Banking Regulation

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Liechtenstein

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Introduction

As of end of 2018, there were 14 banks licensed in Liechtenstein and subject to the prudential supervision of the Liechtenstein Financial Markets Authority. Traditionally, Liechtenstein banks' core business activities are private banking and asset management for local and international private and institutional clients. At the end of 2017, Liechtenstein banks and their group companies managed client assets in the amount of 294.3 billion Swiss francs.

The three largest Liechtenstein banks are LGT AG, Liechtensteinische Landesbank AG, and VP Bank AG. The latter two are publicly listed and their shares trade on the SIX Swiss Exchange. LGT AG, on the other hand, remains privately owned by the Liechtenstein princely family.

In recent years, Liechtenstein banks have faced high regulatory pressure and had to operate in an environment characterised by challenging market conditions. Recent developments in the field of private banking and wealth management led to a consolidation among existing Liechtenstein banks, not least to spread the increasing regulatory burden; others expanded their business outside of Liechtenstein.

At the same time, the Liechtenstein government has continued its efforts to improve the regulatory framework to attract fintech start-ups and innovative financial service providers.

Regulatory architecture: overview of banking regulators and key regulations

Supervisory bodies

Liechtenstein banks are supervised by a single regulator: The Liechtenstein Financial Markets Authority (*Finanzmarktaufsicht* – "**FMA**"). The FMA is responsible for both prudential supervision and consumer protection.

Based on the Currency Treaty with Switzerland, the official currency in Liechtenstein is the Swiss franc and the Swiss National Bank (*Schweizer Nationalbank* – "**SNB**") functions as the central bank for Liechtenstein. Swiss provisions on monetary, credit and currency policy therefore apply directly in Liechtenstein and the SNB has the power to enforce these provisions in relation to Liechtenstein banks. The Liechtenstein banks also have reporting obligations to the SNB.

Liechtenstein is a member of the European Economic Area ("**EEA**"), which comprises the members of the European Union ("**EU**") as well as Iceland, Norway and Liechtenstein. EU directives and regulations that have been incorporated into the EEA Agreement have to be implemented or applied directly, as the case may be, by Liechtenstein.

In particular, Regulation (EU) 1093/2010 establishing a European Banking Authority ("**EBA**") has been incorporated into the EEA Agreement and therefore has direct effect in Liechtenstein. EBA is one of three EU supervisory authorities that have been created to strengthen oversight of cross-border groups and establish a European single rule book applicable to all financial institutions in the EU internal market. European Union legislation can confer power upon EBA to take measures with binding effect in an EU member state or on banks having their seat in the EU. The particular institutional set-up of the EEA Agreement made it necessary to incorporate the Regulation with amendments in this respect. Measures taken by EBA can have no direct effect in Iceland, Norway and Liechtenstein and are not binding on banks having their seat in these EEA member states. Instead, the EFTA Surveillance Authority will adopt decisions with binding effect on the basis of drafts prepared by EBA, which drafts were requested by the EFTA Surveillance Authority or which were initiated by EBA itself. Guidelines or recommendations issued by EBA have to be applied by Liechtenstein banks if the FMA notifies EBA within two months of their publication that it intends to comply with them.

Furthermore, Liechtenstein is obliged to comply with Regulation (EU) 1092/2010 on the financial supervision of the European Union at macro level and establishing a European Systemic Risk Board, which was also recently incorporated into the EEA Agreement. In particular, the Regulation provides for the creation of a European Systemic Risk Board ("**ESRB**"). The ESRB is an unincorporated body with responsibility for macro-prudential oversight of the EEA financial system with the aim of contributing to the prevention or mitigation of systemic risks to financial stability in the EEA stemming from developments within the financial system. In carrying out its tasks, the ESRB is empowered, in particular, to make recommendations on remedies to identified risks. The EEA member states must comply with these recommendations. The authority entrusted with the implementation of macroprudential policy in Liechtenstein is the FMA.

Key legislation

EEA member states have to implement EEA-relevant EU legislation which has been incorporated into the EEA Agreement by a corresponding decision of the EEA Joint Committee. One of these EEA relevant legal areas is financial services. For this reason, Liechtenstein banking regulation is largely based on EU legislation.

The key laws applicable to banks are:

- The Banking Act (*Bankengesetz* – "**BankG**"; LGBl. 1992/108) and the Banking Ordinance (*Bankenverordnung* – "**BankV**"; LGBl. 1994/022) set out the requirements for the pursuit of banking activities and provision of the investment and ancillary services listed in Annex I, Sections A and B of the Markets in Financial Instruments Directive (Directive 2014/65 – "**MiFID II**") in Liechtenstein. Main banking activities include deposit taking, lending, custody of securities, payment transfer services, the assumption of guarantees, surety and similar liabilities as well as trading in foreign currencies.

  Undertakings require a licence issued by the FMA in order to take up an activity or service covered by the BankG on a professional basis in Liechtenstein. Banks or investment firms having their seat in another member state of the EEA may pursue activities covered by the fourth Capital Requirements Directive (2013/36/EU – "**CRD IV**") or MiFID II in Liechtenstein either on a cross-border basis or through a Liechtenstein branch if they have been licensed for such activities in their home member state. The BankG and BankV contain detailed provisions regarding formal

and material requirements for obtaining and retaining a banking licence, licensing procedures, ongoing supervision by the FMA and sanctions.

The BankG and BankV implement several EU directives into Liechtenstein law, including the CRD IV, the Capital Requirement Regulation (575/2013) and MiFID II.

Furthermore, several acts related to the provision of financial services are of particular relevance to Liechtenstein banks:

- The Due Diligence Act (*Sorgfaltspflichtsgesetz* – "**SPG**"; LGBl. 2009/047) and the Due Diligence Ordinance (*Sorgfaltspflichtsverordnung* – "**SPV**"; LGBl. 2009/098) implement the recommendations of the Financial Action Task Force to combat money laundering and terrorist financing as well as EU anti-money laundering directives in force in the EEA.
- The Bank Recovery and Resolution Act (*Sanierungs- und Abwicklungsgesetz* – "**SAG**" LGBl. 2016/493) and the Banking Recovery and Resolution Ordinance (*Sanierungs- und Abwickungsverordnung* – "**SAV**"; LGBl. 2016/509) implement the EU Banks Recovery and Resolution Directive (2014/59/EU – "**BRRD**"). The SAG applies to Liechtenstein banks and other financial institutions and establishes a framework for the recovery or orderly resolution of failing banks. It grants wide powers to the FMA in its capacity as national resolution authority. The BRRD is currently pending implementation into the EEA Agreement.
- The Market Abuse Act (*Marktmissbrauchsgesetz* – "**MG**"; LGBl. 2007/018) and Market Abuse Ordinance (*Marktmissbrauchsverordnung* – "**MV**"; LGBl. 2007/023) implement the EU Market Abuse Directive (2003/6/EC) on insider dealing and market manipulation aiming at strengthening market integrity. The EU Market Abuse Regulation (596/2014), which has replaced the Market Abuse Directive in the EU, is currently pending implementation into the EEA Agreement.
- The Payment Services Act (*Zahlungsdienstegesetz* – "**ZDG**"; LGBl. 2009/271) and the Payment Service Ordinance (*Zahlungsdiensteverordnung* – "**ZDV**"; LGBl. 2009/278) implement the EU Payment Services Directive (2007/64/EU). They contain provisions regarding the formal and material requirements for the provision of payment services in Liechtenstein and the rights and obligations of payment service providers and their customers. The Second Payment Services Directive (2015/2366 – "**PSD II**") is currently pending implementation into the EEA Agreement.
- E-Money Act (*E-Geldgesetz* – "**EGG**"; LGBl. 2011/151) and E-Money Ordinance (*E-Geldverordnung* – "**EGV**", LGBl. 2011/158) implement the EU E-Money Directive (2009/110/EC). It contains provisions regarding the formal and substantial requirements for issuing e-money on a professional basis as well as the rights and obligations of e-money institutions and their customers.
- FATCA Act (*Gesetz vom 4. Dezember 2014 über die Umsetzung des FATCA-Abkommens zwischen dem Fürstentum Liechtenstein und den Vereinigten Staaten von Amerika* – "**FATCA-Gesetz**"; LGBl. 2015/007) transposes the Intergovernmental Agreement between Liechtenstein and the United States of America to Improve International Tax Compliance and to Implement FATCA into Liechtenstein law. It requires Liechtenstein banks and other financial institutions to report to the Internal Revenue Service information about financial accounts held by US persons. The agreement signed by Liechtenstein follows Model 1 according to which taxpayer information is exchanged between national tax authorities.

- Act on International Automatic Information Exchange in Tax Matters (*Gesetz über den automatischen Informationsaustausch in Steuersachen* – "**AIA-Gesetz**"; LGBl. 2015/355) and Ordinance on International Automatic Information Exchange in Tax Matters (*Verordnung über den automatischen Informationsaustausch in Steuersachen* – "**AIA-Ordinance**"; LGBl. 2015/358) implement automatic exchange of financial account information in tax matters developed by the OECD.

In addition, banks and e-money institutions have to observe guidelines (*Wegleitungen*), directives (*Richtlinien*) or communications (*Mitteilungen*) issued by the FMA, as well as guidelines and recommendations issued by EBA that the FMA complies with.

Recent regulatory themes and key regulatory developments in Liechtenstein

MiFID II

On 3rd January 2018, MiFID II entered into force in Liechtenstein. The main objectives of MiFID II are to increase investor protection and to strengthen weaknesses in the framework for the regulation of markets in financial instruments that have been exposed during the financial crisis of 2008. The changes introduced by MiFID II are particularly relevant to Liechtenstein banks, as most of them focus on asset management for private and institutional clients as core business activity.

MiFID II sets out new rules for trade execution, transaction reporting, investment product manufacturing and distribution, inducements from third parties, payment for financial research by investment firms, pre-sale assessment of suitability and appropriateness of investment products, the provision of independent investment advice, the transparency of costs and charges associated with investment products, and remuneration policies for sales staff.

MiFID II has yet to be incorporated into the EEA Agreement. Notwithstanding this, the Liechtenstein government has decided to implement MiFID II autonomously in order to ensure that Liechtenstein banks and investment firms operate on a level playing field with competitors established in EU member states. MiFID II has been transposed into the BankG and BankV and the Asset Management Act (*Vermögensverwaltungsgesetz* – "**VVG**"; LGBl. 2005/278).

PRIIPS Regulation

Regulation (EU) 1286/2014 on basic information sheets for packaged investment products for retail investors and insurance investment products ("**PRIIPS Regulation**") entered into force in Liechtenstein together with MiFID II on 3rd of January 2018.

The PRIIPS Regulation requires manufacturers of packaged retail and insurance-based investment products ("**PRIIP**") that are sold to retail investors to publish a key information document. PRIIPS are investment products where the amount (re-)payable to the investor depends on the performance of an underlying asset or a reference value such as an index. PRIIPS include, among other things, investment funds, life insurance policies with an investment element, certain financial instruments issued by special purpose vehicles, structured products and structured deposits. The key investor document has to be provided to a retail investor prior to the purchase of a PRIIP even in cases where the issuer of the PRIIP can rely on an exemption from the requirement to publish a securities prospectus in Liechtenstein. It has to be reviewed and, if required, revised on a regular basis. The implementing provisions were adopted in the PRIIP Implementing Act (*PRIIP-Durchführungsgesetz* – "**PRIIP-DG**"; LGBl. 2016/513) and the PRIIP Implementation

Ordinance (*PRIIP-Durchführungsverordnung* – "**PRIIP-VO**"; LGBl. 2017/232). Like MiFID II, the PRIIPS Regulation has yet to be incorporated into the EEA Agreement.

General Data Protection Regulation

The General Data Protection Regulation (2016/679 – "**GDPR**") has entered into force in the EEA on 20th of July 2018. The GDPR harmonises the rules and regulations applicable to the processing of personal data of natural persons located in the EEA and seeks to ensure the free flow of personal data between member states of the EU and EEA for the benefit of undertakings operating in the EEA. Banks and other financial institutions have to apply the GDPR in addition to national provisions regarding the protection of customer information. As a result of the entry into force of the GDPR, Liechtenstein had to overhaul its national Data Protection Act (*Datenschutzgesetz* – "**DSG**"; LGBl. 2018/272) and the Data Protection Ordinance (*Datenschutzverordnung* – "**DSV**"; LGBl. 2018/415). The revised DSG and DSV entered into force in Liechtenstein on 1st January 2019.

4th Anti-Money Laundering Directive

Directive (EU) 2015/849 ("**AMLD 4**") has yet to be incorporated into the EEA Agreement. Notwithstanding, the Liechtenstein government, with a view to maintaining a high standard in combating money laundering and terrorist financing, decided to partially transpose AMLD 4 – with the exception of Article 30 and 31 – ahead of other EEA member states. The respective provisions entered into force in Liechtenstein on 1st September 2017. In 2018, the Liechtenstein government published a proposal for a separate legislation implementing Articles 30 and 31 AMLD 4 (*Gesetz über das Verzeichnis wirtschaftlicher Eigentümer inländischer Rechtsträger* – "**VWEG**").

Articles 30 and 31 AMLD 4 oblige member states to create a central register containing information on the beneficial owners of domestic legal entities and trusts. According to the Liechtenstein legislative proposal, the beneficial owner register will be maintained electronically by the Office of Justice (*Amt für Justiz*), which already maintains the register on legal entities (*Handelsregister*). On the basis of the draft VWEG, information recorded on the beneficial owner register can only be accessed by third parties with a legitimate interest. A special commission will be formed to decide on applications for access to registered information by third parties. With this procedure the government seeks to ensure that the requirements of AMLD 4 are met while at the same time the legitimate interests of those affected by the new legislation are safeguarded. The VWEG will enter into force in Liechtenstein once AMLD 4 enters into force in the EEA.

Interchange fees on card-based payments

The government has published a draft law on the implementation of Regulation (EU) 2015/751 on interchange fees for card-based payment transactions in Liechtenstein (EWR – *Interbankenentgelteverordnung-Durchführungsgesetz* – "EWR-IBEV-DG"). The Regulation has been passed in order to address the problem of high and divergent interchange fees charged by payment service providers to consumer and merchants on card-based payments in the EU. The Regulation places caps on interchange fees charged by card-issuing banks in the EU for card-based payment transactions. Under the terms of the Regulation, payment service providers may not charge fees in excess of 0.2% of the value of the transaction in case of consumer debit card transactions, and of 0.3% of the value of the transaction in case of consumer credit card transactions. The new law will enter into force in Liechtenstein once the Regulation has been incorporated into the EEA Agreement.

Deposit Guarantee and Investor Compensation Act

The government has proposed a draft law for a Deposit Guarantee and Investor Compensation Act (*Einlagensicherungs- und Anlegerentschädigungsgesetz* – "**EAG**"). The purpose of the legislation is to implement Directive 2014/49/EU on Deposit Guarantee Schemes, which replaces Directive 94/19/EC, as well as to combine the provisions on deposit-guarantee schemes and the provisions implementing Directive 97/9/EC on investor compensation in a single law text. The provisions on deposit-guarantee schemes and investor compensation customers of banks and investment firms are currently provided for in the BankG and BankV. The new law is expected to enter into force in the course of 2019.

Facilitating the start-up of fintech companies

Some years ago, the Liechtenstein government identified business models based on financial and blockchain technologies as an opportunity for the Liechtenstein financial market. In 2019, it is expected that the Liechtenstein government will continue its efforts to facilitate the start-up of companies with technology-based business models in Liechtenstein. In addition, the FMA has a dedicated project team comprising regulatory lawyers and fintech specialists to facilitate the licensing of innovative financial service providers and fintech start-ups. It has also published various fact sheets on the regulatory treatment of certain business models such as crowd funding, crypto currencies and initial coin offerings on its website.

EMIR

The European Market Infrastructure Regulation (648/2012 – "**EMIR**") entered into force in the EEA on 1st July 2017. Notwithstanding, EMIR could not be applied in EEA countries until recently due to the fact that relevant technical standards for the implementation of EMIR had not been incorporated into the EEA Agreement at the same time as EMIR. This was partially remedied on 1st June 2018 when relevant technical standards on the clearing obligation (Commission Delegated Regulations (EU) 2016/2205, (EU) 2016/595, (EU) 149/2013 and (EU) 2017/751) and on trade reports (Commission Delegated Regulations (EU) No. 148/2013, (EU) 2017/104 and (EU) 2017/105) entered into force in the EEA. As a result, counterparties in scope of EMIR located in the EEA now have to comply with the clearing obligation and the obligation to report derivative transactions to trade repositories. On the other hand, technical standards on risk-mitigation techniques for non-cleared over-the-counter derivative transactions (Commission Delegated Regulations (EU) 2016/2251 and (EU) 2017/323) have yet to enter into force in the EEA.

Liechtenstein has transposed the relevant implementation provisions in the EMIR Implementation Law (*EMIR Durchführungsgesetz* – "**EMIR-DG**"; LGBl. 2016/156) and the EMIR Audit Ordinance (*EMIR Prüfverordnung* – "**EMIR-PV**"; LGBl. 2018/181). EMIR provides a comprehensive regulatory framework for derivative transactions. According to its provisions, counterparties to derivative transactions are required to report their transactions to trade repositories, to clear certain over-the-counter derivative transactions through a central counterparty and to implement risk-management measures. EMIR imposes requirements on financial institutions as well as certain undertakings operating outside the financial sector.

Upcoming changes

The Liechtenstein government has published draft laws implementing relevant EU legislation, including the PSD II, the Market Abuse Regulation (596/2014 – "**MAR**") and

the Central Securities Repositories Regulation (909/2014 – "**CSDR**"). These laws will enter into force in Liechtenstein once the PSD II, MAR and CSDR have been incorporated into the EEA Agreement, which is expected to occur in 2019.

Bank governance and internal controls

General

The key requirements for the governance of banks are set out in the BankG and BankV and in directly applicable EU law such as the Capital Requirements Regulation (575/2013 – "**CRR**"). In addition, the FMA complies with relevant guidelines and recommendations of the EBA.

A Liechtenstein Bank shall have: (A) a board of directors for ultimate direction, supervision and control; (B) a management board responsible for the operational management consisting of at least two members, who shall exercise joint responsibility for their activities and may not simultaneously be members of the board of directors; (C) an internal audit which shall report directly to the board of directors; (D) a risk management system independent of the operational business; and (E) adequate procedures for employees to report violations of the BankG and the CRR, as the case may be.

The division of responsibilities between the board of directors and the management board must ensure proper supervision of the business conduct. The members of the board of directors and the management board must have the necessary knowledge, skills, and experience to collectively understand the activities of the bank including the related risks. All members of the board of directors and the management board shall commit sufficient time to perform their functions.

Board of Directors

The board of directors of a Liechtenstein bank are responsible for the overall direction, supervision and control of the bank. The board of directors has non-transferable responsibilities such as: (i) stipulating the internal organisation and issuing internal regulations for corporate governance, business conduct and risk strategy, in particular by ensuring a division of responsibilities and implementation of measures to prevent conflicts of interest, as well as their regular review and amendment; (ii) stipulating the accounting system, financial control and financial planning; (iii) appointment and removal of persons charged with managerial functions; (iv) supervising persons charged with managerial functions in respect of the development of the business as well as their compliance with laws and regulations; (v) compiling business reports and approving interim financial statements, preparing the general meeting of shareholders and executing its resolutions; (vi) monitoring disclosure and communication; and (vii) stipulating and implementing the remuneration policy.

The board of directors has to consist of at least three members. If the board of directors consists of five or more members, it may delegate responsibilities not expressly reserved by law to a committee composed of at least three board members. Banks of material significance for the national economy have to set up – in addition to the standard committees – a risk committee, remuneration committee, nomination committee and an audit committee.

Management board

The management board of a bank is responsible for the business operation and has to

consist of at least two members with adequate experience and qualifications (fit and proper). Members of the management board may not at the same time be members of the board of directors of the same bank.

Remuneration

Liechtenstein banks are required to stipulate and implement sound remuneration policies pursuant to the requirements set out in CRR and Annex 4.4 BankV as well as relevant Level II and Level III acts issued by the European Commission or EBA, such as the EBA guidelines on sound remuneration policies (EBA/GL/2015/22) and remuneration of sales staff (EBA/GL/2016/06). Banks of material significance have to set up a remuneration committee consisting of members of the board of directors.

Further bodies

Banks also need to have an internal audit department that reports directly to the board of directors of the bank. For the sake of clarity, the business operations of a Liechtenstein shall be examined and audited every year by an external, independent audit company which shall be acknowledged by the FMA.

Furthermore, banks shall have a risk management independent of the operational business, a dedicated compliance department, and appropriate procedures by which employees can report violations of the BankG and the CRR. Personnel charged with key functions need to have a good repute as well as adequate experience and professional qualifications.

Place of management

The effective place of management of a bank has to be in Liechtenstein. For this reason, the FMA requires the members of the management board to effectively work in and from Liechtenstein. In addition, a bank has to demonstrate in the licensing process that it will have sufficient substance in the form of office space and key personnel employed in Liechtenstein to be able to effectively operate its business in and from Liechtenstein.

Outsourcing

Banks may outsource certain key functions such as the internal audit function with the prior approval of the FMA. Other functions may be outsourced without the prior approval of the FMA if the outsourcing guidelines pursuant to Annex 6 to the BankV are observed.

The overall direction, supervision and control of the bank by the board of directors and the core management duties may not be outsourced. The outsourcing providers may be located in and outside of Liechtenstein. The bank is required to act with due diligence when selecting and instructing an outsourcing provider, and has to have appropriate resources to adequately monitor the outsourcing provider on a continuing basis.

Bank capital requirements

A bank must have a fully paid-up capital of at least 10 million Swiss francs or the equivalent in euro or US dollars at the time of its authorisation.

In case of investment firms, the minimum capital must amount to at least 730,000 Swiss francs or the equivalent in euro or US dollars. The FMA has the power to reduce the amount of the initial capital in certain cases, taking into account the nature and scope of the intended business of a bank or investment firm. It must be apparent from the business plan at the time of authorisation that the bank's or investment firm's own funds will not fall below the initial capital after taking up business.

Rules governing banks' relationships with their customers and other third parties

General

In Liechtenstein, there is no law which exclusively governs the relationship between banks, on the one hand, and customers and other third parties, on the other hand. In fact, the general rules and provisions on contracts and legal transactions, which are laid down in the Liechtenstein Civil Code (*Allgemeines Bürgerliches Gesetzbuch*, "**ABGB**"), shall be applicable for the relationship between banks, customers and other third parties, too.

From the various types of contracts laid down in the ABGB, the contract of mandate is probably deployed most often in the banking business. Pursuant to § 1009 ABGB, the agent is obliged to procure the transaction diligently and honestly in accordance with his promise and the granted power of attorney and – with the exception of § 1009a ABGB – to transfer all benefits arising out of the transaction to the principal. He is, even though he has been granted a limited power of attorney, entitled to use all means which are necessarily connected with the nature of the transaction or conform to the declared intention of the principal. If he exceeds the limitations of the power of attorney, he is liable for the consequences.

If, however, the agent is a bank, an investment firm or an asset management company, it may, except in the case of independent investment advice and portfolio management, assume that the principal has waived his right to be transferred any fees, commissions or grants received or still to be received by the agent from third parties, provided that: (a) the agent has complied with all of its disclosure obligations prior to the conduct of business; and (b) the principal has instructed the agent to carry out the transaction after such disclosure. Furthermore, the agent is obliged to point out the mentioned legal consequences in its General Terms and Conditions or other pre-formulated terms and conditions of business, as the case may be (*cf.* § 1009a ABGB).

Having said that, Liechtenstein banks usually have their own General Terms and Conditions on which they would base any relationship to their customers. In order to be valid and applicable, General Terms and Conditions need to meet certain criteria. Firstly, unusual provisions used by the bank in General Terms and Conditions (or standard contract forms) do not become part of the contract if they are detrimental for the customer and the customer would not have to expect these provisions due to the circumstances, in particular due to the formal appearance of the contract, unless the bank expressly made the customer aware thereof (*cf.* § 864a ABGB). Furthermore, a contractual provision contained in General Terms and Conditions, which does not determine either of the mutual main obligations, is void in any event if it causes a substantial imbalance of the contractual rights and obligations to the detriment of the customer when considering all circumstances of the case (*cf.* § 879 para 3 ABGB).

Furthermore, certain provisions laid down in the Consumer Protection Act (*Konsumentenschutzgesetz*, "**KSchG**") shall be considered as well. The Consumer Protection Act, which per definition contains more favourable provisions for customers, supersedes provisions of the ABGB which were otherwise applicable amongst individuals.

Cross-border banking activities

As a principle, a bank shall be entitled to take up its business in Liechtenstein only on the basis of a licence issued by the FMA.

Yet, under the freedom to provide services, a bank having its seat in one of the countries of the EEA may also take up its banking activity in Liechtenstein provided the competent

authority of its home member state has notified the Liechtenstein FMA prior to its first-time activity in Liechtenstein (passport).

A bank outside the EEA may provide banking services in Liechtenstein only through a branch in Liechtenstein. The establishment of such branch shall be subject to a licence which shall be issued by the Liechtenstein FMA.

Other than that, banks from third countries may not provide any banking services in Liechtenstein unless on a "reverse solicitation" basis, whereas the criteria for such "reverse solicitation" are not entirely clear.

Conciliation board

By virtue of the ordinance of 27th October 2009 on the extrajudicial conciliation board in the financial services sector (*Verordnung vom 27. Oktober 2009 über die aussergerichtliche Schlichtungsstelle im Finanzdienstleistungsbereich* – "**FSV**"), the Liechtenstein legislator has introduced an extrajudicial conciliation board which supersedes the previously existing bank ombudsman.

The conciliation board may be called upon – amongst others – to settle disputes between customers and banks about the services provided by the bank. The conciliation board acts as a mediator to resolve complaints submitted by customers. The conciliation board is not a court of law. Also it does not have authority to make judicial rulings. In fact, it shall encourage discussions between the disputing parties and lead them to a mutually acceptable solution. Yet, both, the bank and the customers are not bound to accept any generated solution. In fact, they are free to take further legal measures, as the case may be.

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