



FMA

Finanzmarktaufsicht  
Liechtenstein



# Bank Insolvency Ranking Liechtenstein

Disclosure according to Commission Implementing Regulation (EU) 2021/763

October 2023

## Standardized presentation of bank insolvency rankings - Liechtenstein

European Standards require information and disclosure on the insolvency ranking of bank liabilities. Particularly the implementing regulation on MREL TLAC reporting and disclosures (Commission Implementing Regulation (EU) 2021/763) refers to the insolvency ranking of liabilities reported (M05.00 creditor ranking [entity that is not a resolution entity], M06.00 creditor ranking [resolution entities]).

It is noted that the general framework of insolvency in Liechtenstein (IO<sup>1</sup>) does not provide separate classes of creditors in insolvency. However, specific rules for classes of creditors in bank insolvency have been anchored particularly in Art 56a, 56a<sup>bis</sup>, Art. 56a<sup>ter</sup>, Art. 56c BankG<sup>2</sup>, Art 65 Abs 1 SAG<sup>3</sup> and Art 15 EAG<sup>4</sup>.

This disclosure document depicts the insolvency ranking regarding bank liabilities for the jurisdiction in Liechtenstein according to Art. 8 Commission Implementing Regulation (EU) 2021/763 (“**Standardized presentation of insolvency rankings**”).<sup>5</sup> The ranking is presented from the more junior to the more senior liabilities. Creditors within the same class shall be treated in the same way.

### Disclaimer:

*This document is for informative purposes only and shall neither be binding nor construed as constituting a commitment or an interpretation of civil and insolvency law by the FMA Liechtenstein. Only bankruptcy courts are competent of interpretation in this regard.*

*This document contains a general and simplified overview of the insolvency ranking of liabilities. It is not intended to be comprehensive or exhaustive. This document shall not be used without checking the primary sources. The insolvency ranking concerning each specific debtor can only be accurately, precisely and definitively prepared when the specificities of all the credit claims, the relevant contractual terms of the instruments governing those credit claims and all the relevant insolvency legislation are all considered. This document does not constitute any form of legal advice or administrative practice. The FMA Liechtenstein may not be held responsible for any use of the information contained herein. The FMA Liechtenstein reserves the right to amend or modify this document at any time. In such cases the most recent version replaces the previous one in its entirety.*

<sup>1</sup> Gesetz vom 17. Juli 1973 über das Insolvenzverfahren (Insolvenzordnung; IO), idgF.

<sup>2</sup> Gesetz vom 21. Oktober 1992 über die Banken und Wertpapierfirmen (Bankengesetz; BankG) idgF.

<sup>3</sup> Gesetz vom 4. November 2016 über die Sanierung und Abwicklung von Banken und Wertpapierfirmen (Sanierungs- und Abwicklungsgesetz; SAG) idgF.

<sup>4</sup> Gesetz vom 27. Februar 2019 über die Einlagensicherung und Anlegerentschädigung bei Banken und Wertpapierfirmen (Einlagensicherungs- und Anlegerentschädigungsgesetz; EAG) idgF.

<sup>5</sup> Commission Implementing Regulation (EU) 2021/763 of 23 April 2021 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council and Directive 2014/59/EU of the European Parliament and of the Council with regard to the supervisory reporting and public disclosure of the minimum requirement for own funds and eligible liabilities, OJ L 168, 12.5.2021, p 1–83.

Rank	Name	Description	Legal basis	Comments
1	Common Equity Tier 1 Capital	Own funds	Art 56a <sup>bis</sup> , Art 56a <sup>ter</sup> BankG, Art 65 Abs 1 Bst a SAG	<i>n.a.</i>
2	Additional Tier 1 Capital	Own funds	Art 56a <sup>bis</sup> BankG, Art 65 Abs 1 Bst b SAG	<i>n.a.</i>
3	Tier 2 Capital	Own funds	Art 56a <sup>bis</sup> BankG, Art 65 Abs 1 Bst c SAG	<i>n.a.</i>
4	Subordinated claims (not recognised as own funds)	Subordinated claims	Art 56a <sup>bis</sup> BankG, Art 65 Abs 1 Bst d SAG	<i>n.a.</i>
	Senior non-preferred claims	Senior non-preferred claims	Art 56a <sup>bis</sup> BankG, Art 65 Abs 1 lit e SAG	<i>Unsecured claims resulting from debt instruments which meet the following conditions:</i>  <i>(a) the initial contractual maturity of debt instruments spans minimum one year</i> <i>(b) they have no derivative features</i> <i>(c) the relevant contractual documentation related to the issuance explicitly refers to the low ranking</i>
5	Other MREL eligible liabilities (ranking may vary according to contractual provisions)	Other MREL eligible*	Art 56a <sup>bis</sup> BankG, Art 3 Abs 1 Ziff 23a SAG	
	Deposits, not covered and not preferential			<i>n.a.</i>
	Balance sheet liabilities arising from derivatives			
	Uncollateralized secured liabilities			
	Structured notes			
	Other senior unsecured claims			
6	Employee liabilities, if not preferential	Senior unsecured claims	Art 56a Abs 4 und 5 BankG Art 56 Abs 2 SAG	
	Tax and social security authority liabilities, if not preferential			
	Liabilities critical to operational daily functioning			
	Liabilities towards other entities of the resolution group			
	Other items not preferred or covered			

7	Deposits, not covered but preferential	Eligible deposits from natural persons and micro, small and medium-sized enterprises	Art 56a Abs 1 BankG, Art 65 Abs 1 lit e SAG	<i>n.a.</i>
8	Covered deposits and deposit guarantee schemes	Covered deposits	Art 56a Abs 2 BankG, Art 56 Abs 2 lit a und g Z 4 SAG Art 15 EAG	Deposit guarantee schemes that assume the rights and obligations of covered depositors by way of subrogation ("Legalzession") after reimbursement.
9	<i>Claims against the insolvency estate ("Massegäubiger")</i>	<i>insolvency estate</i>	Art 43, 44 IO	<i>Claims that were established after the opening of insolvency proceedings and were created by the insolvency administrator or with the insolvency administrator's consent. Claims are, as a rule, immediately satisfied in full form from the insolvency estate.</i>

10	<p>Claims of preferred creditors according to IO (“Absonderungsgläubiger”) and claims of creditors entitled to separation and recovery (“Aussonderungsgläubiger”)</p>	<p>IO-preferred creditors &amp; separation/recovery</p>	<p>Art 23 ff, Art 41, 45, 46, 91, 105 IO Art. 56c BankG.</p>	<p><i>Preferred creditors (“Absonderungsgläubiger”) hold the right to preferred satisfaction from a specific pool of the debtor’s assets that includes liens and satisfaction rights, rights of retention and the assignments of collateral. Depending on the amount of their secured claims, these creditors might exclude insolvency creditors from being satisfied from the sub-estate. While the latter belongs to the insolvency estate, it still constitutes a separate pool of assets that initially serves to satisfy only preferred creditors. Creditors entitled to separation and recovery.</i></p> <p><i>(“Aussonderungsgläubiger”) may claim, on the basis of a real right (in rem) or a contractual right, that assets not belonging to the debtor be separated and recovered from the insolvency estate. The most common reasons for the separation and recovery of assets are that the assets are subject to property rights and/or retention of title. If an asset is subject to the right to separation and recovery, the insolvency administrator is not entitled to realize this asset as it does not belong to the insolvency estate.</i></p>
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