

Press release

FINMA opens bankruptcy proceedings against FlowBank SA

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The Swiss Financial Market Supervisory Authority FINMA is opening bankruptcy proceedings against FlowBank SA on 13 June 2024. This measure became necessary as the bank no longer has the minimum capital required for its business operations. There are also fears that the bank is over-indebted. The aim of the bankruptcy proceedings is to protect depositors. According to current calculations, the privileged deposits can be repaid in full out of the bank's available funds.

FINMA established in the last week that FlowBank SA no longer has sufficient capital for its operations as a bank. The minimum capital requirements, which must be met at all times, have been significantly and seriously breached. FlowBank SA and its management bodies were unable to take steps to sustainably restore compliance with the capital requirements within the required timeframe. Moreover, there are well-founded concerns that the bank is currently over-indebted. As there is no prospect of a restructuring, the bank must be wound up. FINMA has appointed the law firm Walder Wyss AG as liquidator to carry out the bankruptcy proceedings.

Serious breach of supervisory law

FINMA took its first enforcement action against FlowBank SA in October 2021 when it identified serious breaches of supervisory law, specifically with regard to capital requirements, the requirement for an adequate organisation and risk management. In October 2022 FINMA therefore ordered wide-ranging measures to restore compliance with the law and appointed an independent auditor to monitor their implementation.

When new information on various compliance deficiencies came to light – including ongoing breaches of the capital ratio – FINMA again took enforcement action against the bank in June 2023 and appointed a monitor to oversee the bank's activities and investigate its compliance failures. The monitor reported that FlowBank SA repeatedly breached the capital requirements, while its organisation remained deficient in various areas of the bank. The bank's bookkeeping and financial reporting was found to be inaccurate and incomplete. The bank also failed to fulfil disclosure and reporting obligations to FINMA.

In addition, the investigation found that the bank entered into numerous higher-risk business relationships and processed large transactions without

properly investigating the background of these business relationships and transactions. The bank increased its risks considerably by entering into these relationships, even though it had not yet resolved its organisational deficiencies. In FINMA's view, this represented a serious breach of the bank's money laundering due diligence obligations and FINMA's prohibition on the bank from entering into additional higher-risk business activities.

Given the serious malpractice, the prolonged non-compliance with licensing conditions and the bank's inability to restore compliance with the law, FINMA ordered the withdrawal of the bank's licence on 8 March 2024 and disqualified its guarantee of proper business conduct. This ruling does not yet have legal force due to a pending appeal at the Federal Administrative Court. However, during the appeal various precautionary measures decreed by FINMA, e.g. to prevent assets from being withdrawn by the bank, are in effect.

FINMA intervening immediately

After the bank's board of directors approved the 2023 financial statements just a few days ago, and confirmed data to assess the risk of insolvency has only been available for a short time, FINMA established that FlowBank SA's financial situation is much worse than the bank originally reported. The bank was clearly in breach of the minimum capital requirements at the end of 2023 and again at the end of April 2024. In addition there are well-founded concerns that the bank is over-indebted as at the end of April 2024. The bank was unable to carry out an eligible capital increase within the required timeframe. This new situation requires FINMA to intervene immediately to protect depositors, which is why it has placed the bank into bankruptcy.

Repayment of privileged deposits

FINMA's primary aim is to protect depositors. In a first step the liquidator will therefore repay deposits up to CHF 100,000 (privileged deposits) to the clients concerned as quickly as possible. According to current calculations, the privileged deposits can be repaid in full out of the bank's available funds. Therefore we do not expect the Swiss banks' deposit insurance scheme (esisuisse) to be involved. Client custody accounts will also be segregated from the estate and repaid.

FlowBank SA is a bank offering online brokerage and trading with its head office in Geneva and subsidiaries in London and the Bahamas. The bank has total assets of approximately CHF 680 million, holds over 22,000 client accounts and employs around 140 staff worldwide.