

Version 3 June 2020

Agreement between esisuisse and its members

In order to be able to pay out protected deposits within the deadlines set by law or ordinance, the esisuisse association (hereinafter referred to as "esisuisse") and the members of esisuisse hereby agree as follows:

Section I: Deposit insurance calls

Art. 1: Decrees of the Swiss Financial Market Supervisory Authority FINMA

¹ If the Swiss Financial Market Supervisory Authority FINMA (hereinafter referred to as "FINMA") initiates protective measures or compulsory liquidation proceedings in respect of a member of esisuisse, the other members shall provide funds (Article 5 of this Agreement) so that protected deposits can be paid out to eligible depositors within the statutory deadline.

² esisuisse shall be authorised to take all necessary preparatory actions to ensure that the statutory payment deadline can be met.

³ If FINMA informs esisuisse of a case in which an imminent deposit insurance call is likely, esisuisse shall be authorised to call the necessary funds from its members in advance, on the basis of an estimate by FINMA, by means of direct debit. Members shall be notified of the details of the deposit insurance call in retrospect, following receipt of the corresponding written notification from FINMA.

⁴ Payment may only be made to FINMA or its agents under this Agreement if the FINMA decree has been communicated to esisuisse and is enforceable.

Art. 2: esisuisse, bank-client confidentiality and other forms of legally protected secrecy

esisuisse shall act as an agent for its members and shall observe bank-client confidentiality and all other forms of legally protected secrecy. It shall be authorised to transfer some or all of its obligations arising from this Agreement to third parties (outsourcing), provided that bank-client confidentiality and other forms of legally protected secrecy are maintained and such third parties are required to commit to the same obligations in respect of such confidentiality and secrecy.

Art. 3: Waiver of right to offset assets

Protected assets shall be calculated gross; members affected by a case of deposit insurance may not offset deposits against debts that the same depositor may have with the member in question,

up to the maximum protected amount. This waiver is irrevocable and binding on the member in question.

Art. 4: Eligible depositors and deposits to be paid out

¹ For the purposes of this Agreement a depositor is any creditor for whom a member holds a protected deposit.

² For the purposes of this Agreement, a deposit is any deposit within the meaning of Article 37a of the Banking Act.

³ For collectively held deposits such as communities of heirs and simple partnerships, the group of owners shall "be treated as a single creditor in its own right, separately from its individual members" in accordance with Article 24 para. 1 of the FINMA Banking Insolvency Ordinance.

Art. 5: Member contributions in the event of a deposit insurance call

¹ After receiving written notification from FINMA, esisuisse shall calculate and collect the contributions to be made by members. Contributions should cover not just the payout of protected deposits, but also the costs and expenses incurred. esisuisse shall base this calculation on the most recent information regarding the protected assets held by the member concerned or on a more recent confirmation from the liquidator or FINMA agent (reorganisation officer/investigator, hereinafter referred to as "the FINMA Agent"), where such confirmation exists.

² The contribution from each member shall be calculated according to the ratio of protected deposits it holds to the total protected deposits held with members (less those of the member affected by the incident). The most recent breakdown of reported deposits available from FINMA shall be used for provisional calculation purposes. The definitive calculation shall be made as part of the liquidation payment in accordance with Article 6 below, based on the FINMA list as at the most recent financial reporting date for members prior to the occurrence of the deposit insurance call. If Article 6 does not apply because no liquidation payment is made, esisuisse shall perform its own calculation within 30 days of completion of the liquidation proceedings and invoice the members in question for the corresponding settlement payments on that basis.

³ Members for which an instance of deposit insurance occurs shall be exempt from any further obligation to make contributions under this Agreement from the time such instance occurs. The obligations of the remaining members shall therefore increase proportionately. Early reimbursement of payments already made is excluded.

⁴ esisuisse may instruct group associations of members or other third parties to calculate and collect contributions.

⁵ In the event of a deposit insurance call esisuisse must ensure that it is able to make a payment on account to the liquidator or FINMA Agent up to the full amount of the protected assets reported as being held by the member concerned at the end of the previous year within five calendar days

of the FINMA decree becoming enforceable in accordance with Article 1 above. A call for payment by esisuisse shall be sufficient to trigger the obligation to pay. If the amount provided is not sufficient to cover the amount required under the payout plan, esisuisse shall make the shortfall available so that protected assets can be paid out within the deadline.

⁶ esisuisse shall call the funds necessary to meet its payment obligations arising from paragraph 5 above from members by direct debit. Each member must grant a corresponding direct debit authorisation. The amounts charged and deadlines for payment set shall remain binding on members even if a direct debit fails or is challenged. In this respect, this Agreement constitutes a promissory letter within the meaning of Article 82 para. 1 of the Swiss Federal Act on Debt Collection and Bankruptcy. If a member should fail to meet this payment demand by the specified date, esisuisse shall grant an extension of five bank working days and notify FINMA. esisuisse may take out a loan to cover the shortfall in order to fulfil its duties to depositors by the set date. All costs incurred by esisuisse and the other members as a result of this, such as interest costs, commission and additional del credere costs, shall be charged to the defaulting members. Loans taken out in line with the above shall be paid back as a senior obligation from the liquidation proceeds of the member in question accruing to esisuisse. For larger amounts, esisuisse shall make a pro rata call on members for the shortfall with a ten-day deadline under Article 5 para. 2 above.

⁷ No interest shall be payable on contributions paid by members to esisuisse. Each member shall bear its own loss of interest.

⁸ Under the deposit insurance scheme, members have no financial obligations, in particular directly to depositors, other than those mentioned in this Agreement.

Art. 6: Transfer of liquidation payments to members

esisuisse shall be required to refund within 30 calendar days contributions to members pursuant to Article 5 above where amounts are recouped under legal assignment.

Art. 7: Cap on contributions

Payments made under this Agreement not reimbursed to esisuisse from liquidation assets may at no point exceed the systemic total (i.e. the total for all deposit insurance calls), which is currently set at CHF 6 billion, excluding interest. Payments that the liquidator believes are likely to remain uncovered under the legally binding collocation plan shall be deemed to have been reimbursed.

Section II: Miscellaneous and transitional provisions

Art. 8: Authorisation for FINMA and the Swiss National Bank (SNB) to share data with esisuisse

¹ The members hereby authorise the liquidator or FINMA Agent and the SNB to make reported data available to esisuisse insofar as esisuisse needs this to meet its obligations in respect of deposit insurance under section thirteen of the Banking Act. As a minimum, this shall include annual data from supervisory reporting on deposit insurance, on the income statement and balance sheet and on the personnel of banks and securities dealers.

² The Executive Board shall maintain the confidentiality of institution-specific data and shall not make it – or any other data about members, institutions or clients that it receives in connection with deposit insurance calls – available to other members, its Board of Directors, any committees or working groups established or third parties; Art. 13 para. 3 of the Articles of Association applies.

³ In respect of such data esisuisse shall be subject to statutory bank-client confidentiality and all other forms of legally protected secrecy.

Art. 9: Client information regarding deposit insurance

The banks and securities dealers shall inform clients upon contract conclusion about the information made available by esisuisse, at the very least by making reference to the website of esisuisse. The standard text prescribed by esisuisse is to be used for this purpose.

Art. 10: Legal qualification of this Agreement

This Agreement does not give rise to a simple partnership within the meaning of Article 530 et seq. of the Swiss Code of Obligations. Members are therefore not required to make any payments to esisuisse other than the contributions specified herein.

Art. 11: Arbitration

¹ In the event of any difference of opinion arising out of or in connection with this Agreement, including disputes over its validity, amendments, termination, interpretation or application, the signatories shall seek to avoid legal proceedings and resolve the dispute amicably.

² Where no amicable solution can be reached, all disputes, differences of opinion or claims arising out of or in connection with this Agreement including disputes over its validity, invalidity, breach or termination shall be decided by arbitration proceedings in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution. The version of the Rules

in force at the time that Notice of Arbitration is served shall apply. The arbitral tribunal shall consist of three members. The seat of the arbitration shall be Basel. Each party may communicate in the official language of its head office in Switzerland or any other official language. The arbitral tribunal shall communicate in the language that it has set as its official language.

³ Initiating such proceedings shall have no suspensive effect with regard to members' obligations to pay contributions pursuant to Article 5 para. 7 of this Agreement.

Art. 12: Entry into force

Following approval by FINMA this Agreement shall enter into force on 30 June 2017 and replace the previous agreement dated 14 November 2014.

Only the German-speaking version of this document is legally binding.