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# Governing a San Francisco Public Bank

Proposal for the Reinvestment Working Group

July 2022

**ISSUED BY**

San Francisco Public Bank Coalition

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## Introduction & Background

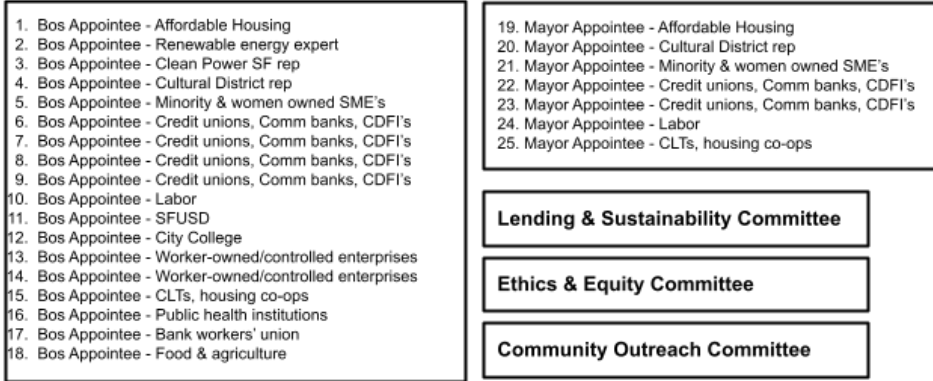
In October 2019, the state of California passed AB 857 to provide a pathway for local government agencies to charter public banks. A year and a half later, the San Francisco Board of Supervisors created The San Francisco Reinvestment Working Group (RWG) by unanimously passing [ordinance No. 87-21](#). The RWG is tasked with submitting to the Board of Supervisors and the Local Agency Formation Commission (LAFCo), a business and governance plan to establish a non-depository lending corporation wholly-owned by the City. Also within one year of its first meeting, the Working Group must submit to the Board and LAFCo a separate business and governance plan for the MFC to become a state-licensed public bank. Among other requirements, this plan must include the business plan elements required for a State public bank license; a study required to apply for a State public bank license; and lending priorities. The plan must recommend a governance and regulatory structure for the Public Bank; modifications to City laws and regulations; and whether the City should partner with another local agency in the establishment and operation of a public bank.

The RWG began meeting in April 2022 and is being consulted by HR&A Advisors, The Findley Companies, and Contigo. The governance structure outlined below is a model generated by advocates within the San Francisco Public Bank Coalition (SFPBC), which has been organizing around a public bank since 2017. The SFPBC submits this proposal to the RWG and its consultants for consideration.

# SFPBC Proposed Governance Structure

## Bank Oversight Commission

*The highest decision making body of the bank's governance structure, comprised of an inclusive and diverse mix of San Franciscan stakeholders. The membership of the oversight body should reflect the city's racial, ethnic, economic, and gender diversity.*



## Board of Directors

*Oversees the bank's operations, selects the initial management team, and nominates a CEO that must be ratified by a majority vote of the Oversight Commission in order to assume their position.*

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| <ol style="list-style-type: none"> <li>1. CEO</li> <li>2. Banking expert</li> <li>3. Banking expert</li> <li>4. Banking expert</li> <li>5. Banking expert</li> <li>6. Banking expert</li> <li>7. Banking expert</li> <li>8. Banking expert</li> <li>9. Banking expert</li> </ol> |
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## SF Public Bank



# Mission & Principles

The SFPBC foremost encourages the RWG to consider grounding the business plans for a public bank and MFC with a detailed mission statement and principles. A public bank without a public mandate rooted in its constituency’s values would simply be another for-profit entity subject to the changing tides of politics. The SFPBC proposes the following for a public bank and MFC:

## MISSION

*The San Francisco Public Bank shall advance social, economic, gender, racial, and environmental equity.*

## PUBLIC OWNERSHIP

San Francisco taxpayer money is currently entrusted to private banks that engage in socially and environmentally destructive practices fundamentally contrarian to the values of San Franciscans. The profit derived from their loans benefits private shareholders who are not accountable to our City. Only public entities should be able to own shares in a San Francisco municipal public bank.

## COMMUNITY WEALTH BUILDING

The public bank shall seek in its lending programs to promote an economy that upholds social justice and ecological sustainability. In its lending priorities, it shall promote community ownership and community wealth building, including investments in permanently affordable housing, locally-owned social enterprises, cooperatives, and community-based nonprofit organizations.

## LOCAL CONTROL

The public bank should operate on principles of local control for the benefit of the communities that own it.

## **PUBLIC WELFARE**

The public bank should invest for the purposes of enhancing the welfare of the people of San Francisco rather than the private wealth of a class of shareholders.

## **INDIGENOUS RIGHTS**

The public bank shall act within a reparations framework to honor that we are on Ohlone land, protect sacred sites, support Indigenous land trusts, and uphold Indigenous people's right to Free, Prior, and Informed Consent.

## **PROHIBITIONS**

The public bank should refrain from investing in sectors that exacerbate negative environmental conditions and socio-economic disparities, including fossil fuels, tobacco, military and weapons, prisons and detention centers.

## **UNDERSERVED COMMUNITIES**

The public bank should directly or indirectly provide credit and financial services to local communities underserved by mainstream commercial banks and lenders as well as public finance programs, to undo the historical legacy of wealth disparities and harmful economic, environmental, social, housing and transportation impacts.

## **COOPERATION WITH EXISTING COMMUNITY BANK INSTITUTIONS**

The public bank shall strengthen the lending capacity of existing credit unions and local banks by partnering, rather than competing, with them on participation lending and other programs.

## **ACCOUNTABILITY & TRANSPARENCY**

The public bank shall adopt mechanisms for ensuring community oversight, accountability, and transparency.

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## SFPBC Governance Proposal

The SFPBC proposes a two-tier governance model (*see page 2*) in which a 25-member Bank Oversight Commission (BOC) is the highest decision making body of the bank's governance structure and a 9-member Board of Directors. The Bank Oversight Commission supervises and advises the Board of Directors. The Board of Directors oversees the bank's operations, selects the initial management team, and nominates a CEO that must be ratified by a majority vote of the Oversight Commission in order to assume their position.

The Bank Oversight Commission is composed of an inclusive and diverse mix of San Franciscan stakeholders, reflects the racial, ethnic, economic, and gender diversity of the city, and acts as the bank's shareholder body. To fulfill the SFPBC's principle of local control, it is strongly preferred that each member of the Bank Oversight Commission and Board of Directors be a resident of San Francisco, though waivers should be made available in exceptional circumstances. 18 members are appointed by the Board of Supervisors and 7 are appointed by the Mayor. Below is a table listing the seat numbers, their appointing authorities, and qualifications.

Seat #	Appointing authority	Qualification
1	Board of Supervisors	Affordable housing advocate
2	Board of Supervisors	Renewable energy expert
3	Board of Supervisors	CleanPowerSF representative
4	Board of Supervisors	Cultural District representative
5	Board of Supervisors	Minority or women small-to-medium enterprise (SME's) owner
6-9	Board of Supervisors	Credit union, community bank, or CDFI representative
10	Board of Supervisors	Organized labor representative

11	Board of Supervisors	SFUSD representative
12	Board of Supervisors	City College representative
13 & 14	Board of Supervisors	Worker-owned or controlled enterprise representative
15	Board of Supervisors	Community land trust or housing cooperative advocate
16	Board of Supervisors	San Francisco public health institution representative
17	Board of Supervisors	Bank worker's union representative
18	Board of Supervisors	Food and agriculture sector representative
19	Mayor	Affordable housing advocate
20	Mayor	Cultural District representative
21 & 22	Mayor	Minority or women small-to-medium enterprise (SME's) owner
23	Mayor	Credit union, community bank, or CDFI representative
24	Mayor	Organized labor representative
25	Mayor	Community land trust or housing cooperative advocate

The division of appointments between the Mayor and Board of Supervisors in the SFPBC's proposed governance structure are arbitrary and open for amendments. However, it is preferred that seats be evenly distributed among sectors with multiple seat designations. For example, not all 6 credit unions, community banks, and CDFI's seats should be appointed by either the Board of Supervisors or Mayor. All seats would be subject to a public hearing and a vote by the Board of Supervisors.

Banking Oversight Commission members would serve four year terms and could be removed by their respective appointing officers. No person having served a four year term may serve as a Banking Oversight Commissioner until at least four years after the expiration of the last term in office. Vacancies occurring in the offices of appointive members, either during or at the expiration of a term, shall be filled by the appointing officer. The SFPBC expects the initial terms of commissioners to be staggered but leaves

the specifics of that question for the RWG to explore best public bank management best practices.

The SFPBC proposes that the Bank Oversight Commission organizes its work into three committees: Lending & Sustainability, Ethics & Equity, and Community Outreach. The Bank Oversight Commission should initially meet monthly and reconsider the frequency of meetings once the bank exits its de novo review period.

AB 857 restricts public banks to local agency banking, infrastructure lending, wholesale lending, participation lending, and only retail activities where those activities are not already provided by local financial institutions. As a result, AB 857 restricts public banks from most direct personal lending and provides fewer opportunities for self-dealing among commissioners or directors. Nevertheless, in addition to standard Form 700 filings and other ethics training required in San Francisco civil service, the Bank Oversight Commission and Executive Board should adopt policies to prevent conflicts of interest such as requiring members to report their conflicts to the Bank Oversight Commission and abstain from any votes regarding such conflicts. Bank Oversight Commissioners should also be required to participate in bank management and municipal government finance training so that they are able to meaningfully hold the Board of Directors and public bank accountable to its core mission and principles rather than simply defer to management.

Over the years, San Francisco has faced a number of corruption scandals that have unfortunately eroded the faith of residents in the local government. The reasoning behind allocating seat appointments on the Banking Oversight Commission disproportionately to the Board of Supervisors, and having such a large number of seats on the Commission to begin with, is rooted in the belief that a large body subject to the influence of a variety of elected officials and public hearings would be much harder for corruption to gain a foothold than a small body with disproportionate appointment power concentrated in any one elected office.

The Board of Directors is ultimately responsible for managing the activities of the bank and has fiduciary duties including answering to regulators. Therefore, the bank's Board of Directors should meet more frequently than the Bank Oversight Commission after the



bank exits its de novo review period. The Board of Directors nominates a CEO that must be ratified by a majority vote of the Oversight Commission in order to assume their position.

In a draft of the SFPBC's proposed governance structure (*see page 15*), a majority of directors (5) are community experts, 1 is the bank CEO, and the remaining 3 are financial experts from CDFI's, community banks, and credit unions. The question of how directors would be appointed was left unanswered.

However, after discussions with consultants, it has come to light that regulators want to see *all 9* directors with appropriate banking experience--in addition to community involvement. The governance model on page 2 reflects this likelihood. In the event that the RWG decides the Board of Directors shall be composed entirely of individuals with banking management experience, the RWG should consider giving the Banking Oversight Commission the power to appoint and remove directors and requiring directors to have specific and diverse banking management experience. The governance structure of Germany's public bank (summarized below) delegates specific responsibilities to its Executive Board. For example, one director is responsible for accounting, one for information technology, and one for organization and each for consulting and engaging with KfW management about such sectors of the bank. The RWG should assess the pros and cons of such organizing of a Board of Directors.

The alternative would be endowing the Board of Supervisors or Mayor with the power to appoint and remove directors. However, this would compromise the integrity of the bank and give more opportunities for corruption, or the appearance thereof, to take hold. The SFPBC recommends against this structure. The Banking Oversight Commission's ultimate purpose is to serve as a buffer between elected officials and bank management.



## Other considerations

The SFPBC considered the Assembly models proposed by [Democracy Collaborative](#) and currently employed in Costa Rica by Banco Popular (Marois, 2021). The SFPBC considered elected positions on the Banking Oversight Commission which brought

concerns of corporate capture and over-politicization. The SFPBC also considered random selection of dozens of San Francisco residents, as posited in the Democracy Collaborative model. However, concerns over overwhelming bureaucracy, high vacancies, and uninterested residents outweighed the potential benefits of randomized civil service. Such policies can be revisited in the future.

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## Influences

### Germany's Kreditanstalt für Wiederaufbau (KfW)

The following information on KfW is drawn from the [Law Concerning Kreditanstalt für Wiederaufbau](#), the [2019 KfW Corporate Governance Report](#), and Thomas Marois's book [Public Banks: Decarbonization, Definancialization, and Democratization](#).

The SFPBC governance model has been inspired by the two-tiered and several dozen-member Board of Directors model of Germany's Kreditanstalt für Wiederaufbau (KfW) because of its ability to respond to the public's needs. For example, German civil society's Energiewende (energy transition) successfully manifested in a transformation of KfW's lending practices. Since then, 40-45 percent of all KfW lending has been dedicated to environmental and climate protection projects, including energy-efficient building refurbishment loans.

The Federal Government owns 80% of KfW's share capital, the German federal states 20%. The KfW Law does not require a general shareholders' meeting; the Board of Supervisory Directors performs the function of a general shareholders' meeting. The Board of Supervisory Directors supervises and advises the Executive Board in the management of the bank.

KfW's highest governing body is the Board of Supervisory Directors, comprising 37 members. The German Federal Minister of Finance and the Federal Minister of Economics and Energy hold the chair and deputy chair positions in alternation each year. The 35 other seats are appointed by the Federal Government after consultation with stakeholder groups. They include:

- 7 appointments each by the German Lower House and Upper House (totaling 14 seats);
- 5 additional federal government ministers;
- 1 representative each from mortgage banks, savings banks, cooperative banks, commercial banks, and business credit institutions (totaling 5 seats);
- 2 industry representatives;
- 1 representative each from municipalities, agriculture, crafts, trade, and housing (totaling 5); and
- 4 trade union representatives.

According to the 2019 KfW Corporate Governance Report, “To ease the work of the Board, The Board of Supervisory Directors has created four committees in accordance with Section 25d KWG in order to increase efficiency in performance of its duties.” The committees are the Presidial and Nomination Committee, the Remuneration Committee, the Risk and Credit Committee, and the Audit Committee.

The Executive Board is responsible for managing the activities of KfW pursuant to the KfW Law, the KfW Regulation, the KfW Bylaws and the procedural rules for the Executive Board. A schedule of responsibilities stipulates business responsibilities within the Executive Board. The compensation of the members of the Executive Board is contractually agreed between such members and KfW.

KfW is legally required to have its annual financial statements audited independently. Most decision-making is made between KfW management and specific government ministries.

Executive Board members must inform their Board colleagues of any conflicts of interests prior to adopting resolutions and disclose them to the Chair of the Presidial and Nomination Committee without delay. No member of the Board of Supervisory Directors may have business or private dealings with KfW or its Executive Board members which are based on a substantial and more than temporary conflict of interests. Each member of the Board of Supervisory Directors informs the Chair of the Board of Supervisory Directors or the relevant committee about conflicts of interest before a resolution is adopted.

## San Francisco Commissions

As outlined in the table below, San Francisco has many commissions, a majority of which are subject to Mayoral appointments. Commissions are established by charter amendments--which must be approved by a majority of voters. Charter amendments can be put on the ballot by a majority of supervisors, the mayor, or by signatures from 10% of the electorate. The largest commissions are the Youth Commission and the Human Rights Commission, which have 17 and 11 members, respectively. Other commissions generally have 5 or 7 members. Members are generally removed by the appointing officer only pursuant to Section 15.105 of the city charter. Note that the table below is not an exhaustive list of San Francisco commissions.

Commission	Mayor	Board of Supervisors	Removal
Police	4 members nominated by the Mayor, the subject of a public hearing and vote at the Board of Supervisors within 60 days. If the Board of Supervisors rejects the Mayor's nomination to fill the seat designated for a retired judge or attorney with trial experience, the Mayor shall nominate a different person with such qualifications.	The Rules Committee of the Board of Supervisors, or any successor committee, nominates three other members to the commission. Each nomination is subject to confirmation by the Board of Supervisors.	The Mayor, with the consent of the Board of Supervisors, may remove a member the Mayor has nominated. The Board of Supervisors may remove a member the Rules Committee has nominated.
Planning	4 members nominated by the Mayor; subject to approval by the Board of Supervisors, and the subject of a public hearing and vote within 60 days.	3 members nominated by the President of the Board of Supervisors subject to approval by the Board of Supervisors, and the subject of a public hearing and vote within 60 days.	Members may be removed by the appointing officer only pursuant to Section <a href="#">15.105</a> .
Human Rights	11 members appointed by mayor	No appointments	Members may be removed by the Mayor.
Fire	5 members appointed by mayor	No appointments	Members may be removed by the Mayor.
Health	7 members appointed by the Mayor	No appointments	Members may be removed by the Mayor only pursuant to Section <a href="#">15.105</a> .

Human Services	5 members appointed by the Mayor	No appointments	Members may be removed by the Mayor only pursuant to Section <a href="#">15.105</a> .
Public Utilities	5 members nominated by the Mayor, subject to confirmation by a majority of the Board of Supervisors.	No appointments	Members may be removed by the Mayor only pursuant to Section <a href="#">15.105</a> .
Recreation and Park	7 members appointed by the Mayor	No appointments	Members may be removed by the Mayor only pursuant to Section <a href="#">15.105</a> .
Port	5 members who shall be nominated by the Mayor, subject to confirmation by a majority of the Board of Supervisors.	No appointments	They shall be subject to recall, suspension and removal in the same manner as an elected official.
Airport	5 members nominated by the Mayor, subject to confirmation by a majority of the Board of Supervisors.	No appointments	Members may be removed by the Mayor only pursuant to Section <a href="#">15.105</a> .
Entertainment	4 members nominated by the Mayor, subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days.	3 members appointed by the Board of Supervisors	Members of the commission nominated by the Mayor may be suspended by the Mayor and removed by the Board of Supervisors only as set forth in Section <a href="#">15.105</a> . Members of the commission appointed directly by the Board of Supervisors may be suspended by a motion of the Board of Supervisors approved by six votes and may be removed by the Board of Supervisors only as set forth in Section <a href="#">15.105</a> .
Environment	7 members appointed by the Mayor	No appointments	Members may be removed by the Mayor.
Status of Women	7 members appointed by the Mayor	No appointments	Members may be removed by the Mayor only pursuant to Section <a href="#">15.105</a> .
Disability and Aging Services	7 members appointed by the Mayor	No appointments	Members may be removed by the Mayor.
Building Inspection	4 members appointed by the Mayor	3 members appointed by the President of the Board of Supervisors	Members may be removed by the appointing officer only pursuant to Section <a href="#">15.105</a> .
Youth Commission	The Mayor appoints 1 member and an additional five (5) members from underrepresented communities to	Each member of the Board of Supervisors appoints one	Commission members serve at the pleasure of their appointing authorities. Any member whom the Commission certifies to have

	ensure that the Commission represents the diversity of the City.	member to the Commission for a total of 11 members	missed three regularly scheduled meetings of the Commission in any six month period without prior authorization of the Commission shall be deemed to have resigned from the Commission effective on the date of the written certification from the Commission.
Small Business	4 members appointed by the Mayor	3 members appointed by the President of the Board of Supervisors	Commission members serve at the pleasure of their appointing authorities.
Historic Preservation	7 members who shall be nominated by the Mayor, subject to approval by a majority of the Board of Supervisors.	No appointments	Members may be removed by the appointing officer only pursuant to <a href="#">Section 15.105</a> .
Sheriff's Department Oversight Board ("SDOB")	3 members appointed by the Mayor	4 members appointed by the President of the Board of Supervisors	Members may be removed from office only for official misconduct under <a href="#">Article XV</a> .
Sanitation and Streets	2 members who shall be nominated by the Mayor, subject to confirmation by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days.	Seat 3 shall be appointed by the Controller subject to confirmation by the Board of Supervisors.  Board of Supervisors appoints 2 seats	Members may be removed by the appointing officer
Public Works	2 members who shall be nominated by the Mayor, subject to confirmation by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days.	Seat 3 shall be appointed by the Controller subject to confirmation by the Board of Supervisors.  Board of Supervisors appoints 2 seats	Members may be removed by the appointing officer

### Enterprise departments in San Francisco

A number of commissions in San Francisco are enterprise departments. For example, the Public Utilities Commission is responsible for the operation, maintenance, and development of water, wastewater, Hetch Hetchy Water and Power, and CleanPowerSF. The SFPUC comprises three utility enterprises, the Water Enterprise, Wastewater

Enterprise, and the Power Enterprise, which is operated within Hetch Hetchy Water and Power and CleanPowerSF. Each of the SFPUC's enterprise funds is operated and managed as a separate financial entity and separate enterprise entity. As an enterprise department, the SFPUC has the ability to collect revenue through charging fees and issuing bonds for capital improvements. The SF Airport Commission, SFMTA, and Port of San Francisco are also enterprise departments and can do the same.

A San Francisco Public Bank may be considered an enterprise department, to be established through a charter amendment, but the SFPBC defers to the RWG, consultants, and City Attorney on that question.

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## Open questions

The San Francisco Public Bank Coalition has left some questions open for the RWG to consider after consulting best public bank management practices, including:

- Shall people working in San Francisco be qualified to serve on the Banking Oversight Commission and Board of Directors without waivers?
- What is the optimal distribution of rights of access to bank records and management decisions between the Banking Oversight Commission, the Board of Directors, the Board of Supervisors, the Mayor, and the general public?
- How shall the initial terms of the Bank Oversight Commission be staggered?
- How long shall the terms be for the Board of Directors and how should its initial terms be staggered, if at all?
- Shall the Banking Oversight Commission and Board of Directors adopt their own bylaws, elect their own chairs, vice chairs, secretaries, etc.?
- If the San Francisco public bank were to welcome equity stakes from local government agencies outside of San Francisco for the benefit of non-San Francisco residents, how would that transform the governance structure? (For example: if Oakland's Retirement System wants to buy a stake in the SF public bank, does that confer an extra seat on the Banking Oversight Commission?)

# SFPBC Draft Governance Structure

## Bank Oversight Commission

*The highest decision making body of the bank's governance structure, comprised of an inclusive and diverse mix of San Franciscan stakeholders. The membership of the oversight body should reflect the city's racial, ethnic, economic, and gender diversity.*

<ol style="list-style-type: none"> <li>1. Bos Appointee - Affordable Housing</li> <li>2. Bos Appointee - Renewable energy expert</li> <li>3. Bos Appointee - Clean Power SF rep</li> <li>4. Bos Appointee - Cultural District rep</li> <li>5. Bos Appointee - Minority &amp; women owned SME's</li> <li>6. Bos Appointee - Credit unions, Comm banks, CDFI's</li> <li>7. Bos Appointee - Credit unions, Comm banks, CDFI's</li> <li>8. Bos Appointee - Credit unions, Comm banks, CDFI's</li> <li>9. Bos Appointee - Credit unions, Comm banks, CDFI's</li> <li>10. Bos Appointee - Labor</li> <li>11. Bos Appointee - SFUSD</li> <li>12. Bos Appointee - City College</li> <li>13. Bos Appointee - Worker-owned/controlled enterprises</li> <li>14. Bos Appointee - Worker-owned/controlled enterprises</li> <li>15. Bos Appointee - CLTs, housing co-ops</li> <li>16. Bos Appointee - Public health institutions</li> <li>17. Bos Appointee - Bank workers' union</li> <li>18. Bos Appointee - Food &amp; agriculture</li> </ol>	<ol style="list-style-type: none"> <li>19. Mayor Appointee - Affordable Housing</li> <li>20. Mayor Appointee - Cultural District rep</li> <li>21. Mayor Appointee - Minority &amp; women owned SME's</li> <li>22. Mayor Appointee - Credit unions, Comm banks, CDFI's</li> <li>23. Mayor Appointee - Credit unions, Comm banks, CDFI's</li> <li>24. Mayor Appointee - Labor</li> <li>25. Mayor Appointee - CLTs, housing co-ops</li> </ol>
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**Lending & Sustainability Committee**

**Ethics & Equity Committee**

**Community Outreach Committee**



## Board of Directors

*Oversees the bank's operations, selects the initial management team, and nominates a CEO that must be ratified by a majority vote of the Oversight Commission in order to assume their position.*

<ol style="list-style-type: none"> <li>1. Community rep</li> <li>2. Community rep</li> <li>3. Community rep</li> <li>4. Community rep</li> <li>5. Community rep</li> <li>6. Credit unions, Comm banks, CDFI's</li> <li>7. Credit unions, Comm banks, CDFI's</li> <li>8. Credit unions, Comm banks, CDFI's</li> <li>9. Public bank CEO</li> </ol>
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## SF Public Bank