.S. 16, 18 (1995) (quotation marks omitted). A creditor's right of setoff may exist as an affirmative defense under state law to extinguish or reduce the creditor's potential obligation to the debtor in a separate proceeding commenced by the debtor against the creditor, or it may serve as a type of counterclaim under state law that permits affirmative recovery. *See Arch Ins. Co. v. Precision Stone, Inc.*, 584 F.3d 33, 41–42 (2d Cir. 2009).[1] The question presented is whether a purely defensive right of setoff is a "claim"

[1] *See also* Mary Kay Kane and Howard M. Erichson, 6 Fed. Prac. & Proc. Civ. § 1401 (3d ed.) (discussing the history of setoff and recoupment and explaining that, at common law, "setoff permitted defendant to assert an affirmative claim for relief"). *Contrast* Glenda K. Harnad, 20 Am. Jur. 2d Counterclaim, Recoupment, Etc. § 6 ("Although setoff may be used to offset a plaintiff's claim, it may not be used to recover affirmatively."), *with* 3 J. Story & W.H. Lyon, *Commentaries on Equity Jurisprudence as Administered in England and America* § 1870 (14th ed. 1918) ("Set-off is a counter demand which the defendant has against the plaintiff . . . . If the set-off allowed be more than the allowable claim of the plaintiff, judgment for the excess may, in the action, be awarded to the defendant against the plaintiff.").

under 11 U.S.C. § 101(5)(A). If the answer is no, then the creditor's failure to file a proof of claim does not result in forfeiture of the defensive setoff right or preclude the creditor from effectuating the setoff in the future.

When SVB Financial Group ("SVB Financial") filed for Chapter 11 bankruptcy in 2023 in the wake of the spectacular collapse of its subsidiary, Silicon Valley Bank ("SVB"), its reorganization plan proposed to extinguish the defensive setoff rights asserted under California law by the Federal Deposit Insurance Corporation ("FDIC") in SVB Financial's separate proceeding against the FDIC in the Northern District of California. SVB Financial maintains that the FDIC forfeited its right to assert a defensive setoff by failing to file a proof of claim in the bankruptcy proceeding. The United States Bankruptcy Court for the Southern District of New York (Glenn, *B.J.*) sustained the FDIC's objection to the reorganization plan. Chief Judge Glenn determined, among other things, that the FDIC's defensive setoff rights are not "claims" that require the filing of a proof of claim in the bankruptcy proceeding. As explained below, we agree that the FDIC was not required to file a proof of claim to preserve its defensive setoff rights. **AFFIRMED**.

I

In March 2023 SVB found itself squeezed by rising interest rates and steep losses in the value of its investments. On March 10, after a run on the bank by panicked depositors, SVB collapsed. Its failure prompted the California Department of Financial Protection and Innovation to appoint the FDIC as SVB's receiver. Worried that SVB's demise would spur further panic that would spread to other banks, then-Secretary of the Treasury Janet Yellen invoked the "[s]ystemic risk" exception, *see* 12 U.S.C. § 1823(c)(4)(G), which authorized the FDIC to guarantee SVB's uninsured deposits in full. One day later, on March 13, 2023, the FDIC created Silicon Valley Bridge Bank, N.A. ("Bridge Bank"), transferred nearly all of SVB's assets and liabilities to the Bridge Bank, and informed depositors that they would be able to withdraw their funds as early as that same day.

SVB's parent company, SVB Financial (now SVB Financial Trust[2]), had more than $2 billion in deposits with SVB before the March 10 collapse. In response to the FDIC's guarantee to depositors, SVB Financial initially withdrew

[2] Pursuant to § 5.5 of the Second Amended Plan of Reorganization, SVB Financial Trust was substituted for SVB Financial Group in all pending litigation, including this appeal, after the Plan became effective. We refer to SVB Financial Trust and SVB Financial Group interchangeably as "SVB Financial."

over $150 million from the Bridge Bank on March 15 and 16, 2023. The FDIC soon stopped SVB Financial from withdrawing additional funds, however, until the FDIC could determine whether SVB's deposit liabilities were subject to setoff against any debt SVB Financial owed to the FDIC (as SVB's receiver) for mismanaging SVB.

On March 17, 2023, SVB Financial filed a voluntary petition for Chapter 11 bankruptcy in the Southern District of New York. The Bankruptcy Court entered an order ("Bar Date Order") establishing a deadline for governmental units, including the FDIC, "assert[ing] a claim, as defined in [§] 101(5) of the Bankruptcy Code," to file proofs of claim. App'x 120. The Bar Date Order provided as follows:

> [A]ll holders of claims that fail to comply with this Order by timely filing a proof of claim . . . shall be forever barred, estopped[,] and enjoined from asserting the applicable claim . . . against the Debtor or property of the estate and shall not be treated as a creditor with respect to such claim for purposes of voting on or distribution under any plan of reorganization filed in this chapter 11 case.

App'x 123. The FDIC never filed a proof of claim for any setoff rights.

In March 2024, while the bankruptcy case in New York was proceeding, SVB Financial sued the FDIC in the United States District Court for the Northern

District of California to recover its deposits.[3] In May 2024 in the same California federal district court proceeding, the FDIC, in its capacity as receiver for SVB, responded to SVB Financial's suit by filing a statement identifying the setoff rights it intended to raise as an affirmative defense in the California action and "the alleged magnitude" of the setoffs. App'x 591. The FDIC filed notice of that statement in the Bankruptcy Court the same day. Seven days later, the FDIC filed a different document in the Bankruptcy Court again identifying its setoff rights.[4]

SVB Financial eventually filed the reorganization plan at issue in this appeal in the Bankruptcy Court in July 2024. In its objection, the FDIC zeroed in on § 10.7 of SVB Financial's reorganization plan, which provides:

> In no event will any Person or Entity be entitled to set off any Claim or Interest against any Claim or Interest, right, or Cause of Action and Defense of the Debtor . . . in any judicial or administrative proceeding, unless such Person or Entity has filed a Proof of Claim in this Chapter 11

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[3] The Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) authorized SVB Financial to file its suit in the Northern District of California, SVB's principal place of business, after the FDIC disallowed SVB Financial's claim in the administrative claims process. *See* 12 U.S.C. §§ 1821(d)(6), (d)(13)(D).

[4] In August 2026 the United States District Court for the Northern District of California entered judgment in favor of the FDIC in relevant part, ordering a "complete setoff" of SVB Financial's $1.71 billion claim. *SVB Fin. Tr. v. FDIC*, No. 5:24-CV-01321, 2026 WL 2547402, at *120 (N.D. Cal. Aug. 28, 2026).

> Case preserving such setoff and a Final Order of the Bankruptcy Court has been entered, authorizing and approving such setoff.

Spec. App'x 153. The FDIC argued that § 10.7 improperly extinguished the defensive setoff rights it asserted in the California action merely because it had not filed a proof of claim in the bankruptcy proceeding.

The Bankruptcy Court sustained the FDIC's objection by order entered August 2, 2024, ruling among other things that the FDIC's defensive setoff rights are not "claims" within the meaning of § 101(5) of the Bankruptcy Code and that the FDIC did not need to file a proof of claim to preserve those rights.[5] A District Judge (Clarke, *J.*) certified that the Bankruptcy Court's order raises unsettled questions of law and we authorized this direct appeal. *See* 28 U.S.C. § 158(d)(2)(A).

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[5] The Bankruptcy Court sustained the FDIC's objection on an additional, alternative ground. The court concluded that the FDIC's setoffs satisfied the requirements of 11 U.S.C. § 553, which preserves setoff rights in bankruptcy, and that the FDIC's failure to file a proof of claim did not constitute forfeiture of its defensive setoff rights.

## II

"With no findings of fact in question, we review the [B]ankruptcy [C]ourt's conclusions of law *de novo*." *Pension Benefit Guar. Corp. v. Oneida Ltd.*, 562 F.3d 154, 156 (2d Cir. 2009).

SVB Financial's principal challenge to the Bankruptcy Court's order is that the FDIC was required to file a proof of claim to preserve its defensive setoff rights because those rights are "claims" under § 101(5) of the Bankruptcy Code. The FDIC disputes that its asserted defensive setoff rights themselves qualify as "claims." It also insists that § 553 of the Bankruptcy Code overrides the proof-of-claim requirement, *see* 11 U.S.C. § 553(a), and that such a requirement in any event would conflict with the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), *see* 12 U.S.C. § 1821(d)(6)(A).

### A

An "entity that has a *claim*" may file a proof of claim. 11 U.S.C. § 101(10)(A) (emphasis added); *see id.* § 501(a); Fed. R. Bankr. P. 3001(a). But "[n]ot every creditor in a Chapter 11 case is required to file a proof of claim." *In re Hooker Invs., Inc.*, 937 F.2d 833, 835 (2d Cir. 1991). A creditor "*must* file a proof of claim" for a "claim" that is not entered on a debtor's schedule of liabilities or is "scheduled as disputed, contingent, or unliquidated" if the creditor seeks to participate in the distribution of the estate. Fed. R. Bankr. P. 3003(c)(2) (emphasis added). Filing a proof of claim is otherwise "unnecessary." Fed. R. Bankr. P. 3003(b)(1).

The Bankruptcy Court's Bar Date Order instructs all entities "assert[ing] a *claim*, as defined in [§] 101(5) of the Bankruptcy Code," to file a proof of claim by a specified date. App'x 120 (emphasis added). "[A]ll holders of claims that fail to . . . timely fil[e] a proof of claim," the Bar Date Order provides, are "forever barred, estopped[,] and enjoined from asserting the[ir] claim" against SVB Financial. App'x 123; *see* Fed. R. Bankr. P. 3003(c)(2). So long as the FDIC's defensive setoff rights are not "claims" within the meaning of the Bankruptcy Code, the Bar Date Order does not require the FDIC to file a proof of claim to preserve its defensive setoff rights.

B

The full text of § 101(5)(A) defines a "claim" as a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." 11 U.S.C. § 101(5)(A). Although "the definition's reach is not infinite," *Pension Benefit Guar. Corp.*, 562 F.3d at 157 (quotation marks omitted), Congress intended it to be "sufficiently broad to encompass any possible right to payment," *In re Mazzeo*, 131 F.3d 295, 302 (2d Cir. 1997); *see Johnson v. Home State Bank*, 501 U.S. 78, 83 (1991) ("Congress intended by this language to adopt the broadest available definition of 'claim.'"). Even claims that might be unenforceable under substantive non-bankruptcy law—for example, those beyond the statute of limitations—fall within the definition's broad reach. *See Midland Funding, LLC v. Johnson*, 581 U.S. 224, 229–30 (2017). With that in mind, we previously explained that "the existence of a valid bankruptcy claim depends on (1) whether the claimant possessed a right to payment, and (2) whether that right arose before the filing of the petition" for bankruptcy. *Pension Benefit Guar. Corp.*, 562 F.3d at 157 (quotation marks omitted).

"Although no federal right of setoff is created by the Bankruptcy Code, 11 U.S.C. § 553(a) provides that, with certain exceptions, whatever right of setoff otherwise exists" under non-bankruptcy law "is preserved in bankruptcy." *Strumpf*, 516 U.S. at 18; *see* 11 U.S.C. § 553. "[T]he substantive non-bankruptcy law that gives rise" to the claimant's right determines whether the claimant has a right to payment against the estate. *See Pension Benefit Guar. Corp.*, 562 F.3d at 157; *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 450–51 (2007).

As SVB Financial agreed at oral argument, the FDIC's defensive setoff rights derive from California law. *See* Oral Arg. 7:27–7:38, 12:00–12:20. Under California law, the FDIC's asserted setoff rights are an affirmative defense that may "defeat" a "claim in whole or in part." *Constr. Protective Servs., Inc. v. TIG Specialty Ins. Co.*, 29 Cal. 4th 189, 198 (2002). Section 431.70 of the California Civil Procedure Code provides:

> Where cross-demands for money have existed between persons at any point in time when neither demand was barred by the statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in the answer the defense of payment in that the two demands are compensated so far as they equal each other . . . .

Cal. Civ. Proc. Code § 431.70. The California Supreme Court has accordingly held that "a defendant may not obtain an award of affirmative relief against a plaintiff by way of [§] 431.70; rather, the defendant may only assert the setoff defensively to defeat the plaintiff's claim in whole or in part." *Constr. Protective Servs., Inc.*, 29 Cal. 4th at 198.

The funds at issue here are not titled to SVB Financial, which merely has a cause of action to recover them. *See* Oral Arg. 24:10–24:30. The FDIC, relying on § 431.70, asserts a right to offset any amount owed to SVB Financial should its federal lawsuit against the FDIC prevail against any losses attributable to SVB Financial's mismanagement of SVB. Because the FDIC neither seeks nor is authorized to "obtain an award of affirmative relief" against SVB Financial, however, the FDIC's setoff rights are correctly described as "defensive[]," which is to say contingent on SVB Financial winning its suit. *Constr. Protective Servs., Inc.*, 29 Cal. 4th at 198; *see* Cal. Civ. Proc. Code § 431.70. In other words, the FDIC asserts its "setoff" as an "affirmative defense[]." *City of Stockton v. Superior Court*, 42 Cal. 4th 730, 746 (2007).

SVB Financial counters that a setoff to amounts the FDIC owes is still practically speaking a payment to the FDIC. But that argument appears to be foreclosed by our decision in *In re Villarie.* There we held that a creditor did not hold a "right to payment" or a "claim" under the Bankruptcy Code if it merely had a right under state law to offset what it pays to the debtor but not a "right to sue" the debtor to recover the amount that it had advanced to the debtor. 648 F.2d 810, 812 (2d Cir. 1981) (quotation marks omitted). Right off the bat in light of *Villarie*, then, the FDIC's defensive setoff rights, which do not entitle the FDIC to an award of affirmative relief against SVB Financial, do not appear to constitute a "right to payment" within the meaning of the Bankruptcy Code's definition of "claim." *See id.*; *In re Chateaugay Corp.*, 944 F.2d 997, 1003 (2d Cir. 1991).

To be clear, claims need not authorize recovery *against the debtor in personam* to qualify as claims under the Code. In *Johnson v. Home States Bank*, for example, the Supreme Court held that a mortgagor's interest in a debtor's farm remained a claim within the meaning of the Code even after the mortgagor's *in personam* interest against the debtor was extinguished. *See* 501 U.S. at 84. In such a case, the mortgagor "still retains a 'right to payment' in the form of its right to the proceeds from the sale of the debtor's property," or has "a 'right to an equitable remedy' for the debtor's default on the underlying obligation." *Id.* (quoting 11 U.S.C. § 101(5)). "Either way, there can be no doubt that the surviving mortgage interest corresponds to an 'enforceable obligation' of the debtor." *Id.* (quoting *Pa. Dep't of Pub. Welfare v. Davenport*, 495 U.S. 552, 559 (1990)). In this case, California law does not allow a setoff holder to obtain *any* affirmative relief. *See Constr. Protective Servs., Inc.*, 29 Cal. 4th at 198. The

California law setoff provides no avenue for the FDIC to collect funds from SVB Financial or its property. It is merely an "affirmative defense[]." *City of Stockton*, 42 Cal. 4th at 746; *see also Morris Cerullo World Evangelism v. Newport Harbor Off. & Marina, LLC*, 67 Cal. App. 5th 1149, 1159 (2021) ("[S]etoff is an affirmative defense, not a cause of action.").

When using setoff as an affirmative defense, a creditor is "not seeking to assert a 'claim' against the bankruptcy estate." *Durham v. SMI Indus. Corp.*, 882 F.2d 881, 883 (4th Cir. 1989). That is because "[r]elief by way of a setoff is limited to reducing or defeating a plaintiff's claim; a defendant may not obtain affirmative relief." *Morris Cerullo*, 67 Cal. App. 5th at 1159. Or, to use the Bankruptcy Code's terminology, such a defendant has no "right to payment." 11 U.S.C. § 101(5)(A).[6] Where "under the governing non-bankruptcy law" a creditor "could never sue," it has "no 'right to payment' within the meaning of the Code's definition of 'claim.'" *Chateaugay*, 944 F.2d at 1003.

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[6] We do not decide today, nor is the question before us, whether the FDIC has an affirmative right to sue for the substantive claims underlying the setoff it asserts in this matter. We note only that California law at times permits otherwise unenforceable claims (for example, untimely ones) to be asserted in setoff even though they could not support affirmative recovery. *See Constr. Protective Servs.*, 29 Cal. 4th at 197-98.

C

SVB Financial points to two other provisions of the Code that, it says, demonstrate that the FDIC's defensive setoff rights are "claims" within the meaning of § 101(5). 11 U.S.C. § 362(a)(7) provides that a petition for bankruptcy "operates as a stay" of "the setoff of any debt owing to the debtor that arose before the commencement of the [bankruptcy] case . . . against any *claim* against the debtor." 11 U.S.C. § 362(a)(7) (emphasis added).[7] 11 U.S.C. § 553(a) likewise provides that "this title does not affect any right of a creditor to offset a mutual debt owing by such creditor to the debtor" that arose before bankruptcy "against a *claim* of such creditor against the debtor" that arose before bankruptcy. *Id.* § 553(a) (emphasis added). SVB Financial argues that both §§ 362(a)(7) and 553(a) presume that a creditor "wielding a defensive setoff right . . . hold[s] a 'claim' against the debtor." Appellant's Br. 34–35.

But neither provision fits the bill. SVB Financial's view that a creditor's asserted setoff right becomes a "claim" by virtue of an underlying or pre-existing claim ignores that non-bankruptcy law—here, California law—points in a

[7] We also do not decide whether the FDIC's assertion of setoff in the California proceeding violated the automatic stay of 11 U.S.C. § 362(a)(7). *See Strumpf*, 516 U.S. at 19 (concluding that an administrative freeze of funds subject to a setoff did not violate the automatic stay); *see also* 3 Collier on Bankruptcy ¶ 362.03[9][a] & n. 173 (16th ed.).

different direction. Taking our cue instead from binding precedent, we rely on California law to define the nature of the FDIC's asserted right of setoff in this case. *See Pension Benefit Guar. Corp.*, 562 F.3d at 157; *Strumpf*, 516 U.S. at 18.

If not §§ 362(a)(7) and 553(a), SVB Financial maintains, then perhaps 11 U.S.C. §§ 553(a)(1) and 506(a)(1) demonstrate that a creditor asserting a setoff right holds a "claim" under § 101(5). Section 553(a)(1) provides that a creditor may "offset a mutual debt . . . except to the extent that . . . the claim of such creditor against the debtor is *disallowed*," 11 U.S.C. § 553(a)(1) (emphasis added), while § 506(a)(1) provides that "[a]n *allowed* claim of a creditor . . . that is subject to setoff under [§] 553 . . . is a secured claim . . . to the extent of the amount subject to setoff," *id.* § 506(a)(1) (emphasis added). According to SVB Financial, §§ 553(a)(1) and 506(a)(1) both suggest that a creditor asserting setoff must follow the claims allowance process and therefore has a "claim."

Not quite. Rule 3003 of the Federal Rules of Bankruptcy Procedure ordinarily requires the creditor to file a proof of claim to participate in the distribution of the estate. *See* Fed. R. Bankr. P. 3003(c)(2). A creditor may, for example, file a proof of claim to assert an affirmative right of setoff if the creditor seeks to recover directly from the estate. But §§ 553(a)(1) and 506(a)(1) merely describe what follows from the claims allowance process: Under § 553(a)(1), the creditor has no right of setoff if the claim is disallowed; otherwise, under § 506(a)(1), the creditor has a secured claim. By their own terms, neither provision necessarily conflicts with our view that the FDIC's defensive setoff rights asserted under California law are not "claims" under the Bankruptcy Code that would have required the FDIC to file a proof of claim.

D

In its final protest, SVB Financial turns to policy. It warns that our conclusion undermines the "fresh start" that bankruptcy promises. To be sure, "a central purpose" of bankruptcy is to provide the debtor "a fresh start in life and a clear field for future effort unburdened by the existence of old debts." *In re Bogdanovich*, 292 F.3d 104, 107 (2d Cir. 2002). By asserting a purely *defensive* right of setoff under state law, however, the FDIC does not purport to be a creditor that seeks to recover from the bankruptcy estate. To the contrary, in this case the FDIC does not seek affirmatively to recover *at all* from the estate.

Nor will a decision in the FDIC's favor encourage ordinary creditors to forego bankruptcy proceedings in other cases. In its capacity as receiver, the FDIC is statutorily distinct from the ordinary creditor in important ways. For purposes of this appeal, the most relevant difference is that FIRREA compelled SVB Financial to bring its claim for payment against the FDIC in either the district court "for the district within which [SVB's] principal place of business is located" or "the United States District Court for the District of Columbia." 12 U.S.C. § 1821(d)(6)(A)(ii); *see id.* § 1821(d)(13)(D). It is in that context that the FDIC asserted its defensive setoff rights. In those matters where the FDIC is not involved, however, a debtor will ordinarily not be subject to a different statute requiring actions for payment to be brought in a specified district. The debtor may initiate an adversary proceeding against the creditor in bankruptcy court and the bankruptcy court will then grapple with the creditor's assertion of defensive setoff rights in the context of the adversary proceeding before it. *See* Fed. R. Bankr. P. 7001(a).

III

To summarize, we hold only that the defensive setoff rights the FDIC asserts in the Northern District of California are not "claims" within the meaning of the Bankruptcy Code. On that basis alone, we conclude that the FDIC was not required to file a proof of claim in the bankruptcy proceeding to preserve its defensive setoff rights. We leave for another day the FDIC's alternative arguments that it was not required to file a proof of claim either because 11 U.S.C. § 553 overrides any proof-of-claim requirement or because a proof-of-claim requirement would conflict with FIRREA.

For the foregoing reasons, we **AFFIRM** the order of the Bankruptcy Court.