Eidgenössische Finanzmarktaufsicht FINMA
Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
Swiss Financial Market Supervisory Authority FINMA

Frequently asked questions (FAQs)

Depositor protection – applying the statutory and regulatory provisions

(last amended on 27 July 2012)

A. Securing privileged deposits with bank assets (Art. 37a para. 6 of the Banking Act [BA; SR 952.0])

1. What figure is used for calculating the 125 % requirement?

This requirement is calculated as 125 % of total privileged deposits. In supervisory reporting form AU 008, the privileged deposits correspond to the value in column 01, line 05.

2. Which assets can be counted as coverage under Art. 37a para. 6 BA?

Cash and cash equivalents

- Domestically held bank notes and coins in CHF or in freely convertible foreign currencies
- Credit balances at the SNB or Swiss Post
- Credit balances held at recognised giro centres in Switzerland

Amounts due arising from money market instruments

- Money market instruments issued by the Federal Government, cantons or municipalities in Switzerland.
- SNB money market instruments

Amounts due from banks

- Receivables due from banks and securities dealers supervised by FINMA, regardless of whether they are secured, provided said receivables are in the form of deposits or investments. This does not apply to receivables due from group companies and affiliated entities according to FINMA Circ. 08/2 “Accounting – banks” margin no. 219 and 236 (exception: special rules set out in Section 6).
- Receivables in CHF or in freely convertible foreign currencies secured by domestically held assets (esp. repo transactions)

Laupenstrasse 27, 3003 Bern
Phone +41 (0)31 327 91 00, Fax +41 (0)31 327 91 01
www.finma.ch

Amounts due from customers/due secured by mortgage

- Receivables due from insurers supervised by FINMA, regardless of whether they are secured, provided said receivables are in the form of credit balances or investments. This does not apply to receivables due from group companies and affiliated entities according to FINMA Circ. 08/2 “Accounting – banks” margin no. 219 and 236.
- Direct receivables due from the Federal Government, cantons and municipalities in Switzer-land (secured and unsecured)
- Receivables in CHF or in a freely convertible foreign currency secured by domestically held assets, excluding positions already used to secure other liabilities (e.g. mortgage-backed bonds)
- Domestically held assets include:
  - Domestic real estate mortgages
  - Securities credited at a domestic custodian (domestic and foreign debtor)
  - Other pledged items held in Switzerland

Securities and precious metals held for trading purposes/financial investments

- Securities credited at a domestic custodian (domestic and foreign debtor) that are traded on a representative market, excluding positions already used to secure other liabilities (e.g. inter-bank liabilities)
- Precious metals held in Switzerland
- Real estate and other assets held as financial investments located in Switzerland

Tangible assets

- Bank buildings and property in Switzerland at carrying amount less mortgage debt

Other assets

- Claims for withholding tax reimbursement
- Positive replacement values with domestic counterparties, as long as they are secured domestically (e.g. through a margin account)

3. What cannot generally be counted as coverage?

- Checks, bills of exchange
- Credit balances at foreign central banks and clearing institutions
- Foreign money market instruments
- Unsecured receivables due from clients
- Receivables due from foreign group companies
- Secured receivables due from clients/mortgage receivables where the mortgaged property is located abroad or if the location of the collateral is unclear

- Receivables covered by personal guarantees
- Receivables from leasing transactions
- Mortgage receivables already pledged or other pledged assets
- Securities and instruments held abroad and those whose location cannot be precisely determined
- Equity participations
- Equity and debt instruments and other collateral from group companies
- Own shares and debt instruments
- Intangible assets, goodwill, software
- Accrued expenses and deferred Income, unpaid capital

Only collateral normally used in business can be counted as coverage. Positions must be valued according to the applicable accounting standards. Any impairments must be taken into consideration.

B. Exception requests

4. In what cases are exceptions permitted, and how?

FINMA is authorised to permit exceptions to Art. 37a para. 6 BA when it has good reason to do so. Exceptions are possible for the amount, the type of asset pledged as a security and for location. As a rule, exceptions are granted for a limited period of time.

Lasting exceptions are possible for banks which are not in a position to hold sufficient assets in Switzerland without fundamentally restructuring their business activities, but which still, for instance, have an equivalent level of coverage thanks to a sufficient diversification of assets.

5. What information is required for exception requests?

Any exception requests must be submitted to FINMA with good reason and sufficient documentation. This documentation includes at least the following information and lists:

- Extent of privileged deposits, domestically secured receivables and other domestically held assets.
- List of ineligible receivables, distinguishing domestic and foreign unsecured receivables (due from banks or clients), receivables due from group companies, the location and type of collateral held overseas for secured receivables and the location and type of assets held abroad.
- Desired exception rules including period of exception.
- Proof of compliance with requirements imposed or equivalence of existing coverage.

6. Which exceptions can FINMA grant on request provided certain requirements are met?

- Privileged deposits need to be only 100 % secured if the collateral consists of cash or cash equivalents held in Switzerland, receivables due within three months at domestic banks, securities dealers, insurers, the SNB or Swiss Post, or eligible money market instruments with a time to maturity of no more than three months. These assets can be directly counted as 100 % coverage for privileged deposits. 125 % coverage is still required on the remaining portion of privileged deposits.
- Receivables due from domestic parent companies with the status of a bank can be recognised as collateral provided the parent company confirms to FINMA in writing that it is providing 125 % coverage in the form of domestic assets for the privileged deposits of its subsidiary that cannot be covered by the subsidiary itself.
- Leasing receivables held at relevant specialised institutions due from clients domiciled or resident in Switzerland can be approved as coverage provided the privileged deposits are at least 250 % secured with these receivables, depending on the type of leasing receivable. This is subject to the sufficient quality and granularity in these receivables at the relevant institution.
- Receivables due from foreign banks that are not part of the same group can be approved as coverage provided they are sufficiently diversified and the time to maturity does not exceed three months. Privileged deposits must be at least 250 % secured with these receivables. The percentage depends on the level of diversification. Moreover, a portion of the privileged deposits still to be set out by FINMA is nonetheless to be covered by domestic assets.
- Privileged deposits held at foreign branches may be exempted from the coverage requirement provided they are already covered by a local depositor protection scheme in the other country and/or have to be covered by the law of that country. This exemption is subordinated to the precondition that the privileged deposits are reimbursed by the existing guarantee of this country and thereby these receivables become void. The applying institution must provide evidence of adherence to this precondition.

C. Deposits in employee benefits foundations (Art. 37a para. 5 BA)

7. How are deposits in the employee benefits foundations of banks in line with Art. 82 of the "*Bundesgesetz über die berufliche Alters-, Hinterlassenen- und Invalidenvorsorge*" (BVG; SR 831.40) ("pillar 3a") and vested benefits foundations ("pillar 2") to be handled?

Both are considered as deposits of the individual pension fund member. They are privileged up to the maximum amount of CHF 100,000 per creditor, regardless of the pension fund member and insured person's other individual deposits. However, they are not secured through depositor protection.

With the vested benefit capital and connected pension assets not secured through the deposit protection these items will no longer be taken into account for calculating the contribution obligation. However, they are still to be included in the figures in column 01 of form AU 008 for the purposes of determining the requirement for domestically secured receivables or other assets located in Switzerland.

D. Accounting treatment and capital adequacy

8. How must the payment obligation for depositor protection be accounted for and backed by regulatory capital?

The payment obligation has to be recognised for as an irrevocable commitment under the off-balance sheet transactions and must be backed by regulatory capital. The applicable credit conversion factor is 0.5 (Appendix 1, line 1.2 of the Capital Adequacy Ordinance [CAO; SR 952.03]).

9. How are payments due to payment demand of the deposit protection recognised?

Payments made in connection with deposit protection are considered as an indirect assumption of indebtedness. They must always be recognised as an asset (under receivables due from banks). Impairments must be made on the basis of an assessment of the borrower's creditworthiness and have to be recognised as an expense under “impairments, provisions and losses”. In individual financial statements not prepared pursuant to the True and Fair View principle, full impairments are also possible. In these cases, the non-operating portion is considered as a hidden reserve and must be treated accordingly.

E. Information

10. Where can I find further information?

www.einlagensicherung.ch

11. Whom can I contact if I have additional questions?

questions@finma.ch