

What happens in case of a Swiss bank's bankruptcy?

This information is being provided to assure you that your interests are protected even in the unlikely event of the bank carrier's bankruptcy.

Bank groups

The Swiss banking industry has a long tradition of self-regulation. In collaboration with the Federal Banking Commission (FBC), their regulatory authority, Swiss banks draw up binding codes of conduct which define what constitutes good industry practice or, to put it in more modern terms, ethically correct management. One example of a code of conduct is the Agreement on Due Diligence (CDB). The FBC monitors the banks' compliance with these codes of conduct. Compliance with suggested guidelines, on the other hand, is voluntary. The FBC is not involved in such matters.

Every bank domiciled in Switzerland is subject to the supervision of the Swiss Federal Banking Commission .

In the event of bankruptcy, the claims of creditors are satisfied from the bankruptcy assets on the basis of a legally prescribed ranking of the creditor rights. According to Art. 219 of the Swiss Bankruptcy Act, secured claims are to be paid first by realizing the pledged assets. The other claims are placed into one of three categories of bankruptcy assets. Creditors in the first category are satisfied ahead of creditors in the second category, while creditors in the third category are satisfied last, subject in each case to there being sufficient assets available to cover the claims. The claims of creditors in the third category, which usually make up the largest share of the claims, are only partially covered, depending on the circumstances.

The regulations of the Swiss Bankruptcy Act state that the claims of accountholders also belong to the third category of creditors if a bank goes bankrupt. However, in contrast to the Swiss Bankruptcy Act's rankings, Art. 37a of the Federal Law on Banks and Savings Banks states that some claims up to a maximum of CHF 30,000 per creditor can be assigned to a special category between the second and third bankruptcy categories.

This means that these claims will be satisfied ahead of those of the (other) creditors in the third category. This privilege affects claims on accounts onto which income from employment, annuities or pensions of employees

or family maintenance or support payments are regularly deposited. This privilege also applies to claims from savings, deposit or investment books or accounts or from medium-term notes with the exception of deposits from other banks.

The intent of this regulation is to protect small investors if a bank goes bankrupt, although the privilege is limited to a maximum of CHF 30,000 per person. An accountholder can assert the privilege only once, and it is limited to this amount. Any additional claims that cannot be included under this privilege are placed in the third bankruptcy category.

The Swiss Bankers Association (SBA) has an agreement (last revised on 1 July 1993) by which the Association guarantees the privileged claims of small investors up to the maximum amount. In addition, the SBA makes payments before the claimant could expect to receive them from the bankruptcy proceedings. However, this additional privilege comes into force only if the bank that has gone bankrupt has signed the agreement. Most banks have in fact done so.

Clients with custody accounts at banks are in an even stronger position. Art. 37b of the Federal Law on Banks and Savings Banks states that in a bankruptcy the assets in a client's custody account are handled separately, which means that they are not included in the bankruptcy assets but instead are returned to the client. All custody account assets within the meaning of Art. 16 of the Federal Law on Banks and Savings Banks are covered by this regulation.

What would happen if JML should go out of business?

Since your contractual partners are the banks we recommend, your assets will remain fiduciary holdings of these top-quality institutions.

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