



## FAQ

### QUESTIONS ABOUT THE PROTECTION SCHEME

#### What is the EAS's task?

As a statutory protection scheme EAS has assumed the obligation to compensate the clients (depositors or investors) of an affiliated financial service provider (bank, investment firm or other financial service provider) up to the respective maximum payout or compensation amount in the event of the insolvency or bankruptcy of the provider. It is the only protection scheme in Liechtenstein. Details on the entitlement of clients and the amount of covered deposits or investor claims can be found in the following answers.

#### When does a bank or other financial service provider become an EAS participant and are these companies legally obliged to join a protection scheme?

The following companies in the financial services industry with a license to operate in Liechtenstein have a statutory obligation to become a member of a protection scheme:

- Banks
- Investment firms
- Asset management companies
- Public fund management companies (UCITS) with additional licence for individual portfolio management with discretionary mandate
- Alternative investment fund managers (AIFMs) with additional licence for individual portfolio management with discretionary mandate

To participate in the EAS protection scheme, it is necessary to conclude a participation contract. Only after the contract has been signed and at the earliest after FMA approval of business operations is granted, EAS can definitively confirm the participation. The following table lists all currently active EAS participants.

#### What are the obligations of the participants?

Based on the legal requirements and additional contractual provisions, participants generally have the following obligations:

- Payment of fees and contributions
- Reporting of the number and total of covered deposits and investor claims
- Confirmation of sufficient liquidity from participating banks
- Provision of additional information that is necessary to carry out the protection function
- free-of-charge support of EAS to handle a payout or compensation event

#### Can unauthorised companies also become participants?

No. Companies, which are not licensed by the FMA, could not participate in the EAS protection scheme and therefore basically no coverage is granted to their clients.

Only banks and other financial service providers with an FMA license are allowed to accept deposits or offer investment business services.

More detailed information is available at [www.fma-li.li/en](http://www.fma-li.li/en).

#### How is EAS supervised?

EAS is subject to the supervision of the FMA in accordance with Article 55 EAG. The FMA has all the necessary powers to fulfil its statutory tasks. Among other things, EAS must prepare an annual report, consisting of the annual financial statements and activity report and have its legality and regularity audited and proved by a recognised (external) auditing company.



## GENERAL QUESTIONS ON THE SCOPE OF PROTECTION

### Who is entitled for repayment or compensation from EAS?

All natural persons and legal entities are entitled who, as clients, have credit balances (deposits) with licensed banks or who have entrusted money or instruments to a licensed bank or other financial service provider in connection with investment services, since the institution is an active EAS participant as of the occurrence of a payout or compensation event. However, only clients that are eligible for compensation by law and within the scope of the provisions applicable to EAS (Articles of Association, participation contract including General Terms and Conditions) are entitled for reimbursement. For details, see the specific answers sections on deposit protection and investor compensation below.

### What is the difference between depositors and investors?

Depositors are clients of banks with which they hold credit balances which result from funds left in an account or from temporary positions deriving from normal banking transactions and which a bank is required to repay in full at maturity under the legal and contractual provisions applicable (deposits due). Credit balances at a bank shall be excluded where:

- their existence can only be proven by a financial instrument;
- their principal is not repayable at par; or
- their principal is only repayable at par under a particular guarantee or agreement provided by a bank or a third party.

Investors are clients of licensed banks and other financial service providers to whom they entrust money or financial instruments for management and/or custody in connection with investment services.

### When does deposit protection and investor compensation come into effect (occurrence of a payout or compensation event)?

If

- the FMA has determined that for reasons directly related to the financial circumstances a member institution is unable to repay deposits which are due and there is no current prospect of repayment at a later date (e.g. insolvency of a bank) resp. that a bank other financial service provider is unable, for the time being, to meet its obligations arising out of investors' claims; or
- a judicial or supervisory decision has been issued that results in prohibition on disbursements with respect to covered deposits or investments of a member institution or has the effect of suspending the rights of depositors resp. investors' ability to raise claims against the member institution (e.g. opening bankruptcy proceedings or dismissal due to lack of assets),

a payout resp. compensation event has occurred (Articles 7 and 36 EAG). At this time the deposit guarantee and/or investor compensation scheme will be activated. The FMA must inform EAS of the occurrence of a payout or compensation event and immediately publish this on its website.

### Which currencies are covered by the protection scheme?

EAS covers deposits and investor claims regardless of the currency in which they are held or administered. For the reimbursement, however, the total claim is converted to Swiss francs. The exchange takes place as of the occurrence of the payout/compensation event.

### What coverage do foundations or similar legal arrangements and partnerships benefit from?

Domestic and foreign foundations and similar legal arrangements with independent legal personality as well as partnerships or other legal entities or associations or private companies without legal personality are granted the same coverage as an individual private client, irrespective of the number of beneficial owners or shareholders (treated as if made by a single depositor/investor). Legal Arrangements in the form of trusts are treated like foundations.



**Are deposits/investor claims at foreign branches also covered?**

Deposits and investor claims kept with a dependent branch of a participating bank or administered or managed by a participating bank or other financial service provider in an EU/EEA member state are also covered within the scope of EAS provisions. Credit balances with branches in third countries (e.g. Switzerland, UK) are not protected by EAS.

**Which rules apply to joint accounts / joint investments?**

A joint account or a joint investment is entitled to two or more persons (owners). EAS grants individual coverage for deposits/investor claims up to the applicable coverage amount for each entitled client. For joint accounts/joint investments, the respective share of the individual client is authoritative for the determination of the repayment or compensation claim, if the depositors of the joint account or the investors in joint investments have notified the bank or other financial service provider of special rules for division in writing. Unless special provisions apply, the eligible deposits and investor claims will be attributed to the individual clients in equal shares.

Example: As of the occurrence of the payout event, bank client "A" has an individual client relationship with an eligible deposit balance of CHF 80,000.00 and, together with his wife "B", a joint client relationship with an eligible deposit balance of CHF 60,000.00. EAS grants bank client "A" maximum coverage of CHF 100,000.00 and his wife "B" maximum coverage of CHF 30,000.00. The remaining CHF 10,000.00 from the joint account to be allocated to bank customer A is not covered by the deposit protection. **Claims** arising from credit balances on bank accounts that are not repaid by the protection scheme have to be filed in the ordinary bankruptcy proceedings.

**Are assets in a custody account also privileged in bankruptcy proceedings?**

Actually, securities kept in a custody account do not require any preferential treatment under bankruptcy law, as they remain property of the client and are not included in the bankruptcy estate (separation in the event of bankruptcy). In this case, the client can request his securities from the bank or investment firm or have them transferred to another institution. In a payout or compensation event, customers will be informed separately accordingly.

Only banks and investment firms according to the Liechtenstein Banking Act (BankG) are permitted to accept securities from customers under their licence.

**How do clients get notice of a payout or compensation event?**

The occurrence of a payout or compensation event of an affiliated EAS participant will be publicly announced at the EAS-homepage [www.eas-liechtenstein.li](http://www.eas-liechtenstein.li) and other media without delay after knowledge. In addition, entitled depositors and investors will be informed in writing by EAS.

**How do clients receive their statutory reimbursement?**

EAS will determine repayment claims of depositors and reimburse covered deposits that are duly reviewed within 7 working days after the occurrence of the payout event, compensation claims of investors filed in time and duly reviewed will be reimbursed within three months after the date on which the eligibility for compensation and the amount of the claim have been determined, by way of electronic transfer in Swiss francs to an account to be specified by the client.

In both cases it is required that the client has specified in time the relevant account details to which the amount of covered deposits or investor claims should be transferred. EAS will provide the necessary form by post.

**Can client claims be set-off against debts?**

Yes, the applicable statutory and contractual provisions for offsetting and counterclaims are applied for the calculation of the repayment/compensation amount, provided that these were or will be due before or at the latest at the time of the occurrence of the payout or compensation event.



## QUESTIONS ON DEPOSIT PROTECTION

### Which deposits are eligible and covered by the deposit protection?

Eligible for deposit protection are credit balances especially of individual private clients, legal arrangements and commercial enterprises (SMEs) in the form of private, savings, investment, salary, deposit and current accounts as well as call and fixed-term deposit accounts. Deposit protection is granted up to a maximum coverage amount of CHF 100,000.00 per person (cap). It does not matter what citizenship the client has or in which country he is domiciled/ has the registered office. The total claim, including accrued interest, is converted into Swiss francs for repayment.

As a matter of principle, deposits of institutional clients, enterprises of the financial service industry (e.g. of investment funds, asset management companies, insurance undertakings, pension schemes, etc.) as well as government bodies are not eligible for deposit protection. Further exceptions are listed in Article 8 EAG.

### What is the difference between eligible and covered deposit?

The eligibility for repayment is linked to the entitlement and therefore to the client and the account product. Account balances of all clients of the bank (account holders) are eligible for repayment, unless statutory reasons for exclusion in accordance with Article 8 EAG apply. Covered by deposit protection are deposits up to a maximum of CHF 100,000.00 per person. The cap applies to all credit balances of a client with one bank, regardless of the number of accounts, the currency or the location of the deposit.

### What are temporary high balances?

Bank clients may in certain cases apply to the EAS within 6 months of the occurrence of the payout event to cover a temporary high balance in excess of the general maximum payout amount of CHF 100,000.00 up to a total of CHF 750,000.00. For this purpose, the client must prove in writing to the EAS that the temporary high balance either

- results from real estate transactions relating to private residential properties;
- serves social purposes laid down in law and are linked to particular life events of the client, such as marriage, divorce, retirement, dismissal, redundancy, invalidity or death; or
- is based on the payment of insurance benefits or compensation for criminal injuries or wrongful conviction.

In all cases and in accordance with Article 9 EAG, the payout event must occur within six (6) months after the amount has been credited or after the date on which such deposits become legally transferable.

### What is the difference between covered deposits and deposits privileged under bankruptcy law?

The privilege under bankruptcy law is linked to the legally preferential treatment of creditors' claims (credit balances) in the context of bankruptcy proceedings at a bank, for example in the event of insolvency. This increases the chances of a full repayment of the claim. However, credit balances are only repaid to the client in bank bankruptcy proceedings after the claim has been established by the court and not within a short period of time. The purpose of deposit protection, on the other hand, is to quickly reimburse a limited balance (covered deposit) to the affected client out of the protection fund (liquidity bridge, comparable to an insurance payment).

Deposits with banks up to a maximum of CHF 100,000.00 per client are covered by deposit protection and repaid in a payout event. Covered deposits are preferentially treated within bankruptcy proceedings as second-class claims. If EAS reimburses depositors in the context of a payout event, it subrogates into the rights of these depositors against the bank concerned for an amount equal to the payments made by the protection scheme to the depositors. In bankruptcy proceedings, these claims of EAS rank at the same class of claims as covered deposits.

Furthermore, eligible deposits of individuals, small and medium-sized companies (SMEs) over CHF 100,000.00 are treated preferentially as well and classified as third-class claims. The same applies to deposits that would be considered eligible and held at branches in third countries. Additionally, vested benefits as part of pension



schemes kept with a bank (vested benefits accounts) up to CHF 100,000.00 are also classified as third-class claims, regardless of the other deposits held by the individual client at the bank.

**Is there a deadline for submitting claims?**

No. Repayment claims of bank clients (depositors) have not to be filed. The necessary client and deposit data for the repayment of covered deposits will be transmitted by the bank to EAS on request. In any case, clients whose claim has not been reimbursed or recognized within the legally stipulated deadlines should contact the EAS, as a repayment can no longer be made after 3 years.

**How are fiduciary and escrow accounts treated?**

When calculating the cap (maximum repayment amount) for fiduciary/escrow accounts, EAS relies on the person of the trustor. A fiduciary account is held in the name of a trustee who controls the funds in the account on behalf of another person. The beneficial owner of the credit balance managed in the fiduciary account is therefore the trustor, who is also secured for this credit balance (deposit) within the cap. The covered amount is repaid directly to the trustor after legitimation and proof of the claim. The same applies to escrow accounts, i.e. fiduciary accounts that can only be opened by certain professional groups (e.g. lawyers). This also applies to a trustor whose identity is not known to the member institution due to the application of simplified due diligence obligations pursuant to Article 10 of the Due Diligence Act (SPG) or other legal provisions which waive the immediate disclosure of the trustor's identity to the bank, if such a trustor can prove a claim against the protection scheme. The bank must ensure that the trust relationship for determining the covered deposits is fully documented and adequately marked from a technical point of view in the IT systems. Trustees' operational assets must be separated from trust relationships.

**QUESTIONS ON INVESTOR COMPENSATION**

**What does investor compensation mean?**

The purpose of the investor compensation is to cover claims in relation to securities and similar investment instruments that have arisen out of a bank's or other financial service provider's inability, in accordance with the legal and contractual provisions applicable to it, to:

- repay money owed to or belonging to investors and held on their behalf in connection with investment business, or
- return to investors any financial instruments belonging to them and held, administered or managed on their behalf in connection with investment business.

**Which instruments or products are eligible for investor compensation?**

The following financial instruments (custody account assets) are eligible for investor compensation according to law and the EAS provisions (list is not exhaustive), from which covered investor claims may arise in connection with investment business as well as ancillary services:

- Transferable securities of all kinds that are traded on the capital market;
- Fund units;
- Money market instruments and
- Derivatives of the above-mentioned securities

Further information on financial instruments is provided in Appendix 2 Section C BankG. Also eligible are blockchain-based financial instruments which have been issued by means of distributed ledger technology (DLT) and correspond to the characteristics of a traditional security (so-called 'security token').



**Up to which coverage amount (cap) are investor claims covered?**

In a compensation event, the respective EAS cell affected by the compensation event will provide funds from the existing cell assets to cover the claims of entitled investors, limited to a maximum amount of CHF 30,000.00 per person or the equivalent of this amount in another currency. The cap applies to an investor's aggregate claim with one and the same bank or investment firm irrespective of the number of existing investment services, the financial instruments held, the currency, or the location of the investments.

**Is coverage granted also to bank clients?**

For eligible bank clients in particular, investor claims are covered up to the maximum coverage amount in addition to deposits in a payout and compensation event, whereby account balances are not reimbursed twice. Claims arising from credit balances in accounts that could be eligible for reimbursement under the statutory provisions both as a covered deposit and as a covered investment are reimbursed in accordance with the deposit protection provisions.

**Which investors are excluded from investor compensation?**

All clients who are considered non-professional clients within the meaning of Annex 1, No. 3 BankG are entitled and their investor claims are eligible for compensation payment within the framework of investor compensation, i.e. in particular natural persons and SMEs. Claims from institutional investors, large undertakings, companies in the financial services sector and governmental or public bodies and institutions are excluded from investor compensation (Article 38 EAG).

This includes, in particular, undertakings for collective investment in securities (funds), investment companies, their management companies as well as alternative investment funds and their managers. If fund shares are held by investors entitled to compensation at a custodian bank in Liechtenstein and a compensation event occurs at the bank, these in turn are part of the eligible instruments.

Not part of investor compensation is a compensation event or default (liquidation) of the fund or the management company/manager, so that fund investors are generally excluded from investor compensation. Special rules apply if the management company/manager provides individual portfolio management services.

**Is there a deadline for submitting claims?**

For EAS to make a compensation payment within the statutory period, investor claims must be fully and correctly filed within six (6) months of the occurrence of the compensation event and by submitting account details for the transfer. EAS will provide the necessary registration form.

## QUESTIONS ON FINANCING

**Where does the money for payment of covered deposits or investor claims come from?**

The repayment or compensation volume is jointly made available by the EAS participants according to law and the EAS framework in the cell intended for them.

**How are the cells of the protection scheme financed?**

The different cells are funded by ordinary contribution payments (ex ante) by the participating member institutions until the statutory target level is reached. If the available financial means of the cell are not sufficient to cover claims in a payout or compensation event, the protection scheme is entitled to additionally levy extraordinary contributions (ex post) from the affiliated participants and can carry out alternative financing measures (e.g. credit operations).

**What is the target level of funds for each cell?**

The target level for setting up the cell assets amounts to 0.5 per cent of the sum of covered deposits or 0,3 per cent of the sum of covered investor claims of all cell participants. The target level shall be jointly financed with regular ordinary contributions within 10 years.



**How can banks provide so much cash in such a short time?**

Banks are obliged to hold, at any time, cash in the amount of the maximum contribution obligations, in addition to the liquidity prescribed by law. Compliance with this obligation is regularly monitored by EAS using confirmations, debit calculations and simulations.

If you have any further questions, please contact us:

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