FSB FINANCIAL STABILITY BOARD

Peer Review of Switzerland

Review report

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Foreword

Financial Stability Board (FSB) member jurisdictions have committed, under the FSB Charter and in the *FSB Framework for Strengthening Adherence to International Standards,*[1] to undergo periodic peer reviews. To fulfil this responsibility, the FSB has established a regular programme of country and thematic peer reviews of its member jurisdictions.

Country reviews focus on the implementation and effectiveness of regulatory, supervisory or other financial sector policies in a specific FSB jurisdiction. They examine the steps taken or planned by national/regional authorities to address IMF-World Bank Financial Sector Assessment Program (FSAP) and Reports on the Observance of Standards and Codes recommendations on financial regulation and supervision as well as on institutional and market infrastructure that are deemed most important and relevant to the FSB's core mandate of promoting financial stability. Country reviews can also focus on regulatory, supervisory or other financial sector policy issues not covered in the FSAP that are timely and topical for the jurisdiction and for the broader FSB membership. Unlike the FSAP, a peer review does not comprehensively analyse a jurisdiction's financial system structure or policies, or its compliance with international financial standards.

FSB jurisdictions have committed to undergo an FSAP assessment every five years; peer reviews taking place typically two to three years following an FSAP will complement that cycle. As part of this commitment, Switzerland volunteered to undergo a peer review in 2022-2023.

This report describes the findings and conclusions of the Switzerland peer review, including the key elements of the discussion in the FSB's Standing Committee on Standards Implementation (SCSI) in November 2023. It is the second FSB peer review of Switzerland and is based on the objectives and guidelines for the conduct of peer reviews set forth in the *Handbook for FSB Peer Reviews.*[2]

The analysis and conclusions of this peer review are based on the responses to questionnaires by financial authorities in Switzerland and reflect information on the progress of relevant reforms as of December 2023. The review has also benefited from dialogue with the Swiss authorities as well as discussion in the FSB SCSI.

The draft report for discussion was prepared by a team chaired by Arthur Yuen (Hong Kong Monetary Authority) and comprising Marc-Oliver Thurner (Reserve Bank of Australia), Stefania Gallo (Banca d'Italia), Adam Cull (Bank of England), Kristin Malcarney (Federal Reserve Bank of New York) and Milada McCabe (Single Resolution Board). Michael Januska, Hans Sassen and Marianne Klumpp (FSB Secretariat) provided support to the team and contributed to the preparation of the report.

[1] FSB (2010), *Framework for Strengthening Adherence to International Standards*, 2010.

[2] FSB (2017), *Handbook for FSB Peer Reviews*, April.

Abbreviations

AML	Anti Money Laundering
BankA	Banking Act
BIO-FINMA	Bank Insolvency Ordinance
BO	Banking Ordinance
CAO	Capital Adequacy Ordinance
CET1	Common Equity Tier 1
CMG	Crisis Management Group
CoAg	Cooperation agreement
DIS	Deposit insurance scheme
ELA	Emergency liquidity assistance
EU	European Union
FDF	Federal Department of Finance, Switzerland
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
FINMA	Swiss Financial Market Supervisory Authority
FINMASA	Financial Market Supervision Act
FinSA	Financial Services Act
FiR	Funding in resolution
GB-R	FINMA Recovery and Resolution Division
GDP	Gross Domestic Product
GFC	Global Financial Crisis
G-SIB	Global systemically important bank
IMF	International Monetary Fund
LCR	Liquidity Coverage Ratio
LPA	Loss potential analyses
LREM	Leverage ratio exposure measure
MOU	Memorandum of Understanding
NBFI	Non-bank financial intermediation
NSFR	Net Stable Funding Ratio
PLB	Public liquidity backstop
PONV	Point of non-viability
RAP	Resolvability assessment process
RWA	Risk-weighted assets
SIB	Systemically important bank
SIFI	Systemically important financial institution
SNB	Swiss National Bank
TBTF	Too-big-to-fail
TLAC	Total loss-absorbing capacity

Executive summary

Background and objectives

The main purpose of this peer review is to examine Switzerland's implementation of too-big-to-fail (TBTF) reforms for global systemically important banks (G-SIBs), including by following up on relevant FSAP recommendations and FSB commitments.

Main findings

The Swiss authorities have made important strides toward implementing an effective TBTF regime for G-SIBs. Switzerland introduced capital and liquidity requirements beyond the international minimum standards to increase G-SIBs' abilities to cope with stress scenarios. Supervision of G-SIBs has increased in intensity over time and under the Swiss Financial Market Supervisory Authority's (FINMA's) proportional and systematic risk-oriented approach, relatively more resources are devoted to the supervision of G-SIBs than for other Swiss banks. FINMA has streamlined routine regulatory audits to re-deploy resources to conducting more risk-focused supervisory activities. FINMA has also increased the transparency of its supervisory activities, and in so doing helps alert banks and the public of risks facing the Swiss financial market.

Switzerland has continued to enhance its framework for recovery and resolution of G-SIBs. Recovery planning is in place for all systemically important banks (SIBs), while the global resolution plans are also in effect. FINMA's annual resolvability assessment of G-SIBs shows progress in implementing and testing resolvability capabilities. FINMA has a wide range of bank resolution powers that are closely aligned with the international resolution standard – the FSB *Key Attributes of Effective Resolution Regimes* (Key Attributes) – and the authorities have continued to strengthen the resolution framework in this regard, including the legal basis for the application of the bail-in restructuring tool. There is cooperation and information-sharing among FINMA, the Federal Department of Finance (FDF) and Swiss National Bank (SNB) on resolution matters, and cooperation with foreign authorities has advanced. Finally, a Funding in Resolution (FiR) requirement, stipulating that SIBs need to maintain a liquidity buffer for a 90-day severe stress period, has entered into force.

Notwithstanding this progress, additional steps can be taken to further strengthen the TBTF framework for G-SIBs in Switzerland. This task is particularly important after the merger of the two Swiss G-SIBs into an even bigger G-SIB that will be the world's largest as a percentage of home jurisdiction Gross Domestic Product (GDP) and whose failure could have severe impact on the Swiss economy and the global financial system. These steps include: increasing FINMA's resources for supervision, recovery and resolution; strengthening the supervisory framework and early intervention powers; and enhancing the recovery and resolution framework.

Increasing resources for supervision, recovery and resolution

The merger is a complicated transaction that no authority has handled before and the challenges it brings are not easy to tackle. Furthermore, the resources needed to supervise the merged group may be higher than the sum of the resources that were dedicated to supervising both banks separately before the merger. It will be important for FINMA to consider the adequacy of

resources available (in terms of size and expertise) for supervision, recovery and resolution planning, and resolvability of the resulting G-SIB, to manage the challenges ahead.

Strengthening the supervisory framework and early intervention powers

Despite some progress, FINMA continues to rely considerably on external auditors in conducting audits on banks. While such reliance may be necessary to some extent, the fact that banks pay for the audits directly may lead external auditors to hesitate in informing FINMA of major weaknesses identified. FINMA should reconsider the weight it gives to external audits and consider measures that could address governance and conflicts of interest issues.

FINMA relies mainly on imposing Pillar-2 capital add-ons and issuing remediation orders when deficiencies are identified in a bank's controls. Banks would have a stronger incentive to address the weaknesses identified if FINMA could directly assess – and take action against – the senior bank management responsible for managing the relevant risk. Furthermore, FINMA has been proactive in pursuing enforcement proceedings, but these can be cumbersome and not suited to addressing issues in a time-sensitive stressed situation. Early intervention powers can help supervisors take proactive action, have preventative effects and mitigate any subsequent legal challenges. A structured framework for early intervention should be put in place that includes forward-looking grounds for powers to intervene. As FINMA has a limited (compared to peers) set of administrative sanctions at its disposal, it should obtain the power to publish its enforcement proceedings so that it can highlight undesirable behaviours in the financial market.

Enhancing the recovery and resolution framework

Recovery planning and recovery measures are critical risk management tools for banks to address severe crises and to prevent them from reaching the point of non-viability. To date the regulatory emphasis on recovery planning for Swiss G-SIBs has been low and not a cornerstone regulatory tool. FINMA has been prioritising resources for development of resolution capabilities, testing and resolvability assessments, as it considered the recovery plans to be largely stable. Furthermore, there is no general guidance for recovery planning. Based on the Credit Suisse experience, there should be more focus on the recovery phase for the larger remaining G-SIB to ensure that relevant options can be implemented in a timely and credible manner. Granting FINMA more powers to assess and require any changes to recovery plans would increase their effectiveness, and FINMA should develop a dedicated horizontal recovery plan policy or guidance to codify requirements for the key elements of the recovery plan.

On resolution planning, FINMA has made progress in enhancing the resolvability of the G-SIBs and has a limited range of powers to require G-SIBs to address impediments to their resolvability. But FINMA does not have a specific going-concern power to require G-SIBs to adopt changes to their business practices, structure or organisation to reduce the complexity and costliness of resolution. Meanwhile, resolvability term sheets, which incorporate international resolution standards and guidance, have been agreed between FINMA and the two G-SIBs, but no public guidance is available about the expectations to which the G-SIBs are held. As part of continuing to enhance its readiness for resolution, FINMA should prioritise further testing of bank resolvability capabilities, including preparedness to support the execution of a bail-in of investors abroad in resolution. The criteria for determining whether a bank should enter resolution are defined at a high level and there are challenges in judging whether risks faced by a bank are

sufficient to threaten its viability, especially in a liquidity stress. The authorities should have clear standards or suitable indicators of non-viability to help guide decisions on whether banks meet the conditions for entry into resolution while retaining enough flexibility for implementing resolution measures.

It is important that the legislation for a public liquidity backstop facility is adopted, so as to provide an effective funding mechanism for use as a last resort when necessary and appropriate in order to promote market confidence and to encourage private sector counterparties to provide (or to continue to provide) funding to the material operating entities of a SIB in resolution. Furthermore, strong arrangements that provide access to contingent liquidity in both recovery and resolution will be particularly important for the remaining G-SIB in Switzerland. The disclosure of emergency liquidity assistance (ELA) provision while liquidity stresses at a bank are not publicly known can lead to an acceleration of withdrawals of deposits or wholesale funding; the authorities should therefore consider ways to minimise the risk of stigma ensuing from a SIB accessing central bank liquidity facilities, such as that the entity and the central bank delay disclosure of any information that may allow to infer the use of ELA. Due consideration needs to be given to potential trade-offs between the need for market transparency and financial stability.

Finally, the recent banking turmoil suggests that depositor behaviour may be evolving, which reinforces the importance of having a credible deposit insurance scheme. While the recent reforms made to the Swiss deposit insurance system represent an improvement, some gaps still exist (e.g. with respect to uncertainty around the implications in payout of the ceiling to banks' contributions) that the authorities may want to consider.

Recommendations

In response to the aforementioned findings and issues, the peer review has identified the following recommendations to the Swiss authorities:

1. FINMA's resources should be increased to be able to effectively manage the supervision, recovery and resolution planning, and resolvability of the remaining G-SIB.

2. FINMA's supervisory tools should be strengthened and widened by: (i) introducing a Senior Managers regime in order to more easily take action against individual managers who fail their duties; (ii) obtaining the power to publish its enforcement proceedings; and (iii) implementing a structured and transparent early intervention framework that includes the ability to take into consideration qualitative and forward-looking metrics.

3. FINMA should revise its use of external audit firms for the supervision of banks, including by considering measures such as having FINMA directly contracting and paying for the audits, to address the governance and conflicts of interest issues.

4. The authorities should strengthen FINMA's powers to assess the credibility and feasibility of recovery plans and to require a bank to take measures to address deficiencies in its recovery plan. FINMA should allocate more resources to recovery planning, especially for the remaining G-SIB, and establish a general policy or guidance on recovery planning.

5. The authorities should strengthen the legal basis for FINMA, as part of resolution planning, to require identified G-SIBs to adopt changes to their business practices, structure or organisation to address a material impediment to resolvability.

6. FINMA should publish further information about the expectations on resolvability to which G-SIBs are held, and enhance the readiness for resolution by: (i) enhancing firm-level testing; (ii) conducting domestic cross-authority exercises; and (iii) assessing the adequacy of engaging with host authorities, including non-core CMG members, and the need for cross-border drills.

7. The FDF should consider whether the criteria in the Banking Act are sufficiently clear and flexible to enable FINMA to act when a firm is likely to be no longer viable. This should be supported by FINMA reviewing its internal point of non-viability (PONV) indicators and decision-making processes to ensure PONV assessments are sufficiently broad based and forward-looking.

8. The authorities should take all steps needed to advance the legislation to make the public liquidity backstop mechanism a permanent feature of the Swiss resolution framework and to implement it on a timely basis once it is enacted.

9. The authorities should further strengthen contingent liquidity arrangements by ensuring that G-SIBs assess and prepare both on operational and legal fronts their ability to offer sufficient collateral to the SNB and other central banks. Contingent liquidity should be available in recovery (including the Early Intervention Framework) and resolution.

10. The authorities should further enhance their ability to assist the recovery of a distressed bank by minimising the risk of stigma from accessing central bank liquidity facilities. This would include considering the appropriateness of disclosures by the entity and the central bank in relation to banks' use of emergency liquidity assistance where such disclosure is not in the public interest.

1. Introduction

This 2023 FSB Peer Review of Switzerland assesses Switzerland's implementation of TBTF reforms for G-SIBs (including work in response to the relevant FSAP recommendations), focusing on reforms to enhance intensity and effectiveness of supervisory oversight; prudential measures; and the resolution regime. The review was scoped prior to the UBS-Credit Suisse merger. The merger and events leading up to it provided a test of the implementation of the TBTF reforms and therefore informed the review, but the review does not outline in detail those developments, which have been described elsewhere.[3]

Switzerland's first FSB peer review was published in 2012.[4] The review assessed progress in addressing regulatory and supervisory issues raised by the 2006-07 IMF Financial Sector Assessment Program (FSAP) findings related to the banking and supervisory framework; banking supervision; (re)insurance regulation and supervision; and pension regulation and supervision. It commended the Swiss authorities for developing a TBTF package, particularly in the absence of an internationally agreed framework at the time, and also stressed the importance in ensuring: (1) a rigorous corporate governance framework in systemically important banks (SIBs) to ensure that their risks are well-understood and adequately managed internally; and (2) a robust supervisory framework in the prudential authority, FINMA, with sufficient resources and intensive supervision. It noted that progress on addressing tensions between FINMA's prudential and competitiveness objectives, or granting FINMA the power to impose civil money penalties to enhance its prudential powers, would be desirable. It also encouraged FINMA to increase its resources (on the banking and insurance side) and enhance its in-house expertise; and encouraged the Swiss authorities to continue to enhance FINMA's supervisory capacity and ability to perform more on-site examinations itself and improve its oversight of banks' external auditors.

Switzerland subsequently underwent FSAP Updates in 2014 and 2019.[5] The 2019 FSAP Update noted that while the two G-SIBs had downsized and deleveraged significantly since the global financial crisis, they had been growing again more recently; and that the authorities have strengthened the TBTF regime with leverage ratios higher than international standards and have enhanced the bank resolution regime.[6] However, it concluded that more work was needed to improve banks' recovery and resolution preparedness, and that recovery and resolution planning should be enhanced, expanded and expedited. The IMF's 2023 Article IV consultation[7] notes there has been progress on implementing 2019 FSAP recommendations, but the take-up has lagged in some key areas, such as further strengthening FINMA's autonomy, governance, and accountability, ensuring that FINMA - rather than banks - contracts and pays directly for

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[3] See, for example, FSB (2023), *2023 Bank Failures: Preliminary lessons learnt for resolution*, October and *Need for reform after the demise of Credit Suisse: Report of the Expert Group on Banking Stability 2023*, SNB (2023) *Financial Stability Report 2023*, June, BCBS (2023) Report on the 2023 banking turmoil, October, and FINMA (2023), *Lessons learned from the CS crisis*, December.

[4] FSB (2012), *Peer Review of Switzerland*, January.

[5] IMF (2014), Switzerland: Financial System Stability Assessment, *IMF Country Report No. 14/143*, May and IMF (2019a), Switzerland: Financial System Stability Assessment, *IMF Country Report No. 19/183*, June.

[6] IMF (2019a), IMF (2019b), Switzerland: FSAP Technical Note – Selected issues on banking supervision, *IMF Country Report 19/184* and IMF (2019c), Switzerland: FSAP Technical Note – Financial safety net and crisis management, *IMF Country Report 19/191*.

[7] IMF (2023), Switzerland: 2023 Article IV Consultation, *IMF Country Report No. 23/196*.

supervisory audits, expanding the macroprudential toolkit, and further enhancing, expanding, and expediting recovery and resolution planning, including resolvability.

Implementation of the post-Global Financial Crisis regulatory reforms is advanced across most core reform areas. However, implementation of certain Basel III elements, insurance resolution powers and non-bank financial intermediation (NBFI) reforms are still pending. Annex 1 provides an overview of Switzerland's implementation status of G20 financial reforms as of September 2023, including the steps taken to date and actions planned by the authorities in other core reform areas (not covered in this peer review) where implementation has not yet been completed.

2. Overview of the banking system and of the Swiss G-SIBs

The Swiss banking sector is large, internationally integrated and plays an important role in the country's financial sector and economy. At around CHF 3.6 trillion at end-2022, banking sector assets represented about 470% of GDP (6th-highest among FSB jurisdictions). The sector accounts for around 5% of value-added and employment of around 110,000 people in Switzerland.

The banking sector can be divided into three broad categories. The first comprises the globally active Swiss banks, Credit Suisse and UBS (previously as separate entities and combined going forward). These banks have been designated as G-SIBs by the FSB.[8] The second category comprises domestically focused banks such as regional, cantonal and Raiffeisen (cooperative) banks. The third category, 'Other banks', includes more specialised domestic banks and branches and subsidiaries of foreign banks. These three categories differ in terms of their size, share of the Swiss market and their business models.

The SNB can designate individual banks as systemically important, for which tighter regulatory requirements such as higher capital and liquidity requirements and specific requirements for resolvability apply. Out of the 222 banks operating at the end of 2022, five entities were assessed as systemically important: the two G-SIBs and three domestically focused banks.[9] These SIBs contribute substantially to the large size of the Swiss banking sector. For UBS and Credit Suisse, when assessed as separate entities, their leverage ratio exposure[10] (as a measure of bank size) was around 125% and 60% of Swiss GDP respectively as at Q4 2022.[11] As a share of domestic GDP, these rank 2nd and 8th highest globally and together they will be 1st globally. In comparison, the three other SIBs have leverage ratio exposures each ranging between 15% and 37% of GDP, which are still large by global standards.[12]

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[8] Annual G-SIB lists are available at FSB, Global Systemically Important Financial Institutions. In the 2023 list (based on end-2022 data) published 27 November 2023, Credit Suisse has moved below the threshold for G-SIB designation.

[9] These are PostFinance, Raiffeisen Group and Zürcher Kantonalbank.

[10] Leverage ratio exposure is the sum of on- and off-balance sheet positions as defined in the Basel III leverage ratio framework.

[11] The leverage ratio exposure of the merged bank will be around 200% of GDP.

[12] For more information about the structure of the Swiss banking sector, see SNB (2023) Financial Stability Report 2023, June.

3. Steps taken and actions planned

Ending TBTF is one of the core reform areas for the FSB. To this end, the FSB developed a comprehensive framework in 2011 to address the risks from systemically important financial institutions (SIFIs).[13] It includes: requirements for additional loss absorbing capacity to reflect the greater systemic risks that SIFIs pose; more intensive and effective supervision, including through stronger supervisory mandates, resources and powers; and powers and requirements (including with respect to resolvability assessments and recovery and resolution planning) for resolution regimes to enable authorities to resolve failing financial firms in an orderly manner and without exposing the taxpayer to the risk of loss[14]

The sections below describe steps taken and actions planned by the Swiss authorities in implementing TBTF reforms for G-SIBs.

3.1. Capital and liquidity requirements

One of the key elements of the TBTF reforms is to increase G-SIBs' capacity to absorb losses to reflect the greater risks that they pose to the global financial system. The reforms introduced the going- and gone-concern capital requirements, and they together represent the Total Loss-absorbing Capacity (TLAC) requirement which a SIB must hold to absorb losses before and when resolution kicks in. The international minimum standard for TLAC requirements for a G-SIB is stipulated at 18% of its risk-weighted assets (RWAs), and 6.75% of leverage ratio exposure measure (LREM).

Under the Swiss banking laws, the regulatory framework is required to be proportional and principles-based. Capital and liquidity minimum requirements should be set in accordance with a bank's business activities and risks. SIBs must hold more capital and liquidity than non-SIBs and the Swiss Federal Council, in consultation with FINMA and the SNB, sets the relevant requirements which are set out in the Capital Adequacy Ordinance and the Liquidity Ordinance.

Switzerland has gone beyond the international standard by imposing higher capital requirements on its G-SIBs. For instance, Credit Suisse was required to observe a TLAC requirement of 28.6% of RWA and a leverage ratio of 10% at the group level as at end-2020.[15]

- Minimum going concern capital requirements were at 10% of RWA in terms of Common Equity Tier 1 (CET1) plus an additional 4.3% of RWA in terms of Tier 1 capital. On a Leverage Ratio basis, the going concern requirement was 5% of LREM, with at least 3.5% of LREM as CET1.

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[13] FSB (2011), *Policy Measures to Address Systemically Important Financial Institutions*, November.

[14] FSB (2014) *Key Attributes of Effective Resolution Regimes for Financial Institutions*, October and FSB (2021), *Evaluation of the effects of too-big-to-fail reforms: Final Report*, March.

[15] FINMA, Capital requirements for systemically important banks. The requirements discussed in this section apply to Swiss G-SIBs on a consolidated basis. However, previous legislation mandated specific capital relief for the parent entity of a G-SIB on an individual basis. For a discussion of this, see FINMA (2023), *Report: Lessons learned from the CS crisis*, December, section 7.5.

- The gone concern loss-absorbing capacity requirement was 14.3% of RWA and 5% of LREM respectively.

- The gone concern requirement was before any rebates granted for structural improvements to facilitate global resolvability, as determined annually by FINMA in consultation with the SNB. By 2022, both G-SIBs were eligible for the maximum rebate (62.5% of 5.7% of RWA assets and 2% of total exposure). The rebate approach was replaced in 2023 by a new incentive system under which G-SIBs are subject to 75% of going concern requirements plus an add-on if deficiencies are identified in the yearly resolvability assessment that are not remediated by the deadline that FINMA prescribes. The 'add-on' is currently set at zero for the two G-SIBs. The rebate approach provided a means for FINMA to incentivise firms to take action or to make structural changes. It is too soon to observe the effects of the change to an 'add-on' approach.

TLAC requirements are predominantly fulfilled with 'bail-in bonds' that meet certain eligibility criteria, including being issued by the group holding company under Swiss law and with jurisdiction of the Swiss Courts. FINMA's 2023 Resolution report notes that the legal and operational feasibility of a bail-in of the Swiss G-SIBs' investors in the US capital market was confirmed by an external US legal counsel.[16] As noted in the FSB's 2023 report on preliminary lessons learnt for resolution from the bank failures,[17] the open-bank bail-in approach available in many G-SIB jurisdictions can create challenges in a cross-border context where TLAC instruments are issued to non-domestic investors. The FSB will support its members to enhance the legal certainty of bail-in and to ensure effective cross-border coordination and cooperation on this issue.

The forthcoming national implementation of the final Basel III framework will lead to higher capital requirements for G-SIBs. The amended rules are due to come into force on 1 January 2025 in Switzerland.

Switzerland's TBTF regime also includes additional liquidity requirements for its SIBs (including G-SIBs). Apart from the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR), requirements under Basel III that are already in place,[18] the authorities are imposing additional requirements intended to ensure that all SIBs can absorb stronger liquidity shocks than non-SIBs.[19] These additional requirements, last amended in June 2022 and with which SIBs were expected to comply by 1 January 2024, set an additional basic requirement for all SIBs and gives FINMA the option to set a bank-specific supplementary requirement if necessary.[20]

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16 FINMA, *Resolution report 2023*.

17 FSB (2023), *2023 Bank Failures: Preliminary lessons learnt for resolution*, October.

18 Switzerland's' implementation of the LCR (in force since January 2015) was judged by the BCBS to be 'compliant', the highest possible grade, while implementation of the NSFR (in force since July 2021) has been assessed as 'largely compliant'.

19 The authorities note that a high liquidity buffer at SIBs is also a key prerequisite for the public liquidity backstop planned by the Federal Council (see section 4.3).

20 Prior to the amendments, the SIBs must not have a liquidity gap in a 7-day horizon and 30-day horizon under a stress scenario as defined by FINMA. The basic requirement uses an extended LCR metric that extends the liquidity horizon from 30 to 90 days, resulting in additional contingent liquidity that SIBs need to maintain. It uses conservative assumptions, for instance reducing the assumed cash inflows compared to the LCR scenario on the assumption that SIBs may have to roll over a bigger portion of their loan book to ensure credit supply for the economy.

Box 1: Credit Suisse's regulatory capital and liquidity ratios

Credit Suisse's regulatory capital and liquidity ratios always exceeded the requirements of the TBTF regulations.[21] Nevertheless, during recent market stresses some market participants doubted the meaningfulness of the capital ratio reported by the bank, possibly due to credibility issues of CET1 capital as a measure of financial strength in the case of a bank's restructuring, use of regulatory filter and transitional rules in the Swiss context.[22] While the liquidity buffers were sufficient for Credit Suisse to cover the considerable outflows in October 2022, freely available liquidity and the collateral prepared for liquidity support by the SNB and other central banks were not sufficient in the second episode of large and rapid outflows in March 2023.[23] The March episode triggered reflections among regulators on the usability of liquidity buffers and modelling of outflow rates of private client deposits under the LCR as sight deposits proved much more volatile than previously assumed.[24]

Looking forward, the UBS-Credit Suisse merger will increase the combined bank's global systemic importance and its importance domestically. It is therefore important to ensure that the merged bank will be subject to commensurately stronger capital and liquidity requirements to increase its resilience and susceptibility to shocks. Adjustment periods in capital regulation, the use of regulatory filters and relief on capital requirements should be transparent to investors and stakeholders, and the merged entity should be given time to build up the capital needed so as to avoid any undesirable impact on the bank and the economy.

3.2. Approach to bank supervision

In the aftermath of the GFC, the FSB and the G20 identified more intense and effective supervision of SIFIs, particularly global SIFIs, as critical to the safety and stability of the financial system. The FSB explored the changes in tools and methods used by supervisors in order to intensify supervision and set out recommendations aimed at improving supervisory effectiveness.

3.2.1. Legal framework and institutional arrangements

Switzerland's legal framework for supervision of banks includes the Financial Market Supervision Act (FINMASA), the Banking Act (BankA), the Financial Services Act (FinSA), the Anti-Money Laundering Act (AMLA) and their implementing provisions.

FINMA is Switzerland's independent financial-markets regulator. It is the authority responsible for the supervision of banks, securities firms, insurance companies, financial market infrastructures, collective investment scheme products and institutions.[25] One of the previous 2019 FSAP recommendations was to preserve the primacy of FINMA's prudential mandate.

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[21] An overview of the capital ratios as of Q1 2023 is in SNB (2023) *Financial Stability Report 2023*, June. The evolution of the capital and liquidity ratios of Credit Suisse in 2021-22 is in the Report "Reformbedarf in der Regulierung von «Too Big to Fail» Banken" commissioned to the Swiss Institute of Banking and Finance by the Swiss Confederation and released in May 2023.

[22] SNB (2022) *Financial Stability Report 2022* and Expert Group on Banking Stability (2023), *The need for reform after the demise of Credit Suisse*, September.

[23] The Credit Suisse Media Release from 24 April 2023 notes that "Prior to the significantly increased outflows, on March 14, 2023, the quarter to date daily average LCR was approximately 153%" (p.2).

[24] Ibid.

[25] FINMA is also the resolution authority for banks, insurance companies and financial market infrastructures – see Section 3.3.

Article 4 of the FINMASA[26] provides that the aim of financial market supervision is to protect creditors, investors, insured persons and the functioning of the financial market, with the secondary clause that (as a consequence) this contributes to competitiveness. Discussions with the authorities suggest that FINMA pursues its supervisory functions in accordance with this primary objective.

FINMA exercises regulatory powers by issuing ordinances and circulars on the application of the financial market legislation.[27] FINMA carries out its supervisory activities autonomously and independently.[28] In the area of financial stability and financial market regulation, FINMA closely cooperates with other authorities, notably the Swiss National Bank and the Swiss Federal Department of Finance (see Box 2 for further details).

FINMA currently has a full-time workforce of around 550. The number of staff dedicated to the direct supervision of G-SIBs is 18.5 full-time equivalents, with a planned increase to 22 in the near term and further increases under consideration. Including specialists and risk experts as well as staff from the Enforcement and Recovery & Resolution areas focusing on G-SIBs, there are 63 employees focusing on G-SIB supervision, up from 53 in 2018. Within banking supervision, the allocation of staff is tilted toward the G-SIBs.

Box 2: Roles of Swiss federal authorities in bank supervision

The Swiss Financial Market Supervisory Authority (FINMA) is the prudential and conduct authority for financial supervision in Switzerland. FINMA was established in 2009 from the merger of its three predecessor institutions: the Swiss Federal Banking Commission (SFBC), the Federal Office of Private Insurance (FOPI) and the Anti-Money Laundering Control Authority (AMLCO). Whilst its Board of Directors is FINMA's strategic management body, the Executive Board manages the operations of the authority.

The Swiss National Bank (SNB) is the monetary authority and the lender of last resort. The National Bank Act of 3 October 2003 serves as the statutory basis for the SNB and its activity. SNB has an explicit mandate to contribute to the stability of the financial system. The SNB is responsible for designating (after consulting FINMA) the SIBs and their systemically important functions, and for submitting proposals on the countercyclical capital buffer to the Federal Council.

The Swiss Federal Department of Finance (FDF) is responsible for financial stability policies and relevant laws and ordinances. The head of the FDF is a member of the Swiss Federal Council. The State Secretariat for International Finance represents Switzerland's interests on financial, monetary and tax matters and is responsible for implementing the financial market policy of the Federal Council.

The Federal Audit Oversight Authority (FAOA) is an institution under public law with its own legal identity. It is responsible for the licensing of audit firms which offer statutory audit services. In addition, it is responsible for overseeing audit firms' work on auditing public interest companies. The FAOA commenced its activities in September 2007. Since 2015 it has also assumed all of FINMA's responsibilities on audit oversight and the oversight of audit firms.

[26] In accordance with the financial market acts, financial market supervision has the objectives of protecting creditors, investors, and insured persons as well as ensuring the proper functioning of the financial market. It thus contributes to sustaining the reputation, competitiveness and sustainability of Switzerland's financial centre.

[27] See Art. 7 of FINMASA.

[28] See Article 21 of FINMASA.

3.2.2. Supervisory review process

FINMA adopts a proportional and systematic risk-oriented approach in its supervision. Banks and securities firms are assigned to one of five supervisory categories based on their size, with G-SIBs in category 1, other SIBs in category 2, and the rest in categories 3 to 5.[29] FINMA assesses banks in supervisory categories 1 and 2 (i.e. SIBs) every year and those in category 3 at least every two years. Each institution is also assigned an overall risk rating, which is the outcome of a formal assessment based on a CAMELS rating system and takes into account the institution's governance and internal control environment in different areas including conduct, AML, suitability, cross border, and market conduct, etc. The supervisory category and the at least annually refreshed risk rating determine the intensity of supervision applied.

FINMA uses the Risk Barometer, a top-down risk assessment conducted by its Banks division on the entire supervised population, to identify its supervisory priorities. The assessment produces a forward-looking heat-map of the main risks facing the supervised entities in the next three years. The supervisory measures to address the "Red" and "Orange" risks are devised. Both the risk assessment and the supervisory measures have to be approved by FINMA's Executive Board and presented to the Board of Directors for views and guidance. The Risk Barometer is produced twice a year; it is completely re-assessed in the first half of every year and re-evaluated in the second half of the year. Since 2019, a shorter version of the Risk Barometer, the Risk Monitor, has been published annually by FINMA to communicate to the public its assessment of the key risks facing its supervised institutions and how it is tackling those risks in its supervisory activities.[30] The published Risk Monitor focuses only on the "Red" risks.

To strengthen the risk focus of FINMA's supervisory activities, a G-SIB Risk Council was established in 2020. The Risk Council, moderated by G-SIB supervision managers, brings together line supervision and subject matter experts to identify the risks at the G-SIB in a holistic and bottom-up manner, thereby complementing the top-down risks identified in the Risk Barometer. The G-SIB Risk Council initiates the annual supervisory planning process by preparing a risk inventory (that serves as an instrument to determine focus areas) before determining supervisory actions to address the risks. The Risk Council meets twice a year to discuss and confirm the risk assessment and validates the supervisory activities performed. Outside this cycle, the supervisory priorities might be adjusted in response to new developments; for instance, ad hoc on-site reviews on Credit Suisse and UBS were carried out by FINMA following the Archegos incident (see Box 3 for further details).

Box 3: Responses to high losses from recent events

In the aftermath of the Archegos losses suffered at Credit Suisse, and to a lesser degree at UBS, FINMA ordered a range of immediate measures (such as organisational measures, risk mitigation measures and capital add-ons) and opened enforcement proceedings at Credit Suisse.[31] In addition, FINMA performed supervisory works at both large Swiss banks in cooperation with affected foreign supervisory

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[29] The criteria for assessing an institution's size include total assets, assets under management, privileged deposits and required capital.

[30] The FINMA risk monitors are available here.

[31] In February 2023 and July 2023, FINMA concluded Greensill and Archegos proceedings against Credit Suisse.

authorities and mandated independent investigations performed by external audit agents. This was accompanied by various internal examinations at both G-SIBs and the respective remediation efforts.

The various investigations revealed significant weaknesses in risk management and control, including qualitative risk management, risk modelling and margining. FINMA directed both G-SIBs to address the deficiencies that have been detected. Next to discontinuing client relationships with undesirable risk characteristics, numerous other improvements were introduced; these related to the risk models used, the level of margin requirements, the limit framework and the stricter management of breached limits. Risk management and portfolio monitoring were also modified. In the area of risk management, FINMA required both G-SIBs to make an adjustment to the calculation of potential losses and regulatory capital requirements in the business with hedge funds so as to better reflect the risks of counterparties with fast growing, concentrated exposures and to back them adequately with regulatory capital.

Once a year, FINMA sends an Assessment Letter to G-SIBs summarising its risk assessment on the bank, the overall risk rating assigned, as well as the essential supervisory findings and the remediation actions expected to be taken.[32] Findings from the Risk Barometer and the G-SIB risk council are included in these Assessment Letters. Supervisory measures, which include Pillar 2 add-on and orders for remedial actions, could be issued when corrective measures are required to address major system and control issues identified.

FINMA has a number of administrative sanctions at its disposal, ranging from issuing declaratory decisions to license withdrawals or authorisation nullifications. It can also order the disgorgement of profits generated (and costs avoided) by illegal means, as well as publish its final decision. It may also impose professional bans on individuals, issue temporary purchase ban or suspension of voting rights in the case of violation of disclosure of shareholdings.

However, FINMA's supervisory and punitive instruments are more limited than its peers. For example, FINMA cannot impose fines (apart from the disgorgements described above).[33] Furthermore, unlike its peers which can make public most of their enforcement proceedings, FINMA generally cannot report publicly on individual enforcement proceedings.[34] The power to do so is considered an effective tool in other jurisdictions to deter undesirable behaviours as it sends an important warning to all market participants.

3.2.3. *Supervisory tools*

FINMA employs various instruments in its prudential supervision of banks, including on-site supervisory reviews, periodic collection of data, stress tests and regulatory audits. G-SIBs are subject to more intensive supervision than other banks in Switzerland, as evidenced by the application of these instruments as described below.

On-site supervisory reviews

FINMA conducts on-site supervisory reviews, the focus of which has evolved based on the assessment produced by the Risk Barometer. In 2022, the focus of the supervisory reviews was

[32] Since 2010, assessment letters are sent annually to all SIBs and at least every two years to category 3 institutions.

[33] In Switzerland, only criminal authorities can issue fines.

[34] Exceptions to this rule are granted only where a case is of public interest. FINMA publishes an annual enforcement report with anonymous case summaries. More information about FINMA's enforcement reporting is available here.

on combating money laundering; liquidity risk management and the management of interest rate risk; the mortgage lending business; compliance with market conduct rules; cyber risks and IT. The duration of the reviews varies from a few days to a few weeks, depending on the nature and depth of the subject. [35] In FINMA's view, the reviews assist to form its own assessment about a specific function of the bank, make comparisons across the industry, and gain a better view of market practices. Apart from providing important insights for supervision, the reviews could also lead to supervisory measures taken on the bank.

Consistent with FINMA's proportional and systematic risk-oriented approach, considerably more resources are devoted to supervisory reviews of the two G-SIBs than of other banks (see Table 1). FINMA has been carrying out around 20 supervisory reviews annually for each of the G-SIBs, in line with its target. There has been a significant increase in the reviews since the period prior to 2018, in order to strengthen this supervisory instrument. FINMA notes that yearly numbers may vary due to staffing and the reallocation of resources to other priorities such as the intensified supervision related to Credit Suisse over the last years. Furthermore, horizontal supervisory reviews were (until the merger) conducted comparing the two G-SIBs for certain core topics at least once/year, and supervisory reviews focusing on certain core topics are conducted by the supervisory and specialists' teams at least five times per year.

Table 1: On-site supervisory reviews in the banking sector, 2018-22

	2022	2021	2020	2019	2018
Category 1 (UBS/CS)	38	44	51	45	38
Category 2	11	13	14	10	9
Categories 3-5	64	38	39	39	45
All	113	95	104	94	92

Source: FINMA Annual Reports

Periodic collection of data

As part of its supervisory activities, FINMA periodically collects relevant data from the institutions it supervises. These data are collected via a corporate data collection platform, and the data is stored centrally. The main tool for processing and providing this data is the FINMA Rating System for Banks. This system, which has been in use for more than 10 years and is subject to ongoing development, calculates a risk rating for each supervised institution on an ongoing basis using regulatory data and information from on-site examinations. The ratings are calculated automatically by the system and can be adjusted to take into supervisors' assessment based on other qualitative factors available.

[35] Supervisor reviews may cover current issues arising from daily business or involve in-depth analyses of specific topics. They may be used to examine the same issue at several banks, and comparative supervisory reviews covering macro-economic topics are carried out systematically.

FINMA has higher supervisory expectations on data aggregation capabilities for the larger banks in Switzerland and, in particular, for G-SIBs. In fact, FINMA has outlined its expectations for risk data aggregation (including data architecture and IT infrastructure) as well as for risk data aggregation reporting in its Corporate Governance Circular 2017/1. Moreover, the Circular also mentions that the independent risk control unit needs to ensure an adequate implementation of the risk data aggregation capabilities. In the concrete supervision work FINMA applies a proportional approach which is much more demanding for the G-SIBs. As an example, for the G-SIBs FINMA rolled out in coordination with the Core College authorities before the COVID-outbreak a so-called Liquidity Crisis Template (LCT). It is based on the Basel Liquidity Monitoring Tools and has been called at a number of crisis instances. Moreover, G-SIBs need to have the capabilities and to report to FINMA various daily liquidity metrics (internal and regulatory) covering all relevant business lines and whose quality is to be confirmed by the internal risk control unit. FINMA has stepped up the collection of data in response to the fast-moving Fintech sector. It has required banks and asset managers active in the crypto assets sector to report key relevant data. It also collects data on the number and activities of Virtual Asset Service Providers in Switzerland through relevant self-regulatory organisations. FINMA plans to roll out a new reporting framework for banks regarding crypto and custody assets later this year.

Stress testing

Supervisory stress tests are conducted on banks to assess the adequacy of their capital and liquidity situation, with SIBs stress-tested more regularly and intensively than smaller institutions.

- FINMA uses bottom-up stress tests such as loss potential analyses (LPAs), mortgage stress tests and stress tests for interest rate risks.[36] G-SIBs must perform stress testing scenarios and present their results to the regulator at least twice per year (e.g. LPA stress test scenarios are run every six months). FINMA does not publish the stress test results for individual institutions, but it may order targeted measures including higher capital or liquidity requirements for the portfolio concerned or the institution as a whole or other general capital measures that could influence dividend policy.
- The SNB started parallel top-down stress test programmes in 2008. The results of the SNB's stress scenario analysis are usually presented in the yearly Financial Stability Report for the globally active banks and the domestically focused banks.

FINMA and the SNB are authorised to exchange information and documents, including assessment of risks in the macroeconomic and financial environment, preparation of macroeconomic scenarios for assessing financial stability, assumptions in stress tests in the areas of liquidity and capital adequacy requirements. They have also conducted crisis simulation exercises together. They may exchange their assessment of capital adequacy and liquidity of the banking sector, in particular with regard to the SIBs.

[36] Tests are conducted using scenarios defined by FINMA, where appropriate in consultation with the Swiss National Bank. In general, institutions calculate the impact of the prescribed scenario themselves and report the results to FINMA.

Audits by external auditors

In addition to its own activities, FINMA relies on external audit firms to execute some supervisory tasks.[37] Under the current arrangements, the supervised bank selects and pays the external audit firm, which can be the supervised bank's existing financial auditor, while FINMA decides on the scope and focus of the external supervisory audit work. The supervisory tasks undertaken by audit companies could be routine regulatory audits or mandated audits.

There are two types of routine regulatory audits: basic audits or additional audits. Basic audits assess an institution's compliance with fundamental requirements, while additional audits are required by FINMA pursuant to an institution's business model or risk situation. The composition of the routine regulatory audits defines the audit strategy applied to a supervised entity. For institutions in supervisory categories 3 to 5, a standard audit strategy is defined by FINMA. For SIBs, FINMA exercises greater influence on the audit fields to be assessed by defining the annual audit strategy in consultation with the audit firm.

With the revision of FINMA's Circular 2013/3 "Auditing" in 2019, the routine regulatory audits have been streamlined. The reporting templates were simplified. The frequency of audits was reduced with institutions in supervisory categories 4 and 5 no longer subject to annual audits if they do not demonstrate high risk exposures or material weakness. For institutions in categories 3 to 5, the audit interval for "medium" and "high" risk audit areas were respectively reduced from every three years to every six years, and from every year to every three years. According to FINMA's calculation, the changes led to a reduction of almost one-third of external audit costs for the supervised institutions; the resource savings have been re-deployed for targeted, case-related intervention performed either by FINMA or its mandataries, as well as enhancing its data-driven supervision.[38] Certain safeguards are in place to ensure the audit companies and the auditors of the supervised entities perform their work independently and objectively.[39]

Mandated audits could be deployed to look into specific issues that arise in ongoing supervisory processes. For example, when particular expert knowledge is required as a result of a special or an institution-specific event, or when there are doubts about the quality of the audit conducted by an audit firm.

3.3. Framework for recovery and resolution of banks

The FSB issued in 2011 (and updated in 2014) the Key Attributes of Effective Resolution Regimes for Financial Institutions (the "Key Attributes") as the international standard on resolution. The Key Attributes set out the responsibilities, instruments and powers that national resolution authorities should have at their disposal for firms that could have a systemic impact if

[37] The 2019 FSAP observed that "about two-thirds of the supervision program is carried out by external auditors."

[38] FINMA can appoint mandataries to assist it in performing its duties. Depending on the type of mandate, mandataries have to meet the requirement profiles defined by FINMA. For more information, visit FINMA mandataries.

[39] Article 7 Financial Market Auditing Ordinance (SR 956.161) explicitly sets out a range of activities that could be in conflict with the assignment of the regulatory audits. Auditors engaging in those activities are therefore not allowed to take up the audit assignments. Besides, in justified cases, FINMA may require that the audit not be performed by the same lead auditor and audit team performing the financial audit.

they fail. They also set out recovery and resolution planning requirements, as well as resolvability assessments, for such firms.

In addition to the Key Attributes, the FSB has issued guidance on various aspects of resolution planning. These include guidance on bail-in execution; guiding principles on temporary funding needed to support the orderly resolution of a G-SIB; funding strategy elements of an implementable resolution plan; cross-border effectiveness of resolution actions; recovery plan triggers and stress scenarios; identification of critical functions and critical shared services; developing effective resolution strategies; continuity of access to financial market infrastructures; and arrangements to support operational continuity in resolution. In October 2016 the FSB also published a methodology for assessing the compliance of a jurisdiction's bank resolution frameworks with the Key Attributes, to be used by the IMF and World Bank in FSAPs.[40]

3.3.1. Legal framework and institutional arrangements

Switzerland's legal framework for recovery and resolution of banks continues to evolve

The legal framework for recovery and resolution comprises the BankA, Bank Insolvency Ordinance (BIO-FINMA) as well as the Banking Ordinance (BO), Capital Adequacy Ordinance (CAO) and Liquidity Ordinance. In December 2021 the authorities adopted enhancements to the legal framework for recovery and resolution, which entered into force in January 2023. These include revisions to the BankA to strengthen legal certainty over resolution powers (bail-in), strengthened capital and liquidity requirements for SIBs, and new rules to incentivise resolvability. Amendments to the Liquidity Ordinance related to new FiR requirements were adopted in June 2022 and apply from 1 January 2024. The Federal Council has also submitted draft legislation to implement a "public liquidity backstop" in order to enable the provision of temporary funding in a SIB in the event of a crisis.[41]

In the aftermath of the takeover of Credit Suisse by UBS, the Federal Council instructed the FDF to review the TBTF regulations by the end of March 2024. The review will consider a range of issues including recovery and resolution planning, capital and liquidity requirements, FINMA's competencies (including the power to impose fines), emergency liquidity assistance, compensation practices, auditing, responsibilities of senior management and the deposit insurance system.

Institutional arrangements

Switzerland's framework for crisis management comprises four institutions: FINMA, the SNB, FDF and esisuisse. FINMA is the resolution authority for banks (see Box 4).[42] The SNB monitors developments in the banking sector from the perspective of the system as a whole and with a focus on systemically important banks (which it is responsible for designating). The FDF is responsible for financial stability policies and for preparing legislation in relation to financial

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[40] For more information, see the FSB website.

[41] Cf. Key Attribute 6. See Federal Council adopts dispatch on introduction of a public liquidity backstop for systemically important banks.

[42] FINMA is also the resolution authority for financial market infrastructures and insurance companies.

market regulation.[43] esisuisse is a self-regulatory organisation for banks in Switzerland and is part of the Swiss deposit protection scheme. It funds the payment for the protected deposits.

The FDF, FINMA, and the SNB have a Memorandum of Understanding (MOU) in place that details information exchange as well as cooperation for crisis management purposes. esisuisse has a bilateral memorandum with FINMA.

Box 4: FINMA as resolution authority

The BankA gives FINMA the power to resolve banks and requires SIBs to maintain advanced resolution planning.

In 2016, FINMA established a recovery and resolution division (GB-R) responsible for recovery and resolution planning and the approval of emergency plans drawn up by the SIBs. GB-R is also responsible for managing resolutions and the liquidation of banks under the insolvency law. It is responsible for all tasks concerning the Swiss DIS. GB-R has 22 full time equivalents (FTE) staff but can draw on support from other divisions (especially banking supervision) and external technical and legal advisors. GB-R comprises three teams responsible for: i) recovery and resolution planning, ii) technical expertise and policy, and iii) legal and insolvency expertise. The head of the division is a member of the FINMA Executive Board and reports directly to FINMA's CEO.

3.3.2. *Recovery preparedness*

Recovery planning

In accordance with the FSB Key Attributes, supervisory and resolution authorities should ensure firms maintain a recovery plan that identifies options to restore financial strength and viability when the firm comes under severe stress (KA 11.5). Recovery plans should set out credible options developed to restore financial or operational soundness in a range of stress scenarios and to have a reasonable prospect of recovery if appropriately implemented. Authorities should review recovery plans as part of the overall supervisory process, assessing options' credibility and ability to be effectively implemented, and should be able to require the implementation of recovery measures.[44]

In Switzerland recovery planning is done in conjunction with resolution planning under the remit of FINMA's GB-R, as recovery measures are considered by FINMA to be part of crisis management rather than supervision. Currently 3 FTE resources are devoted to recovery planning in GB-R, compared with 1 FTE in 2019. The basis for the specific recovery plan requirement is Article 64 B Or. The legal framework does not specify any requirements with which recovery plans need to comply. Based on Article 64 BO, FINMA has the power to approve the recovery plan, but not to reject it, nor to identify impediments or require changes.

In accordance with the *Key Attributes,* all Swiss SIBs are required to draw up recovery plans, presenting the measures proposed to be taken in order to stabilise the bank in the event of a crisis and to be able to sustainably continue its activity without intervention from the State. There

[43] The head of the FDF is a member of the Swiss Federal Council which can make use of emergency powers in a financial crisis.

[44] FSB (2014), Key Attributes of Effective Resolution Regimes for Financial Institutions , October I-Annex 4.

is no general guidance issued by FINMA for recovery planning; instead, expectations are communicated to banks individually about what is needed for the recovery plan.[45]

The requirement to draw up recovery plans, and other crisis preparedness related requirements, only applies to banks designated as SIBs under Article 8(3) BankA. Even though the scope of this peer review is limited to G-SIBs, the Key Attributes apply to any bank that could be systemically significant or critical if it fails. Recent experiences have again shown that also banks that have not been designated *ex ante* as a SIB can be systemically significant or critical upon failure. FINMA should have the power to require recovery planning, in a proportionate manner, also from banks not designated *ex ante* as SIBs.

SIBs are required to submit their recovery plans to FINMA for approval on an annual basis. While the key account manager on the supervisory side and the key account manager in the resolution division (plus subject matter experts) assess the recovery plan, the GB-R is responsible for its approval. According to FINMA the recovery plan is assessed based on the feasibility and credibility of the recovery options and the adequacy of the recovery trigger framework, as well as weaknesses identified from the previous year. The G-SIBs' plans have been approved for some years and are considered by the authorities to be mostly stable in terms of core content, apart from ongoing improvements in preparatory work for recovery options. FINMA engages in a dialogue with regulated banks as part of the annual assessment and in 2022 FINMA identified potential for improvement at Credit Suisse in particular, sending it several written reminders to review its crisis preparation.

Implementing the recovery options is the responsibility of the regulated bank. FINMA assesses whether the recovery plan meets the regulatory requirements, but without confirming whether it is ready to implement. According to the *Key Attributes*, authorities should assess the recovery plan's ability to be effectively implemented and the willingness of the firm's management to implement corrective measures. Although assessing this forward-looking aspect is difficult, developing a central policy or guidance could clarify in a more transparent manner the metrics against which the recovery options are assessed as able to be implemented effectively.

While the recovery plan itself is the responsibility of the bank, the FSB framework envisages that authorities should be able to, where necessary, enforce the implementation of recovery measures. In the Credit Suisse case, the bank did not activate the recovery plan, nor was it directed to do so by FINMA, although it did activate specific recovery options and take equivalent measures under its contingency funding plan.

Early intervention

It is important that authorities have a structured early intervention framework, with clear supervisory triggers and escalation measures. As set out in Box 3, in the Credit Suisse case FINMA did take early actions in line with its internal intervention level framework, such as capital add-ons and investigations resulting in requirements for the bank to discontinue client relationships. However, a transparent and well-understood framework with explicit parameters

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[45] The lack of general guidance was raised during the 2019 FSAP. See IMF (2019), Switzerland: Financial System Stability Assessment, *IMF Country Report No. 19/183,* June, p. 63 and IMF (2019), Switzerland: FSAP Technical Note – Financial safety net and crisis management, *IMF Country Report 19/191*, pp.16-18.

for taking decisions about escalated supervisory actions would provide clarity to mitigate legal challenges, and can help supervisors take proactive action.[46] The 2019 FSAP identified the lack of a structured framework for early intervention, despite considerable powers available to FINMA for intervening with various corrective measures.[47] The main explicit powers[48] currently available to FINMA are the protective measures under Article 26 BA, but they are available only at the PONV of the bank.[49]

3.3.3. Resolution

Resolution powers and tools

FINMA has a wide range of bank resolution powers that are closely aligned with the Key Attributes. The resolution framework is established under the BankA, and BIO-FINMA applies to all banks (systemic and non-systemic) and to group parent companies of a financial group or conglomerates as well as group companies that carry out significant functions.

The authorities have continued to strengthen the resolution framework to enhance the resolution powers and tools available to the authorities, following recommendations in the 2019 IMF Technical Note on financial safety net and crisis management arrangements.[50] As of 1 January 2023, the provisions regarding the bail-in restructuring tool have been transposed from the BIO-FINMA to the BankA to strengthen the legal basis for the application of the tool. The BankA sets out the creditor hierarchy for the application of the bail-in power during restructuring, requiring share capital to be completely written down before converting bail-in bonds into equity capital, while claims of the next rank are only reduced or written down if the write down of more junior claims is insufficient to meet capital adequacy requirements. The BankA also sets statutory exclusions from the scope of bail-in. The amended provisions enable FINMA to utilise the bail-in tool if this is deemed to be the most appropriate restructuring tool rather than only permitting its use if the insolvency of the firm cannot be addressed by any other measure. The authorities have consulted on further amendments to the BankA to provide FINMA with the power to order the write-off of Additional Tier 1 instruments as a 'protective measure' or when emergency liquidity support is granted.

Resolution planning and resolvability assessment

FINMA has made progress on resolution planning/testing. Since 2019, FINMA has completed resolution plans for the G-SIBs (see Box 5 for a comparison of the Swiss emergency plan, global resolution plan, and restructuring plan). However, the authorities have not yet addressed the

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[46] See T Adrian et al (2023), Good Supervision: Lessons from the Field, September (IMF Working Paper WP/23/181).

[47] See Switzerland: Financial System Stability Assessment (June 2019, IMF Country Report No. 19/183), para. 62 and Switzerland: FSAP Technical Note – Financial safety net and crisis management (IMF Country Report 19/191), para. 15.

[48] There are also sanction powers in case of irregularities under Articles 31 – 37 FINMASA, including declaratory rulings, prohibition from practising a profession, confiscation of profits or revocation of licence.

[49] See Expert Group on Banking Stability (2023), *The need for reform after the demise of Credit Suisse*, September, 4.2.

[50] See Switzerland: FSAP Technical Note – Financial safety net and crisis management (IMF Country Report 19/191).

2019 Technical Note observation that FINMA did not have internal general policies or guidelines on resolution planning.[51]

Box 5: Swiss emergency plan, resolution plan, restructuring plan

According to the provisions of the BankA and the BO, both domestic and global SIBs are legally required to develop and maintain an **emergency plan** as well as a **recovery plan** (see section 3.3.2) and to provide information to FINMA so they can prepare a **resolution plan** (and, in the event of an actual resolution, a **restructuring plan**).

The **Swiss emergency plan** focuses on the G-SIB's systemically important functions in Switzerland, laying out how systemically important functions (e.g., deposits, payments) or entities can be maintained in the event of insolvency. As such, the Swiss emergency plan can be viewed as a fall-back plan for the national jurisdiction if the resolution plan fails. Banks must update their Swiss emergency plans annually (or as requested) and FINMA reviews the plan on risk-oriented basis to assess the plan's readiness for implementation. This includes assessing whether the plan addresses issues surrounding the function's structure, infrastructure and management and controls, and provides for sufficient capital and liquidity to ensure the continuation of systemically important functions. FINMA publishes their assessment of each plan's effectiveness in its annual resolution report.

If FINMA assesses the Swiss emergency plan as deficient, and the bank does not cure the deficiencies within the time given, FINMA has power to order the bank to make changes to its legal and operational structure to enable a G-SIB to continue systemically important functions in the event of insolvency. So far, FINMA has not made use of its power as G-SIBs have implemented changes (for example, the establishment of a holding structure) based on supervisory dialogue and the former capital rebate incentives (discussed above).

Since end-2019, the G-SIBs' Swiss emergency plans have been approved as effective if the bank were at risk of insolvency, with some conditionality regarding the need to reduce internal dependencies. As of year-end 2021, this proviso has been removed.

FINMA is required to prepare a global **resolution plan** for individual G-SIBs indicating how the firm would be recapitalised and restructured in a crisis, including addressing relevant requirements of foreign authorities. FINMA has stated the preferred resolution strategy for G-SIBs is single point of entry (SPE). In accordance with Article 64 BO, at least annually the bank is obligated to deliver all necessary information to FINMA to prepare the plan. FINMA has issued guidance to individual banks specifying the required information. In practice, banks provide not only information and data, but also substantive elements of the plan (e.g., resolution options), which FINMA incorporates into the plan. G-SIBs must also include documentation about how they meet or plan to meet the criteria set out in the BO and the plans must address relevant requirements of foreign authorities (see Resolvability Assessment).

Immediately prior to a resolution, FINMA would prepare a **restructuring plan**, implemented by a restructuring decree. The restructuring plan is the case-specific execution plan and is based on the resolution plan.

The final assessment of the banks' emergency plans and FINMA's resolution plans are reviewed by a steering committee that includes FINMA's CEO as well as the senior employees responsible for banking supervision and resolution planning. As mentioned above, FINMA is the only Swiss authority responsible for resolution planning, but it cooperates with various domestic and foreign authorities, including the SNB.

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[51] IMF (2019), Switzerland: FSAP Technical Note – Financial safety net and crisis management, *IMF Country Report 19/191*, par. 26.

As a G-SIB nears completion of the implementation of the required resolvability measures, the focus is shifting towards testing of playbooks and capabilities. FINMA has conducted several testing exercises with the firms and has plans to expand these activities to test whether the banks' resolvability capabilities are effective and ready to be implemented.

FINMA's annual resolvability assessment of the SIBs has been published since 2020 and reports progress made by each SIB. The resolvability of the G-SIBs has been the priority for the authorities, consistent with the 2019 FSAP recommendation for FINMA to 'enhance, expand, and expedite recovery and resolution planning, including resolvability'.[52] FINMA's resolvability assessment of the G-SIBs is in line with the FSB's Resolvability Assessment Process (RAP) and takes into account the expectations of foreign supervisory authorities in relation to the resolution strategy. Consistent with the statutory obligation for firms to make preparations for their resolution, FINMA requires the G-SIBs to undertake a self-assessment of their resolvability against the FSB Resolvability Assessment template. The resolvability assessment covers nine categories in accordance with the revised BO. FINMA's summary of the progress made by the end of 2022 reported that preparatory work had been completed across all nine categories for the two G-SIBs.[53]

As part of its resolvability assessment work, FINMA has agreed six 'resolvability term sheets' with the two G-SIBs covering i) iTLAC, ii) Operational Continuity in Resolution, iii) Bail-in Execution, iv) Funding in Resolution, v) Valuation in Resolution, vi) Post Bail-in Restructuring and (vii) Business Disposals and Global Solvent Wind-down. FINMA's requirements under these term sheets incorporate international standards. FINMA assessed at the end of 2022 that both G-SIBs fulfilled the requirements and no major resolvability impediments were found. But it assessed that minor progress was still required in some areas (e.g., the design of a Funding in Resolution flash report for senior management and authorities within 12 hours).[54] The new liquidity requirements of the amended Liquidity Ordinance, which came into force in July 2022 with a transitional period until 1 January 2024, were still to be implemented (see section 3.1). It is to be noted that FINMA's resolvability assessments concerned the G-SIBs individually. The merger of the two groups represents a major change to the structure of UBS and may create new challenges for the resolvability of the combined group.

FINMA also assesses and tests G-SIBs' resolution playbooks such as for bail-in execution and has started to undertake some testing of resolution capabilities (OCIR, FiR, ViR). In addition, FINMA mandates the G-SIBs' group internal audit or the external regulatory auditor to provide assurance.

The progress by the G-SIBs on resolvability has been reflected in the 'rebate' provided by FINMA on the G-SIBs' gone-concern capital requirement. By 2022 both G-SIBs were granted the maximum possible rebate. From 1 January 2023, new rules change the rebate system to that of a surcharge or 'add-on'. If FINMA identifies deficiencies in its annual resolvability assessment of a G-SIB, it can set a deadline for the impediment to be removed. FINMA may impose a surcharge

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[52] IMF(2019), Switzerland: Financial System Stability Assessment, *IMF Country Report No. 19/183*, June.

[53] See FINMA, Focus on the large global Swiss banks.

[54] In contrast, the Report of the Expert Group on Banking Stability noted that "Credit Suisse's preparations for posting collateral to obtain enough emergency liquidity assistance were inadequate, especially at the level of the parent." See section 3.5 of Expert Group on Banking Stability (2023), *The need for reform after the demise of Credit Suisse*, September.

on the gone-concern component of the firm's capital or liquidity requirements (once they have entered into force) if the impediment is not remediated. That said, the authorities have not fully addressed the 2019 Technical Note recommendation for FINMA to have powers (as envisaged by FSB KA 10.5) to require firms to remediate deficiencies identified by resolution assessments through changes to their structures. The new provision in Article 65ff BO allows FINMA to increase liquidity and gone-concern capital requirements, in case a G-SIB does not address any impediments with regard to its resolvability. While this allows FINMA to set incentives, it leaves the option open for the SIB to keep operating with a structure that impedes effective resolution. FINMA's powers in this regard are limited to removing impediments identified with the effectiveness of firms' Swiss emergency plans.

Resolution measures and safeguards

The Key Attributes prescribe a set of safeguards for shareholders and creditors in resolution, which are present in the Swiss framework. The criteria for entry into resolution/opening restructuring proceedings are in the BankA, namely that there is a justified concern that a bank is over-indebted or has serious liquidity problems or that a bank could no longer fulfil the capital adequacy after the expiry of a deadline set by FINMA. FINMA has a wide discretion in the determination whether these criteria are met and to decide to open restructuring proceedings. FINMA can only open restructuring proceedings if it appears likely that through the intervention the Bank could recover or can continue to provide individual banking services.

FINMA must develop a "restructuring plan" and issue a restructuring decree to resolve a bank. The plan must meet requirements in the BankA, including being based on a prudent (but not independent) valuation of the bank's assets, loss-absorbency first by shareholders, respect the creditor hierarchy, and aim to ensure that creditors are not worse off in restructuring than in liquidation (no-creditor-worse-off safeguard). The bank must comply with all licensing and regulatory requirements after the resolution has been finished. As soon as FINMA has approved the plan, it becomes enforceable through the decree; approval of shareholders of the bank under resolution is not necessary, and, in the case of systemic banks, the creditors cannot reject the restructuring plan.

Creditors may challenge the approval of the restructuring plan and may be awarded compensation by the courts. In order for an appeal against the approval of the restructuring plan to be successful and to result in a compensation, the appellant must show in what way he is unjustifiably disadvantaged financially by the restructuring plan. Following amendments to the BA, the restructuring plan can stipulate compensation for shareholders if the valuation of the bank shows that the value of the shares awarded to bailed-in creditors would exceed the nominal value of their converted or reduced claims.

FINMA exercises resolution powers without any ex-ante court involvement. Any challenges to FINMA's approval of the restructuring plan cannot result in the suspension or delay of resolution measures as the courts may only award compensation to affected parties. FINMA's actions are subject to ex post judicial review and the Federal Administrative Court can review both the legal prerequisites and the appropriateness of the decisions taken by FINMA.

Cooperation and information sharing

The Banks and Resolution Divisions within FINMA are functionally independent. Some aspects, such as review of the recovery plan, involve account managers from both units and there are general exchanges of information and coordination. FINMA has a mechanism to transfer responsibility from supervision to the resolution division. In practice, the exact timing of transfer depends on the facts and circumstances of individual cases, including the size of the institution. The 2019 Technical Note recommended that FINMA document a more formalised process that describes what, when and how information is exchanged between relevant divisions. However, this has subsequently not been documented.[55]

Cooperation and information sharing among the FDF, SNB and FINMA is governed by a tripartite MOU that details information exchange and cooperation to promote financial stability, coordination and cooperation during a crisis, and enables the agencies to share non-public information. The MOU was revised in December 2019[56] and calls for the agencies to meet at least twice a year to exchange information and views on financial stability and financial market regulation issues, which addresses an FSAP recommendation to meet and regularly report out on systemic risks and macroprudential policies. The MOU further states that the agencies should coordinate their communication about their cooperation related to financial crises. In addition, FINMA has bilateral MOUs with both esisuisse and the SNB. The MOU between FINMA and the SNB covers contingency and crisis management and, with notification to FINMA, provides for the SNB to make its own information requests of SIBs.

As regards cooperation with foreign authorities, FINMA has established CMGs for its domestic G-SIBs, which include host authorities from the U.S., UK and EU as relevant. The SNB participates in the CMGs as lender of last resort. Consistent with the *Key Attributes*, CMGs are supported by executed institution-specific cooperation agreements (CoAgs). FINMA has expanded CMG membership in recent years to reflect changes to G-SIBs' business models (i.e. including host jurisdictions of G-SIB entities that have become material in resolution). CMGs meet at least annually to discuss various resolution-related topics as well as the FSB RAP submissions. In addition to hosting annual multi-day CMGs, FINMA also holds technical CMG workshops focusing on capabilities such as valuation in resolution or funding in resolution.

In addition to CMGs, FINMA exchanges information with authorities in other host jurisdictions (i.e., Asia-Pacific region) where the G-SIBs have a local presence that is not systemic. This includes the establishment of an Asia-Pacific crisis college in 2013.

In terms of system-wide contingency planning and testing of authorities' preparedness, the 2019 Technical Note recommended that Swiss authorities develop a national contingency plan and a national crisis communication plan that is tested with simulation exercises among the agencies and cross-border with CMG members.[57] The tripartite MOU does call for coordination of crisis communication, but this recommendation has not yet been addressed. The 2019 Technical Note also recommended that the SNB and FINMA simulate the SNB's internal procedures and

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[55] IMF (2019), Switzerland: FSAP Technical Note – Financial safety net and crisis management, *IMF Country Report 19/191*, Recommendation 2.

[56] See 2 Dec 2019 MOU.

[57] IMF (2019), Recommendation 22.

coordination with FINMA for application and execution of ELA, which has not been performed to date. While there is no formal testing with FINMA, the collateral process is tested with every bank on a yearly basis. The Swiss authorities note that in the context of the liquidity assistance to Credit Suisse, SNB discussed with FINMA in detail about the process related to FINMA's statement regarding the solvency of the bank, and there were no frictions in the execution of ELA, internally or externally.

Funding in recovery and resolution

Recovery and resolution are part of a continuum, and there is likely to be overlap between actions that could be taken to restore liquidity in a stress scenario and actions that could be taken to maintain sufficient liquidity in resolution. Strong arrangements that provide access to contingent liquidity in both recovery and resolution will be particularly important for the remaining G-SIB in Switzerland.

The statutory requirements introduced in mid-2022 and to be met by 1 January 2024 provide for a FiR requirement and stipulate that SIBs need to maintain a liquidity buffer for a 90-day severe stress period (see Box 6).[58]

Box 6: New Funding in Resolution requirement

The statutory requirement introduced in mid-2022 in Liquidity Ordinance Art. 19ff consists of two parts: (i) a basic requirement and (ii) an (entity-specific) additional requirement to hold liquidity.

The basic requirement is determined using specified cash outflow rates for different types of depositor and wholesale funding counterparties (partially offset by certain cash inflows).[59] The additional requirement is determined by taking into account additional liquidity demands during a resolution such as intra-day liquidity needs and margin requirements. These calculations are performed on a Swiss banking entity, parent, and group level. The basic and additional FiR requirement need to be met by a combination of assets (for instance, High Quality Liquid Assets and less liquid securities) and contingent liquidity sources (for instance, via collateral that is ready to be offered to the SNB), adjusted for their likely realisation values. While group arrangements on holding liquidity may be fulfilled, there can still be a geographical mismatch where on-balance sheet liquidity and collateral for accessing central bank facilities (e.g. domestic ELA and discount window operations in other jurisdictions) are not matched with where deposit outflows occur. This can cause problems where intra-group liquidity cannot be effectively transferred, for instance due to legal reasons and/or lending limits or where mobilisation of collateral takes considerable time. The additional FIR requirement takes these aspects into account.

The FiR requirement was introduced on 1 July 2022, while SIBs needed to meet the statutory requirement by 1 January 2024.

SIBs in Switzerland have unrestricted access to the SNB's long-established liquidity facilities. They can obtain liquidity against high-quality securities under the liquidity-shortage financing facility. Furthermore, the SNB can provide ELA. The main form of domestic eligible collateral for ELA are Swiss mortgage loans (representing about 85 per cent of domestic credit to non-financials for Switzerland), but the SNB also accepts a range of securities including corporate

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[58] See also Erläuterungen zur Änderung der LiqV (TBTF) for explanations on the changes (German only).

[59] The Swiss liquidity ordinance (LiqV) stipulates varying cash outflows rates depending on the type of depositors, with outflow rates decreasing between the 0-to-30-day period and the 31-to-60-day period, and then again declining further to the 61-to-90-day period. (Art23 Abs3).

and sovereign bonds as well as equity, mortgage-backed and other asset-backed securities held by a Swiss bank.[60] SNB can only provide ELA to solvent banks, but – in line with best practice – can assess this on a forward-looking basis, for example where solvency can credibly be expected to be restored as part of a resolution plan. The ELA process is documented in a MOU with the SIBs, which also requires that the SIBs' operational capabilities to access ELA are tested annually.[61] Until a recent publication on the SNB website, little information was publicly available about the ELA framework.[62] The Swiss authorities note that the characteristics of the ELA framework were transparent to the banks, in particular in relation to eligibility of collateral and operational preconditions. However, this review notes that more public transparency about the ELA framework may still be useful to increase customers' and markets' understanding of and inspire confidence in the framework.[63]

The availability of ELA from the SNB in systemic stress situations is critical for the Swiss financial system. The SNB regularly reviews its collateral policy in coordination with the SIBs. It has also recently widened the scope of banks eligible for ELA – from previously only SIBs – to all Swiss banks. With the Credit Suisse experience in mind, a priority should be for G-SIBs to assess where further work to prepare collateral is required, to provide ample capacity for the SNB and other central banks in host jurisdictions to provide collateralised ELA when appropriate.

In March 2023, Credit Suisse confirmed its intention to access emergency liquidity support of up to CHF 50 billion from the SNB. While *ex post* disclosure of the provision of ELA is needed to ensure adequate accountability, its disclosure – either by the entity or the central bank – while the liquidity stress at the bank receiving such assistance is not publicly known can lead to a vicious cycle, leading to further withdrawals of deposits or wholesale funding.[64] This practice can deter the usage of liquidity support in a recovery phase and introduce stigma. Some peer central banks have determined that ELA should only be disclosed on a significantly lagged basis (e.g. one or two years).[65] The legal arrangements related to the disclosure obligations of regulated entities should also be considered so that the entity receiving ELA can be directed to (or otherwise be exempted to) not disclose the receipt of central bank funds where this is in the public interest.[66]

A third line of liquidity assistance, consisting of unsecured loans with preferred creditor status for SNB in bankruptcy (referred to as 'ELA+' by Swiss authorities) and a temporary Public Liquidity Backstop (PLB; consisting of a preferred creditor status for SNB in an insolvency and an indemnity by the Swiss Confederation to SNB for any losses), were both provided during the March 2023 turmoil around Credit Suisse (part of the emergency ordinance issued on 16 March

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60 To further extend the range of collateral the SNB has worked with overseas triparty agents to enable foreign-booked securities of Swiss entities being posted as collateral.

61 The scope of the tests includes the posting of collateral (securities, mortgages), collateral management (e.g., substitutions due to business reasons), and provision of liquidity (in CHF and foreign currency).

62 See The SNB's role as lender of last resort.

63 Principle 2.7 of the IMF Central Bank Transparency Code.

64 Principle 3.8 of the IMF Central Bank Transparency Code notes that "The central bank may disclose any ongoing provision of emergency liquidity assistance (including bilateral and market-wide support) and its conditions and parameters once the need for confidentiality has ceased."

65 See Dobler et al (2016) The Lender of Last Resort Function after the Global Financial Crisis, *IMF Working Paper* (WP/16/10).

66 For instance, BaFin notes that a consideration in the Market Abuse Regulation is that 'in respect of financial institutions, in particular where they receive central bank lending, including emergency liquidity assistance, the competent authority should assess whether the information is of "systemic importance" and whether delay of disclosure is in the public interest.'

2023).[67] It is important that the legislation for a public liquidity backstop facility is adopted, so as to provide an effective backstop funding mechanism for use as a last resort, when necessary and appropriate, in order to promote market confidence and to encourage private sector counterparties to provide or to continue to provide funding to the material operating entities of a SIB in resolution.[68] The Swiss government has submitted a legislative proposal to the Parliament in that regard.

To ease strains in global funding markets the Swiss National Bank and five other central banks (the Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank, the Federal Reserve) have implemented standing swap arrangements that serve as an important liquidity backstop. These arrangements allow for the provision of liquidity in each jurisdiction in any of the five currencies foreign to that jurisdiction, should the two central banks in a particular bilateral swap arrangement judge that market conditions warrant such action in one of their currencies.

In its current configuration in Switzerland, deposit insurance – including the esisuisse arrangement – cannot be used to provide liquidity in resolution, for instance to support continued access for bank customers to their deposits.

3.3.4. Deposit insurance scheme

The Swiss deposit insurance scheme (DIS) is operated by esisuisse, a self-regulatory body comprising all licensed banks and securities dealers, that provides protection to deposits held in Switzerland up to CHF 100,000 per depositor per bank. esisuisse operates under a paybox mandate, which means that it only facilitates the payment of claims to depositors, and is ex-post financed. esisuisse only becomes active if the remaining liquidity in a failed bank is insufficient to reimburse all insured depositors, in which case it will have to collect the necessary funds for paying out to insured depositors. The reimbursement process itself is carried out by the liquidator under the supervision of FINMA.

The IMF's 2019 FSAP noted that the Swiss deposit insurance system lacked critical elements of the International Association of Deposit Insurers' Core Principles and international best practice and that it would need to be thoroughly reformed in order to be able to effectively contribute to the financial safety net.

The revision of the Banking Act passed by Parliament in December 2021 and entered into force on 1 January 2023 had the effect of strengthening the Swiss deposit insurance system. In particular,

- Banks' contributions to the deposit insurance scheme are to be increased from a fixed amount of CHF 6 billion to the higher of CHF 8 billion and 1.6% of all protected deposits;

[67] The temporary Public Liquidity Backstop introduced in March 2023 was based on the work already underway – announced by the Swiss Federal Council on 11 March 2022 – to expand the Swiss resolution toolkit through a "public liquidity backstop"; it was introduced by ordinance of the Federal Council directly based on the Swiss constitution, which is possible in emergency situations.

[68] FSB (2016), *Guiding principles on the temporary funding needed to support the orderly resolution of a global systemically important bank ("G-SIB")*, August p. 11.

- Banks will have to put up 50% of their maximum contribution obligation ex-ante in the form of securities or cash with a third-party custodian; and
- The payout period for protected deposits is shortened to seven working days. Previously, there was no statutory payout period.

As a result of the amendments, banks need to pledge in aggregate 0.8% of protected deposits to esisuisse, which ensures immediate availability of those funds in case of a payout need and can be seen as ex-ante funding. This is an improvement in the Swiss deposit insurance system. However, concerns remain on the overall limit of banks' contribution to the scheme and the procyclical effects on banks' balance sheets of a payout event.

Many Swiss banks have large high-worth customer bases, which are likely to critically assess the solidity of their bank and, in case of doubt move their business, including deposits, to another bank. The recent banking turmoil has shown that depositor behaviour more generally is also evolving. This reinforces the importance of a credible deposit insurance scheme.

Having adequate funding is critical to the credibility of a deposit insurance scheme and the public should have no doubt about the ability and willingness of the deposit insurance agency to reimburse insured depositors in a timely manner. The system still maintains an overall limit to banks' contributions (1.6% of all protected deposits). In case a larger payout than that were needed, protected depositors would suffer losses pro rata to their amount of protected deposits as no arrangement for temporary back-up government funding is available. A requirement for banks to replenish their contributions following a payout is moreover not formalised. As FINMA's resolution mandate only empowers it to enact restructuring (resolution) measures if the measures are likely to improve the situation of the bank, there is a residual risk that deposit insurance needs to pay out in case of a failure of a Swiss SIB. The authorities should consider supplementing the DIS by back-up government funding that would perform in case banks' contributions are insufficient for a payout, and requiring banks participating in the DIS to reimburse back-up government funding and replenish the DIS.

4. Conclusions and recommendations

The Swiss authorities have made important strides toward implementing an effective TBTF regime for G-SIBs. FINMA introduced capital and liquidity requirements beyond the international minimum standards to increase G-SIBs' abilities to cope with stress scenarios. High capital buffers allowed Credit Suisse to absorb several adverse shocks and the large liquidity buffer stabilised the bank for a long time. Supervision of G-SIBs has increased in intensity over time and under FINMA's proportional and systematic risk-oriented approach, relatively more resources are devoted to the supervision of G-SIBs than for other Swiss banks. FINMA's G-SIB risk council, created in 2020, strengthens the supervision of G-SIBs and complements the top-down risk assessment based on its Risk Barometer. FINMA has made several improvements in its supervisory approach. The publication of the Risk Monitor increases the transparency of FINMA's supervisory activities and also serves to alert the banks and the public of the risk facing the Swiss financial market. Given resource constraints, FINMA has streamlined routine regulatory audits so that resources could be re-deployed for conducting more risk-focused supervisory reviews or audits.

Switzerland has continued to enhance its framework for recovery and resolution of G-SIBs. Recovery planning is in place for all SIBs, while the Swiss emergency plans (focusing on G-SIBs' systemically important functions) and global resolution plans (prepared by FINMA) are also in effect. In the months preceding Credit Suisse's failure, FINMA, together with its domestic and foreign counterparts, prepared a resolution plan that was ready to be executed, if so decided. FINMA's annual resolvability assessment of G-SIBs shows progress in implementing and testing resolvability capabilities, drawing on enhanced FINMA capabilities. FINMA has a wide range of bank resolution powers that are closely aligned with the FSB Key Attributes, and the authorities have continued to strengthen the resolution framework in this regard, including the legal basis for the application of the bail-in restructuring tool. Meanwhile, cooperation with foreign authorities has advanced by CMGs that are supported by executed institution-specific CoAgs, and with the Asia Pacific crisis college. Finally, a FiR requirement, stipulating that SIBs need to maintain a liquidity buffer for a 90-day severe stress period, has entered into force.

Notwithstanding this progress, additional steps can be taken to further strengthen the TBTF framework for G-SIBs in Switzerland. This task is particularly important after the merger of the two Swiss G-SIBs into an even bigger G-SIB whose failure could have severe impact on the Swiss economy and the global financial system. These steps include: increasing FINMA's resources for supervision, recovery and resolution; strengthening the supervisory framework and early intervention powers; and enhancing the recovery and resolution framework.

4.1. Increasing resources for supervision, recovery and resolution

The merger of the two G-SIBs is a complicated transaction that no authority has handled before and the challenges it brings are not easy to tackle. Furthermore, the resources needed to supervise the merged group may be higher than the sum of the resources that were dedicated to supervising both banks separately before the merger. It will be important for FINMA to consider the adequacy of resources available in the direct supervision and the recovery and resolution planning of the merged entity. In particular, there is a need to not just increase the size of the teams, but to ensure that they possess sufficient expertise and experience to manage the challenges ahead.

- **Recommendation 1**: FINMA's resources should be increased to be able to effectively manage the supervision, recovery and resolution planning, and resolvability of the remaining G-SIB.

4.2. Strengthening the supervisory framework and early intervention powers

It is important to set high supervisory expectations for risk management functions, data aggregation capabilities, risk governance and internal controls of G-SIBs. Consistent with its current supervisory powers, FINMA currently relies mainly on imposing Pillar-2 capital add-ons and issuing remediation orders when deficiencies are identified in a bank's controls. The 2019 IMF FSAP noted that banks could be given a stronger incentive to address the weaknesses identified if the authority could directly assess the senior bank management responsible for managing the relevant risk. The legislation has to be changed to give the authority such power. FINMA is currently working on a proposal to introduce the Senior Managers regime. This would

allow FINMA to more easily take action against individual managers who fail their duties, and is also conducive to strengthening banks' corporate culture.

FINMA has been proactive in pursuing enforcement proceedings (e.g., in the Archegos and Greensill cases), however these proceedings can be cumbersome and not suited to addressing issues in a time-sensitive stressed situation. FINMA should be enabled to intervene earlier with appropriate measures, for example replacement of the management board[69] or appointment of a temporary administrator.[70] Even where such powers are not used they can have a preventive, disciplinary effect.[71] A transparent and well-understood framework with explicit parameters for taking decisions about escalated supervisory actions would provide clarity to mitigate against legal challenge, and can help supervisors take proactive action.[72] The 2019 FSAP already identified the lack of a structured framework for early intervention. Such a framework should be put in place, including forward-looking grounds for powers to intervene. Where possible, the law should lay the basis for guidance to be given on triggers and type of measures to be available.

Compared to peers, FINMA has a limited set of administrative sanctions at its disposal. It has limited ability to publish information about corrective actions or enforcement proceedings and it cannot impose administrative fines. There is a need to expand the list of instruments available to FINMA, in particular the power to publish its enforcement proceedings so that it can highlight undesirable behaviours in the financial market, a tool that is an effective deterrent in other jurisdictions. Regularising the publication of enforcement, so that it is the norm except where there are reasons not to (currently publication is the exception), would send clear messages on conduct.

- **Recommendation 2**: FINMA's supervisory tools should be strengthened and widened by (i) introducing a Senior Managers regime in order to more easily take action against individual managers who fail their duties; (ii) obtaining the powers to publish its enforcement proceedings and (iii) implementing a structured and transparent early intervention framework that includes the ability to take into consideration qualitative and forward-looking metrics.

Despite some progress, FINMA continues to rely considerably on the external auditors in conducting audits on banks. The IMF has noted a need to improve the balance towards on-site supervisory reviews, otherwise some of the benefits in terms of cost efficiency and deepening of FINMA's knowledge of banks may be lost. FINMA should reconsider the weight it gives to external audits and ensure that the benefits of such dual approach are preserved. Nevertheless, due to resourcing reasons it may be unavoidable that FINMA would continue to rely on third parties in performing some of its auditing tasks on banks. The current arrangement of banks paying directly for the audits should be reconsidered. Out of fear of losing business with the bank, the external auditors may have hesitation in informing FINMA of any major weakness identified in their work.

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[69] In other jurisdictions such as the UK a Senior Managers Regime means senior manager functions can be held accountable for regulatory breaches if they did not take reasonable steps to prevent or stop the breach.

[70] In other jurisdictions such as the EU a temporary administrator, either to work with or replace the management body, can be appointed by the supervisor when replacement of the management body has not remedied the situation.

[71] See Expert Group on Banking Stability (2023), *The need for reform after the demise of Credit Suisse*, September, 4.2.

[72] T Adrian et al (2023), Good Supervision: Lessons from the Field, *IMF Working Paper* (WP/23/181), September, p.23.

- **Recommendation 3**: FINMA should revise its use of external audit firms for the supervision of banks, including by considering measures such as having FINMA directly contracting and paying for the audits, to address the governance and conflicts of interest issues.

4.3. Enhancing the recovery and resolution framework

Increasing the focus on recovery

Recovery planning and recovery measures are critical risk management tools for banks to address severe crises and to prevent them from reaching the point of non-viability. The Credit Suisse case illustrates that the bank did not have an effective response option to either the 'slow burn' issues of governance, risk culture and strategy that led to the ultimate crisis, or the ensuing 'fast burn' crisis with high liquidity outflows. For this reason there should be more focus in Switzerland on, and resources devoted to, recovery planning in order to credibly maintain resolution as an accepted last resort.

To date the regulatory emphasis on recovery planning for Swiss G-SIBs has been low and the effort more of a formal requirement than a cornerstone regulatory tool. The 2019 FSAP recommended that FINMA should do more in-depth work on and allocate greater resources to recovery planning. However, FINMA has been prioritising resources for development of resolution capabilities, testing and resolvability assessments, as it considered the recovery plans to be largely stable. Based on the Credit Suisse experience, going forward there should be more focus on planning options for restoring soundness in the recovery phase for the larger remaining G-SIB before the conditions for resolution are met, to ensure that the relevant options can be implemented in a timely and credible manner. Providing FINMA with appropriate powers to assess the credibility and feasibility of recovery plans and to require changes would be necessary to increase their standing.

Furthermore, there is no general guidance issued by FINMA for recovery planning. For clarity and consistency, FINMA should develop a dedicated horizontal recovery plan policy or guidance to codify requirements for the key elements of the recovery plan. This should cover governance of the plan including decision-making for timely implementation of recovery options, strategic analysis, detailed elements to cover for all recovery options including impact assessments, and communications strategy. Although specific scenarios used for recovery options should be tailored to the individual bank business model, in accordance with international best practice, general guidance would ensure that the main types of event (e.g. system-wide and idiosyncratic) and the severity of the impact of the scenario are tested consistently across banks.

- **Recommendation 4:** The authorities should strengthen FINMA's powers to assess the credibility and feasibility of recovery plans and to require a bank to take measures to address deficiencies in its recovery plan. FINMA should allocate more resources to recovery planning, especially for the remaining G-SIB, and establish a general policy or guidance on recovery planning.

Resolution planning

FINMA has made progress in enhancing the resolvability of the G-SIBs, including undertaking some testing of bank capabilities. FINMA has a limited range of powers to require G-SIBs to address impediments to their resolvability. But FINMA does not have a specific power to require G-SIBs to adopt changes to their business practices, structure or organisation, to reduce the complexity and costliness of resolution. Resolvability term sheets, which incorporate international resolution standards and guidance, have been agreed between FINMA and the two G-SIBs, but no public guidance is available about the expectations that the G-SIBs are held to. Transparency to market participants about these expectations would support investors' risk assessments and decision-making. As part of continuing to enhance its readiness for resolution, FINMA should prioritise further testing of bank resolvability capabilities to assess implementation and ensure capabilities are fit for purpose and are maintained so they are ready for use if required in future. The authorities may wish to draw upon the examples of testing activities on firms' resolution capabilities identified in the FSB's Good Practices for Crisis Management Groups.[73] Additionally, to enhance coordination and contingency planning, the Swiss authorities should periodically conduct cross-agency crisis preparedness exercises.

- **Recommendation 5:** The authorities should strengthen the legal basis for FINMA, as part of resolution planning, to require identified G-SIBs to adopt changes to their business practices, structure or organisation to address a material impediment to resolvability.

- **Recommendation 6:** FINMA should publish further information about the expectations on resolvability to which G-SIBs are held and enhance the readiness for resolution by (i) enhancing firm-level testing (ii) conducting domestic cross-authority exercises and (iii) assessing the adequacy of engaging with host authorities, including non-core CMG members, and the need for cross-border drills.

Entry into resolution

The criteria for determining whether a firm should enter resolution are defined at a high level in the BankA. The authorities acknowledge the challenges of judging whether risks faced by a firm are sufficient to threaten its viability, especially in a liquidity stress. *Key attribute* 3.1 requires FSB jurisdictions to have 'clear standards or suitable indicators of non-viability to help guide decisions on whether firms meet the conditions for entry into resolution' and the FSB's Essential Criteria for evaluating the implementation of *Key attribute* 3 note the importance of effective and adequate arrangements including evaluation and decision-making processes for supporting the timely determination of non-viability or likely non-viability and entry into resolution.[74]

- **Recommendation 7:** The authorities should consider whether the criteria in the Banking Act are sufficiently clear and flexible to enable FINMA to act when a firm is likely to be no longer viable. This should be supported by FINMA reviewing its internal

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[73] See Table 1 of FSB (2021), Good Practices for Crisis Management Groups, November.

[74] See FSB (2016) Key Attributes Assessment Methodology for the Banking Sector Methodology for Assessing the Implementation of the Key Attributes of Effective Resolution Regimes for Financial Institutions in the Banking Sector. See Essential Criteria 3.2 for assessing KA 3.

point of non-viability (PONV) indicators and decision-making processes to ensure PONV assessments are sufficiently broad based and forward-looking.

Liquidity support for recovery and resolution

During the turmoil around Credit Suisse in March 2023, the Swiss Federal Council enacted emergency legislation that provided the possibility for SNB to provide temporary liquidity assistance secured by a PLB from the Swiss Confederation in case SNB would suffer any losses despite a preferred creditor status.[75] The Federal Council has submitted draft legislation to implement a PLB to enable the provision of temporary funding to a SIB in the event of a crisis. It is important that this legislation is adopted, so as to provide an effective funding mechanism for use as a last resort when necessary and appropriate in order to promote market confidence and to encourage private sector counterparties to provide or to continue to provide funding to the material operating entities of a SIB in resolution, in line with the FSB's Guiding principles on the temporary funding needed to support orderly resolution.[76]

- **Recommendation 8**: The authorities should take all steps needed to advance the legislation to make the public liquidity backstop mechanism a permanent feature of the Swiss resolution framework and to implement it on a timely basis once it is enacted.

Strong arrangements that provide access to contingent liquidity in both recovery and resolution will be particularly important for the remaining G-SIB in Switzerland. One aspect of this is that either intra-group liquidity needs to be able to flow freely within a banking group (not always the case, particularly cross-border), or liquidity and collateral needs to be prepositioned locally where deposit and other funding outflows could occur. This prepositioning requires SIBs to assess the operational and legal arrangements that need to be in place to access contingent liquidity from central banks and conservatively evaluate their stressed funding needs across their operating entities, making local arrangements as required.

The disclosure of the provision of ELA – either by the entity or the central bank – while the liquidity stress at the bank receiving such assistance is not publicly known can lead to a vicious cycle, leading to further withdrawals of deposits or wholesale funding. This practice can deter the usage of liquidity support in a recovery phase and introduce stigma. The authorities should therefore consider ways to minimise the risk of stigma ensuing from a SIB accessing central bank liquidity facilities, such as that the entity and the central bank delay disclosure of any information that may allow to infer the use of ELA. Due consideration needs to be given to potential trade-off between the need for market transparency and financial stability.

- **Recommendation 9:** The authorities should further strengthen contingent liquidity arrangements by ensuring that G-SIBs assess and prepare both on operational and legal fronts their ability to offer sufficient collateral to the SNB and other central banks. Contingent liquidity should be available in recovery (including the Early Intervention Framework) and resolution.

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[75] The Swiss government has subsequently submitted a legislative proposal to Parliament to create a permanent PLB.

[76] FSB (2016), *Guiding principles on the temporary funding needed to support the orderly resolution of a global systemically important bank*, August.

- **Recommendation 10:** The authorities should further enhance their ability to assist the recovery of a distressed bank by minimising the risk of stigma from accessing central bank liquidity facilities. This would include considering the appropriateness of disclosures by the entity and the central bank in relation to banks' use of emergency liquidity assistance where such disclosure is not in the public interest.

Annex 1: Switzerland's implementation of G20 reforms (as of September 2023)

This table presents the status of implementation of G20 financial regulatory reforms, drawing on information from various sources. The tables below distinguish between priority areas that undergo more intensive monitoring and detailed reporting via progress reports and peer reviews, and other areas of reform whose monitoring is based on annual survey responses by FSB member jurisdictions. See here for further information.

IMPLEMENTATION STATUS OF REFORMS IN PRIORITY AREAS

Reform Area	BASEL III					COMPENSATION	OVER-THE-COUNTER (OTC) DERIVATIVES				RESOLUTION					NON-BANK FINANCIAL INTERMEDIATION		
	Risk-based capital	Require-ments for SIBs	Large exposures framework	Leverage ratio	Net Stable Funding Ratio (NSFR)		Trade reporting	Central clearing	Platform trading	Margin	Minimum external TLAC for G-SIBs	Transfer / bail-in / temporary stay powers for banks	Recovery and resolution planning for systemic banks	Transfer / bridge / run-off powers for insurers	Resolution planning for SI>1 CCPs	Money market funds (MMFs)	Securiti-sation	Securities financing transactions (SFTs)
Agreed phase-in (completed) date	*2023*	*2016 (2019)*	*2019*	*2023*	*2018*		*end-2012*	*end-2012*	*end-2012*	*2016 (2022)*	*2019/2025 (2022/2028)*							*2017/2023*
Status		C															***	

Legend: Final rule or framework implemented. Final rule published but not implemented, draft regulation published or framework being implemented. Draft regulation not published or no framework in place (dark red colour indicates that deadline has lapsed). Requirements reported as non-applicable. Basel III: **C**=Compliant, **LC**=Largely compliant, **MNC**=Materially non-compliant, **NC**=Non-compliant. Compensation: B,I=Principles and Standards deemed applicable only for banks (B) and/or insurers (I). OTC derivatives: R/F=Further action required to remove barriers to full trade reporting (R) or to access trade repository data by foreign authority (F). Non-bank financial intermediation: */**=Implementation is more advanced in one or more/all elements of at least one reform area (money market funds), or in one or more / all sectors of the market (securitisation). Further information on the legend.

Notes: CCPs=Central counterparties. G-SIBs=Global Systemically Important Banks. TLAC=Total Loss-Absorbing Capacity. SI>1=Systemically important in more than one jurisdiction.

Source: FSB, *Promoting Global Financial Stability: 2023 FSB Annual Report*, October 2023.

IMPLEMENTATION STATUS OF REFORMS IN **OTHER AREAS**

Reform area	**Hedge funds**			**Securitisation**			**Supervision**				**Macroprudential frameworks and tools**	
	Registration, appropriate disclosures and oversight of hedge funds	Establishment of international information sharing framework	Enhancing counterparty risk manage-ment	Strengthen-ing of regulatory and capital framework for monolines	Strengthening supervisory requirements or best practices for investment in structured products	Enhanced disclosure of securitised products	Consistent, consolidated supervision and regulation of SIFIs	Establishing supervisory colleges and conducting risk assessments	Supervisory exchange of information and coordination	Strengthen-ing resources and effective supervision	Establishing regulatory framework for macroprudential oversight	Enhancing system-wide monitoring and the use of macropru-dential instruments
Status	REF*	REF	REF*	N/A*	N/A	N/A	REF	N/A*	REF	REF	REF	REF

Reform area	**Credit rating agencies**		**Accounting standards**	**Risk management**		**Deposit insurance**	**Integrity and efficiency of financial markets**		**Financial consumer protection**
	Enhancing regulation and supervision of CRAs	Reducing the reliance on ratings	Consistent application of high-quality accounting standards	Enhancing guidance to strengthen banks' risk management practices	Enhanced risk disclosures by financial institutions		Enhancing market integrity and efficiency	Regulation and supervision of commodity markets	
Status	REF*	REF	REF	REF	REF	IOG	REF	REF	REF

Legend: REF=Implementation reported as completed. IOG=Implementation reported as ongoing. ABN=Applicable but no action envisaged at the moment. N/A=Not applicable. *=collected in previous year(s) for all members.

Notes: The FSB has not undertaken an evaluation of survey responses to verify the status or assess the effectiveness of implementation. In a number of cases, the complexity of the reforms and the summarised nature of the responses does not allow for straightforward comparisons across jurisdictions or reform areas. In particular, reforms whose status in a particular area is reported as complete should not be interpreted to mean that no further policy steps (or follow-up supervisory work) are anticipated in that area. CRA = Credit Rating Agency, SIFI = Systemically important financial institution.

Source: FSB, *Jurisdictions' Responses to the IMN Survey*.

Other information	Latest IMF-World Bank FSAP: Jun 2019	Latest FSB Country Peer Review: 2012	Home jurisdiction of G-SIBs: yes	Signatory of IOSCO MMoU: yes	Signatory of IAIS MMoU: yes

The following table presents the steps taken to date and actions planned by the Swiss authorities in core FSB/G20 reform areas (not covered in this peer review) where implementation has not yet been completed. The actions mentioned below have not been examined as part of the peer review and are presented solely for purposes of transparency and completeness.

Reform area	Steps taken to date and actions planned (including timeframes)
Final Basel III framework	
Risk-based capital	The FDF carried out a public consultation on the amendment of the Capital Adequacy Ordinance (CAO) between July and October 2022. The regulation will enter into force on the 1st of January 2025. The implementation delay is due to the fact that other major financial centres are late in introducing the rules in order to ensure a level playing field.
Leverage	See above.
Resolution	
Transfer/bridge/run-off powers for insurers	**Portfolio transfer**: power according to current law (already in force). New power in resolution as part of the Insurance Supervision Act (ISA) reform, entry into force foreseen for 1.1.2024 **Bridge**: no legal power **Run-off**: power according to current law (already in force) – new power in resolution as part of the ISA reform – entry into force foreseen for 1.1.2024
Non-Bank Financial Intermediation	
Securities financing transactions	Implementation has been completed for minimum standards for cash collateral re-investment, regulations on re-hypothecation of client assets and minimum regulatory standards for collateral valuation and management. As regards numerical haircut floors on bank-to-non-bank transactions, it currently seems that important jurisdictions will not implement these standards. Due to level-playing field concerns, Switzerland has thus decided not to implement the minimum haircut floor regime for the time being. There are also other challenges with respect to this regime. In particular, the rules as designed would also apply to Swiss insurers and pension funds. Collateral Upgrade transactions with these counterparties would be subject to the regime, whilst the same transactions would not be, if executed with a foreign bank. From a risk perspective, this is not consistent.