

Answers to your questions

Who is protected by esisuisse?

All legal entities and natural persons with deposits at banks in Switzerland are protected by esisuisse under the terms of the provisions shown at www.esisuisse.ch with the exception of other banks and securities dealers. Preferential treatment and protection are granted regardless of whether the entity/person is domiciled in Switzerland or abroad.

When does the depositor protection scheme have to spring into action?

Whenever the Swiss Financial Market Supervisory Authority FINMA comes to the conclusion that a bank is no longer capable of carrying on its business, it imposes a so-called protection measure. The system is then immediately activated and esisuisse calls in the required funds from its banks and securities dealers.

What are preferential deposits?

When a bank becomes bankrupt, bank deposits of up to CHF 100 000 per depositor and bank are given preferential treatment. Preferential treatment means that these deposits form part of the 2. creditor class. This is of great advantage when it comes to distributing the bankrupt institution's liquidity, as the 1. and 2. creditor classes normally only represent a small portion of the claims against bankruptcy assets. By far the largest portion of claims is usually allocated to the third creditor class.

Preferential deposits are deemed to be:

- Balances on accounts held in the name of the bank client.
- Medium-term notes held in the name of the bearer at the issuing bank, even if these are claims by the bearer against the bank.
- Restricted pension deposits (Pillar 3a).
- Contributions of vested benefits foundations.
- Deposits held at foreign branches of the bank in question.

The following are not deemed to be preferential:

- Deposits held in the name of a bearer (and therefore not in the name of the bank client).
- Claims against the bank that are not related to the professional activities of a bank or securities dealer (e.g. claims by the bank's landlord or a contractor working for the bank or claims arising from purchase or works contracts with the bank),
- Securities accounts: Preferential treatment does not apply here because securities are held in custody by the bank while remaining the property of its client. (see also the question "Are securities in securities accounts protected or preferential?")

What are protected deposits?

A large portion of preferential deposits are protected by the statutory esisuisse Deposit Protection Scheme. esisuisse, i.e. all of its members (all banks and securities dealers in Switzerland), make money available for these protected deposits to ensure the prompt payment to entitled creditors in the event of a bank going bankrupt. Accordingly, the following preferential deposits are protected by esisuisse up to a maximum of CHF 100 000:

- Balances of private individuals, commercial enterprises and public-sector offices; e.g. personal accounts, savings accounts, investment accounts, salary accounts, numbered accounts, deposit accounts and current accounts.
- Medium-term notes held in the name of the bearer at the issuing bank.

Do this preferential treatment and protection apply per account or per depositor?

The preferential treatment and protection apply only per depositor and bank. If a client has more than one account with the same bank, the balances are added together, with the total amount deemed to be preferential and protected limited to CHF 100 000. (Details on the rule concerning vested benefits foundations may be found under "Are deposits from vested benefits foundations preferential?". Information on the rule concerning Pillar 3a deposits may be found under "Are Pillar 3a deposits preferential?". If a bank client's assets exceed this amount, the remaining claims are treated in the same way as claims from other creditors and are allocated to the 3. creditor class in the event of bankruptcy. As a result, the bank client receives for this claim any so-called bankruptcy dividend payable as a result of the bank's bankruptcy proceedings.

What happens to the deposits if FINMA imposes rehabilitation measures on a bank?

Secured and privileged deposits are safe - even when the bank's restructuring is ordered by FINMA.

According to the Banking Insolvency Ordinance (BIO-FINMA) of the Swiss Financial Market Supervisory Authority (FINMA), FINMA can, under certain conditions, order that a bank be restructured rather than liquidated. These restructuring measures can apply to the entire bank or to specific units within the bank at risk. Such a restructuring plan can also provide for debt capital to be converted into equity capital.

The object of converting debt capital into equity capital is to cover the bank's capital requirement. Article 48 of the BIO-FINMA specifies that debt capital is converted according to the following ranking:

1. subordinated claims without capital adequacy eligibility,
2. other claims not excluded from the conversion, with the exception of deposits, and
3. deposits, in so far as they are not privileged.

Under no circumstances can privileged or secured deposits be converted into equity capital. The corresponding credit balances are therefore available to the bank clients.

Which banks are participating in the depositor protection scheme?

All banks that have a branch in Switzerland are required by law to participate in the depositor protection scheme. The same applies to securities dealers.

Does the depositor protection scheme also apply to foreign banks?

Yes. Foreign banks also participate in the depositor protection scheme provided they have a branch in Switzerland.

Does the depositor protection scheme also apply to foreign branches of Swiss banks?

In the event of a Swiss bank going bankrupt, deposits held by foreign branches of this bank are also given preferential status. However, deposits held at these foreign branches are not guaranteed by the depositor protection scheme. The depositor protection scheme only covers deposits held at branches in Switzerland.

Unauthorised institutions

A number of financial institutions operating in or out of Switzerland are not in possession of the requisite authorisation from the Financial Market Supervisory Authority FINMA. They may therefore not accept any deposits in Switzerland and are not members of esisuisse. As a consequence, capital invested with these institutions is not protected by the Deposit Protection Scheme. You can find information on this subject from FINMA along with a constantly updated list of unauthorised institutions here.

Other institutions wrongly indicate on their websites that they are protected by the Deposit Protection Scheme. In contrast to the information provided on their websites, the following institutions do not fall under its protection:

- Cyber Trust Fund Corp

Are deposits denominated in a currency other than the CHF also classed as preferential?

Yes. Preferential status applies irrespective of the currency in which the deposit is held. However, the claim is converted into Swiss francs before it is paid out.

Are deposits held on vested benefits accounts preferential?

Yes. Deposits held on vested benefits accounts with vested benefits foundations are deemed to be deposits from individual pension fund members / policyholders / accountholders and as such are preferential. Preferential status applies (together with Pillar 3a deposits) irrespective of other deposits made by the individual pension fund member/policyholder/acountholder up to a maximum amount of CHF 100 000. However, these deposits are not covered by the depositor protection scheme (see also "What are protected deposits?").

Are Pillar 3a (restricted pension scheme) deposits preferential?

Yes. Assets held in a Pillar 3a account are deemed to be preferential. Preferential status applies irrespective of other deposits made by the individual depositor up to a maximum amount of CHF 100 000 (together with the deposits from vested benefits foundations). However, these deposits are not covered by the depositor protection scheme (see also "What are protected deposits?").

Are securities in a securities account (shares, fund units, certificates, etc.) protected or preferential?

Neither one nor the other, as securities are not deposits. They are only held in custody by the bank but are the property of the client. In the event of a bank going bankrupt, the bank's clients can demand their securities back from the bank or transfer them to another institution. It must be checked, however, whether the bank can exercise a right of set-off against the custody account clients.

What are the rules for joint accounts?

Joint accounts are accounts held in the name of more than one bank client. Swiss law stipulates that assets held in a joint account are initially divided proportionally between the bank clients. Next, each bank client's share of the assets in the joint account is added to their protected deposits.

Example 1: Mr and Mrs Smith have one joint account with a credit balance of CHF 140 000. In the event of a bankruptcy, this balance would be split 50:50 between the two. Each spouse thus has a protected deposit of CHF 70 000.

Example 2: Mr and Mrs Smith have a joint account with a credit balance of CHF 140 000. Mrs Smith also has a salary account with a balance of CHF 50 000 and Mr Smith has a savings account with a balance of CHF 20 000. All accounts are held at the same bank. In the event that the bank goes bankrupt, the credit balance in the joint account is split 50:50 between the two, with each being allocated CHF 70 000. As Mrs Smith is also entitled to a claim of CHF 50 000 from her salary account, CHF 100 000 of her total deposits of CHF 120 000 are protected. The "surplus" CHF 20 000 falls into the 3. creditor class. By contrast, all of Mr Smith's CHF 90 000 (CHF 70 000 from the joint account and CHF 20 000 from his savings account) are protected as they fall below the CHF 100 000 limit.

What are the rules for collective accounts (collective accountholders)?

A collective account is where clients only have joint, and not individual, access to the assets in the account. This gives rise to a collective claim; for example, when there is a community of heirs or a simple partnership. Swiss law states that a claim that is jointly due to more than one person can only be asserted once for the amount of CHF 100 000.

Collective accountholders are treated as a single creditor and separately from the individual beneficiaries. Collective accountholders (such as simple partnerships or communities of heirs) are accordingly entitled to an amount of no more than CHF 100 000. Any additional deposits of a beneficiary of the collective account are not included in the deposits held in the collective account and are accordingly protected in addition up to CHF 100 000.

Do credit balances on precious metal accounts count as protected deposits for the purposes of depositor protection? Do they come under the CHF 100 000 cover per customer?

Under Art. 37h of the Swiss Banking Act (BankG), the depositor protection scheme only covers preferential deposits within the meaning of Art. 37a that are held at Swiss branches, i.e. exclusively monetary deposits. Therefore precious metal accounts – like all other custody assets – are not covered by the depositor protection scheme. Deposit protection only applies if the specific terms of the agreement between the bank and the account holder stipulate that the latter can demand payment in money.

How high is the maximum amount covered by the depositor protection scheme?

In accordance with the Swiss Banking Act, the maximum depositor protection amount is limited to CHF 6 billion. If the bank concerned does not have sufficient assets to cover its protected deposits, the other banks and securities dealers will contribute up to CHF 6 billion to cover the shortfall.

This "system ceiling" of CHF 6 billion means that the payments the banks have to make (excluding interest) will at no point exceed the specified limit. The system ceiling thus does not apply per claim or for a particular period of time, but is the maximum amount guaranteed by the banks and securities dealers. This amount decreases as the banks and securities dealers make payments and then increases again when the assets realised as part of the bankruptcy proceedings are returned to the banks and securities dealers or as these assets are finally written off after a bank has been fully liquidated.

How can so much cash be found in such a short time?

Banks and securities dealers are obliged by law to hold, at any given time, sufficient liquid assets to cover half of their maximum contribution obligations (totalling CHF 3 billion) in addition to the level of liquidity prescribed by law. This effectively amounts to a de-facto credit balance of the corresponding volume for the depositor protection scheme held by its members. In the improbable event that more than CHF 3 billion is required, members have to come up with the amounts required from other funds. The supervisory authority monitors whether they are in a position to do this.

What does the 125% rule mean?

A rule laid down in the Swiss Banking Act stipulates that all preferential deposits must be covered by assets held in Switzerland. This creates a certain reserve that is normally sufficient to cover the claims of all creditors in the first and second creditor classes. It also means that assets stay in Switzerland that are equivalent to the deposits of the Swiss clients of the institution in question (plus a reserve of 25%).

Does the bank have a right of set-off against preferential deposits?

No. Under the terms of an agreement by Swiss banks and securities dealers on depositor protection, banks have waived the right to offset depositors' debts up to the maximum preferential amount. This waiver is irrevocable and is binding on the bank's executives.

Are deposits at fintech companies protected by esisuisse?

No. Fintech companies are only obliged to participate in the deposit insurance scheme if their business activities require them to hold a banking or securities dealing licence. This is not typically the case. Consequently, these companies are not members of esisuisse, and the funds they may receive are not covered by the deposit insurance scheme.

Under the applicable laws, fintech companies may accept public deposits to only a limited extent. However, they are required to comply with a duty to provide information to their customers. All customers must be informed in advance that the deposits are not covered by esisuisse (Article 6 (2) (c) (2) of the Ordinance on Banks and Savings Banks – BankO respectively Article 7 (a) of the BankO).