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SWITZERLAND

FINANCIAL SECTOR ASSESSMENT PROGRAM

DETAILED ASSESSMENT OF OBSERVANCE

BASEL CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

November 2025

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BASEL CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

Prepared By
Monetary and Capital Markets Department

This Detailed Assessment Report was prepared by Katharine Seal and Jane O'Doherty in the context of an IMF Financial Sector Assessment Program (FSAP) mission in Switzerland between October 22-November 11, 2024, led by Oana Croitoru, IMF and overseen by the Monetary and Capital Markets Department, IMF. Further information on the FSAP program can be found at http://www.imf.org/external/np/fsap/fssa.aspx

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Glossary

AMLA	Anti-Money Laundering Act
AMLO-FINMA	Anti-Money Laundering Ordinance-FINMA
AML/CFT	Anti-Money Laundering/Counter Terrorist Financing
APA	Administrative Procedure Act
BCP	Basel Core Principles of Effective Banking Supervision
CAO	Capital Adequacy Ordinance
CAR	Capital Adequacy Ratio
CHF	Swiss Franc
CP	Core Principle
CS	Credit Suisse
D-SIB	Domestic Systemically Important Bank
EmbA	Act on the Implementation of International Sanctions (Embargo Act)
FAOA	Federal Audit Oversight Authority
FDF	Federal Department of Finance
FINMA	Swiss Financial Market Supervisory Authority
FINMASA	Financial Market Supervision Act
FIU	Financial Intelligence Unit
GAAP	Generally Accepted Accounting Principles
GDP	Gross Domestic Product
G-SIB	Global systemically important bank
ICAAP	Internal capital adequacy assessment process
IFRS	International Financial Reporting Standards
LEX	Large exposures
LCR	Liquidity Coverage Ratio
LO	Liquidity Ordinance
ML/TF	Money Laundering/Terrorist Financing
MoU	Memoranda of Understanding
MROS	Money laundering Reporting Office Switzerland
NBA	National Bank Act
NSFR	Net Stable Funding Ratio
RCAP	Regulatory Consistency Assessment Programme
SIF	State Secretariat for International Finance
SNB	Swiss National Bank
UBS	Union Bank of Switzerland

EXECUTIVE SUMMARY

Banking supervision in Switzerland has had to navigate a sequence of demanding and stressful events since the last FSAP. These events include continued evolution of international capital and liquidity standards, the global pandemic, and the crisis of Credit Suisse, in 2023, which led to the merger of the two Swiss Global Systemically Important Banks (G-SIBs). Switzerland has also implemented the Basel III (final) rules in January 2025. Given that certain major jurisdictions have yet to finalize their rules or have decided to delay their implementation of the new Basel rules, this should be commended. The turbulence in financial markets of recent years only serves to highlight the importance of having a prudent global regulatory framework in place. The timely implementation of the Basel III framework sends a positive signal about the prudential soundness promoted by the Swiss authorities. Legislative reforms proposed by the Federal Council in the aftermath of the 2023 crisis go in the right direction and will help reinforce bank supervision, although they will need to be approved by the Parliament and will take years to implement.

The central finding of the BCP assessment is that existing key gaps in legal powers limit FINMA's scope to deliver robust, effective supervision. Multiple other factors, however, disadvantage FINMA in its efforts to exercise timely, intrusive, and conclusive supervision. Limited supervisory resources, together with a regulatory audit system delivered by external auditors that delivers compliance reviews rather than risk-based, forward-looking supervisory insights, contribute to a supervisory system that is less empowered, equipped, and informed than it needs to be.

Early intervention and immediate enforceability of supervisory actions are the keystones of the international standards for banking supervisors. They are minimum expectations for a robust supervision. FINMA lacks effective and complete early intervention powers, which renders supervisory intervention challenging unless there is a clear violation of law or regulation, or until a bank is at point of non-viability. Additionally, FINMA's corrective measures can be appealed with immediate suspensive effect. By contrast, protective measures (Article 26 Banking Act) are exempt from the suspensive effect, but these may only be exercised when there is a risk of insolvency. In practice, FINMA is legally ill-equipped. It cannot take timely, forward-looking, and decisive supervisory actions, unlike most supervisors from other advanced jurisdictions. This weak legal environment can promote supervisory hesitation. The suspensive effect of appeal when FINMA does act can, and has, led to high profile cases of banks using procedural measures lasting for nearly a decade to seek, albeit unsuccessfully, to evade capital charges. This undermines supervisory measures, wastes scarce supervisory resources, and can erode discipline within the banking sector.

FINMA faces another legal impediment in terms of direct supervision. The Banking Act (Article 23) permits FINMA to conduct direct supervision only when there are issues of complexity or economic significance. While this legal provision is not an impediment to FINMA's work with systemically important banks (SIBs), it creates an obligation for the case-by-case justification for onsite examination for all other banks. FINMA can, and does, make its case for onsite examination, but this should be unnecessary. There should be no signal in the legal framework that a supervisor

should have to justify its presence onsite as such contact should be a given for all banks without exception. Proactive supervisors have many risk-aware reasons for wishing to visit any supervised institution at any time as the law already understands in the context of conduct supervision for the prevention of AML/CFT risks. Furthermore, were category 3 banks to experience a systemic event, or a single bank suffer a reputational issue, this might morph into contagion risk and the category 3 banks, as a sub-sector, would represent a systemic threat to financial stability. At present, FINMA's in-depth knowledge and understanding of these banks is partial and consequent ability to engage and intervene effectively and immediately in distressed banks is impaired. FINMA's knowledge needs to deepen across all categories of banks, and in particular with respect to the category 3 banks. While expected legislative amendments may eliminate restrictions on FINMA's onsite inspections, expanding the on-site engagement of supervisory reviews and deep dives and folding the results into the analytical framework are essential. Further legal changes are required to avoid any doubt and to underpin FINMA's authority. Likewise, resources need to be further amplified, notwithstanding the increases (ten per cent per year) that have taken place since 2022.

While FINMA has formal powers under FINMASA and the Banking Act to take actions against individuals, practical enforcement remains a challenge. The evidentiary threshold for attributing individual responsibility is high, which may limit the use of such powers in practice. The practical challenge in meeting the threshold for a successful enforcement action is high, however, so it must be concluded that FINMA's powers to change the composition of a Board if one or more members are failing in their duty is likely to be weak or missing in any other than the clearest cut of cases. The intended introduction of a Senior Mangers Regime concept for all banks is an important reform, which the assessors welcome.

The lack of sufficient supervisory resources has been the overriding factor in limiting FINMA expanding its range of risk-focused, in-depth, supervision. FINMA has recently increased its direct engagement with firms and needs to continue to do so. To date, FINMA has continued to focus almost exclusively on the systemic banks and only marginally broadened to the category 3 banks although it is seeking to widen its scope and increasingly exploit data and analytical capabilities. Increased staffing and resources are essential for a successful outcome. FINMA has the legal authority to increase its resources and needs to do so. It is positive that FINMA has begun to move in this direction and important calls by the government and the independent Parliamentary commission have likewise encouraged FINMA to increase resources.

FINMA uses the external regulatory audits as a supplement to its own work and limited resources, though the nature of the work has evolved over time. The regulatory audit is not, however, a supervisory process. It can track if controls are in place, but it cannot address management failure. It is a tool that can provide an understanding of compliance, but it is not suited to forward-looking risk focused supervision which is a different discipline. It is important that the limitations of the instrument are fully understood not only by FINMA but the broader public. Areas such as corporate governance and risk management can be highly exposed if left purely to regulatory audit checks. Active supervisory oversight is critical and is one vital aspect of the need for FINMA to increase the breadth and depth of its direct engagement with firms. For the benefit of the

firms, the supervisor, and the professional auditors, FINMA should be granted the power to directly mandate (e.g., to scope and pay for) the work of the regulatory "audit" so that it can yield the greatest utility and value to all those engaged in the tripartite arrangement. Over time, reliance on external regulatory audits should be meaningfully reduced and ultimately withdrawn.

It is crucial that supervisors communicate their expectations to banks and develop guidelines and regulations that can be used to substantiate enforceable measures. As both previous FSAPs have commented in different ways, the prudential standards in Switzerland are set at a very high level (e.g., principle-based). This is an acceptable starting point but not the end point. FINMA's ability or authority to codify supervisory practices (FINMA circulars) or express supervisory expectations in line with the principles outlined in laws and regulations appears to have been weakened, as the 2019 FSAP directly warned against. While high-level principles are important to test whether guidelines and regulations are delivering what is intended, when the regulatory framework is silent or too general, banks cannot understand supervisory expectations, and the supervisors cannot substantiate legal action. Comply and explain options can be provided for firms with sophistication and resources to respond to proportionate application of standards. FINMA's legal ability to issue guidelines and binding prudential regulations, in a broader range of areas, to promote robust bank governance and risk management, needs to be further expanded and confirmed.

The excessively high level and in some cases seemingly silent approach to articulating supervisory expectations undermines practices across all risk areas. FINMA has no explicit legal basis to set binding standards for risk management, with the exception of liquidity, where risk management standards form part of the Basel Framework itself, to set general requirements for banks to perform stress tests or prepare Internal Capital Adequacy Assessment Process (ICAAPs), nor can it require banks to ensure that the Chief Risk Officer (CRO) is a standalone position that should be elevated to executive board level. This undermines the supervisor's ability to have a forward-looking understanding of risk profiles. There is also no comprehensive supervisory manual to guide supervisors although some processes are now codified. Clearer articulation of FINMA's expectations would enhance institutions' understanding and promote more consistency in the quality of risk management and the extent to which regulatory audits are appropriately targeted. The integration of climate-related financial risks into risk management supervision is also at an early stage.

The current capital framework has serious weaknesses and deficiencies which had very real financial stability consequences. Capital treatment since 2013 and subsequent revisions to legislation in 2019 changed the way in which participation is considered at the parent level, replacing a prudent deduction approach with a risk-weighting approach. In the case of Credit Suisse, this risk-weighting approach led to limited capital levels at the parent bank, which significantly restricted its room for maneuver during the crisis. Current proposals to revert to the deduction approach are going in the right direction. FINMA's Pillar 2 powers are also not articulated clearly enough, making them weak and open to legal challenge by banks. FINMA can and does impose Pillar 2 charges, but they can be difficult to enforce should a bank wish to challenge them. There are no general requirements for banks to undertake stress testing or an ICAAP. There is also a need to

ensure consistency in the calculation of regulatory capital, for example in relation to software costs, irrespective of the accounting framework banks use.

There are regulatory and supervisory gaps in the supervision of related party transactions and also country and transfer risks. The definition of related parties in the legislation only refers to transactions involving credit risk and does not explicitly include all the counterparts that should be considered related parties. Guidance that could provide additional specification is, with the exception of intra-group exposures, high-level. There is also no dedicated reporting of related party transactions to the supervisor. Some related party transactions are captured in the large exposures and/or intra-group reporting, but this does not provide a complete picture. Although FINMA captures certain country and transfer risk data from banks, the reporting is incomplete, and breaches cannot be detected. While management reporting is obtained for some banks there is no standard reporting requirements or requirements for banks to establish country risk appetites. Industry guidance dating from 1997 is not supplemented by supervisory guidelines. For both these risks, in the absence of clear guidance and comprehensive reporting, breaches and poor practices may remain undetected.

Despite the limits and challenges documented here, FINMA is to be congratulated in pressing forward with reforms within its scope and will need to maintain its momentum. The analytical system is already in the process of its next stage of development and is aligned with best international practices. The new build concept for the rating system represents a well-conceived evolution and incorporates financial resilience, operational resilience, governance and controls as well as conduct related risks (such as suitability, AML, market conduct and the like). This was one of several quality initiatives underway and is overall one of the most significant, as it will incorporate more data, be more granular, and allow the supervisors to identify, target and track supervisory activity plans at a more meaningful level with the banks. It remains nevertheless true that in the absence of bold legislative measures to improve FINMA's powers, ongoing operational improvements cannot achieve their full effect.

MAIN FINDINGS

Responsibilities, Objectives and Powers (CP1)

1. FINMA's lacks a broad range of legal powers, including but not limited to timely, decisive, and immediately enforceable early intervention. As the supervisory authority in an advanced systemically important jurisdiction, responsible for the oversight of one, recently two, G-SIBs, effectiveness of its legal powers is critical. Strengthening and clarifying FINMA's legal powers, including but not limited to effective early intervention, so that they are comprehensive and explicit, is both urgent and paramount to strengthen financial stability and avoid any potential spillovers.

2. Public reports and the mission's work show that FINMA had a clear understanding of Credit Suisse's weaknesses and had taken repeated supervisory action. Such action lacked sufficient legal force and authority, however. A number of FINMA's powers are dependent on a bank breaching laws, regulations, and regulatory thresholds. Credit Suisse serves as a painful reminder

that a bank can go down while its capital at the consolidated group level appears strong. Supervision is, according to the international standards and consensus, expected to be timely, intrusive and forward-looking. Not largely dependent on last-minute emergency actions, which is how, at present, FINMA's key powers are designed. With greater public and political recognition of the need to address this fundamental gap in supervisory powers, the mission strongly encourages a swift remedy.

3. Other gaps in FINMA's legal foundation are equally concerning. FINMA's power to carry out direct supervision, e.g., onsite inspection, is technically constrained (Art 23 BA) to complex or more economically important cases. There is weak legal power to correct banks' deficiencies if identified in any qualitative area such as of corporate governance, risk management and even if FINMA issues an order in a quantitative topic such as interest rate risk, a bank can appeal and there is an immediate suspension of the effect of FINMA's measure even though FINMA can revoke the suspensive effect (and the bank can appeal to have it reinstated if providing justification of why FINMA's decision would be prejudicial). The mission was alerted to cases where banks had indicated willingness to resort to legal appeals in order to defer or avoid FINMA rulings.

4. A high-profile case with a systemic bank that ran through the courts between 2016 and 2024 illustrates some of the challenges FINMA can face in seeking to apply a Pillar 2 charge. The bank sought to avoid a Pillar 2 charge, citing numerous arguments on which to contest the charge, and lodged multiple successive appeals. The protracted process contesting the supervisory authority was, according to the Parliamentary Investigation Committee, a "good example of the procedural difficulties faced by FINMA in its supervisory work."[1]It should be noted that the final decision of the Federal Supreme Court was in FINMA's favor (issued after the BCP mission).[2] Equally, over the course of the eight years following FINMA's initial Pillar 2 ruling, various courts' actions and decisions supported FINMA's position, including by requiring the bank to hold capital equal to FINMA's order from 2021, although the suspensive effect of appeal was also upheld. Such challenges risk promoting indiscipline in the market, as the precedent of disputing detailed aspects of FINMA's calculation of Pillar 2 has been set.

5. There should be no suspensive effect of a measure imposed by FINMA in the event of an appeal, unless a defined high threshold is met such as clear illegality. This would prevent FINMA having to justify its decision to withdraw the suspensive effect in the first place and facilitate the timelines and efficiency of FINMA's procedures. The clear onus should be on the bank to demonstrate damage, if any, due to the decision against which it is lodging an appeal. The withdrawal of the suspensive effect should apply to capital charges imposed under Pillar 2 (Capital Adequacy Ordinance (CAO) Art. 45) in addition to corrective measures. Other gaps in FINMA's powers are raised in the relevant risk areas.

[1] Parliamentary Investigation Committee, Full Report, pg. 420)

[2] Supreme Court Ruling 20 November 2024: 2C_283/2023.

6. FINMA is legally required to limit itself to issuing supervisory guidance in the form of as high-level principles and definitions as possible (FINMASA Art 7). There is always a balance to be found under such systems however, as not all banks can operate with only very high-level principles to given them orientation. The lack of supervisory guidance and expectations available in the Swiss system is excessive and does not represent any form of protection to the less resourced banks or their depositors and investors. Global and well-connected banks can easily interpret and implement standards using high-level principles and can also operate in a system that provides greater detail and information with a "comply or explain" protocol if necessary.

7. Competitiveness is important to any international financial center but is not a safe objective for a prudential authority. The amendments made to FINMA's mandate over the years have clouded the concepts of safety and soundness. It is essential that a prudential authority has the ability to make its decisions guided primarily by stability and soundness concerns in the short and long term. Competitiveness concerns and objectives need to be secondary. FINMA's legal mandate needs to be amended so that this premise is also unmistakably and directly clear from the legal text and does not emerge from other sources or potentially controversial interpretations. To do so will have reputational benefits by giving a clear signal that Switzerland is not just an open market but is a safe and stable market for its participants, depositors and investors.

Independence, Accountability, Resourcing and Legal Protection for Supervisors (CP2)

8. The approval of FINMA's strategic objectives by the Federal Council represents an infringement of the supervisory authority's operational autonomy. Such approval of strategic objectives is not the exercise of necessary and important accountability. The appropriate involvement of the parliamentary process is by setting the supervisory mandate (discussed in CP1) and holding FINMA accountable for the execution of its mandate. Appropriate involvement does not include a periodic tweak to strategic objectives. In practice, although FINMA staff report a smooth process and it is important to respect consensus driven decision making in the Swiss context, FINMA is legally established as an independent authority and must be treated as such. Efforts to strengthen FINMA's governance structure should focus on the Board of Directors, which, arguably, represents the public interest and is a buffer against political influence. Other key elements to strengthen FINMA's governance structure, as recommended in the 2019 FSAP, should include abolishing the requirement for final approval from the Federal Council of, for example, FINMA's annual report, the personnel ordinance, and the levies and fees ordinance. Work carried out in recent years on the institutional setting for bank supervision provides some empirical analysis that suggests that the better a jurisdiction meets CP1 and CP2, the less fragile its banks typically are.

9. In principle FINMA has budgetary autonomy, but in practice it is significantly understaffed and under resourced and this needs to be remedied. Resources remained broadly constant between 2012 and 2021 although there have been modest—ten percent—annual increases since 2022, which will need to be maintained for a significant period moving forward. In 2024 the average headcount for the entire authority comprised 695 permanent and temporary staff members. A culture favoring industry competitiveness, cost-effectiveness, and economic freedom over government oversight and regulation, backed by strong industry lobbying has led to FINMA

restraining itself in expanding the number of staff commensurate with increasing risks and complexities in the financial sector. It has also supported the long-term practice of using external resources at audit firms rather than the appropriate development of FINMA's own resources, even though FINMA has succeeded in increasing its own onsite exam work. Owing to the importance of working within the Swiss consensus it is, reasonably enough, not acceptable for FINMA simply to increase its budget dramatically one year to the next. In fact, under FINMASA, FINMA must have regard to regulatory burdens. However, pressure on FINMA is underlined by the fact that the Federal Council adopts the FINMA Ordinance on Levies and Fees and approves FINMA Personnel Ordinance. This has ultimately resulted in insufficient personnel and resources in FINMA to execute the range of analytical and on-site activities that are necessary and appropriate to the diversity of the Swiss banking sector.

10. Despite constraints it is welcome that FINMA has succeeded in increasing its engagements in the last couple of years. There has been a valuable increase in thematic and horizontal work and the attention paid to category 1 and 2 banks is notably more intensive than other categories. Constraint on resource, however, is leading to very light engagement with category 3 banks and even more so for banks in category 4-5 banks, which is not wholly desirable from a supervisory perspective. Even for category 2 banks FINMA does not have sufficient resources to bring all of its supervision "in house" and not rely heavily on the regulatory auditor process, where the output has been of mixed quality. Nowhere is the potential regulatory and supervisory risk to FINMA more evident than in the field of cyber risk - cybersecurity in the financial sector is only as strong as its weakest link and focusing mostly on category 1 and 2 institutions and some category 3 banks may not serve the cause of securing the financial sector fully – but there are no risks that are unaffected.

11. The Small Bank Regime is a broadly successful application of proportionality. FINMA is planning to enhance its data-based supervisory approach towards these institutions, to simultaneously deepen its insight into the banks but keep the regulatory burden light. However, there is a flaw in the Small Bank Regime in that the entry criteria are too heavily reliant on quantitative criteria. It is typical of small banks that they can have strong regulatory ratios but have other weaknesses. It is imperative that the Capital Adequacy Ordinance (CAO art 47 (c)) is amended so that FINMA can ensure that one of the entry criteria to the regime is that it considers the applicant institution to have sufficiently sound qualitative skills with respect to risk management, governance and controls and not rely only on data that can give a superficial comfort.

Cooperation and Collaboration (CP3)

12. The frameworks for cooperation and coordination are in place. FINMA has actively participated in both multilateral and bilateral configurations. The effectiveness of the arrangements was demonstrated in the March turmoil of 2023.

Permissible Activities, Licensing, Transfers of Ownership, Major Acquisitions (CPs 4–7)

13. The term "bank" and even "banking as a service" is protected and actively policed. The relatively new Fintech license, however, permits deposit taking by non-banks and these deposits are neither covered by deposit protection nor segregated in case of bankruptcy as FINMA has warned the legislative authorities. While client asset protection will be remedied this is not expected for several years. It is recommended that the legal power to segregate fiat deposits in bankruptcy is accelerated not least in the interests of Switzerland's reputation as a safe jurisdiction to carry out transactions.

14. FINMA has maintained a watchful gatekeeper role on new entrants to the banking sector. In paying close attention to the development of the bank in its early stages, attaching conditions to the license and permitting additional activities only as and when the new bank has demonstrated its capabilities, FINMA is enhancing the likelihood of success for the new entrants and diminishing the potential for damage to depositors or the market. The mission supports the new condition for fresh applicants that FINMA is considering, namely that a wind-down plan should be in place in the event that milestones cannot be met.

15. The Swiss regulatory approach to the definition of significance and control is high level. There is a clear threshold for a "qualified" holding and there is also a definition of control (10 percent and 50 percent respectively), so any potential investor will have the necessary transparency that they will need to be aware of specialist banking law and relevant supervisory authorities should they proceed with investing. FINMA has scope, though also onus, to determine which holdings fall in/outside of control. It is a demanding test. Providing that FINMA is able to continue to be able to identify control and ultimate beneficial control, which FINMA takes seriously, the regulation is valuable.

16. The design of FINMA's powers allow it to scrutinize the suitability of major acquisitions and the ability of a bank to manage and absorb a significant change. The assessors saw evidence that FINMA had examined and questioned proposals brought to them, including requiring audit reports and investigations, before being willing to grant approval.

Supervisory Approach, Supervisory Tools, Supervisory Reporting, (CPs 8–10)

17. FINMA's analytical approach has strengthened and deepened since 2019. It combines a range of data sources and endeavors to be forward-looking in risk assessment. It has certain known limitations and weaknesses, for example in business model analysis. The next generation analytical model is at an advanced stage of development. The future system is aligned with best international practices and represents a well-conceived evolution. The new build concept for the rating system incorporates financial resilience, operational resilience, governance and controls and suitability as well as conduct related risks (such as AML, market conduct, suitability etc.). It will permit FINMA to synthesize and organize all the various sources of information that it obtains, and continue to permit a supervisory override, which is itself subject to a process of explanation/oversight so that there are checks and balances in terms of how the supervisory judgment is applied. FINMA plans to intensify

its focus on business model analysis, risk culture and "tone from the top." The plan is for the new rating model to incorporate more data, be more granular, and to allow the supervisors to identify, target and track supervisory activity plans at a more meaningful, accurate level with the banks.

18. FINMA provides limited internal policy guidance to its supervisors and needs to be comprehensive in order to ensure consistent policy application across the supervisory waterfront. Such a handbook, complete with assessment criteria, will support junior supervisors in developing their judgment, which is a vital element in their professional skillset. While plans to centralize the risk specialists in FINMA is sensible in the context of FINMA's organization, such specialists cannot reasonably be available for general reference as and when needed. It is recommended that FINMA design a specific project to create a policy handbook for supervisory staff. Such resources do not emerge organically, without planning and sponsorship. On a related point, FINMA needs to be more proactive in fostering internal knowledge transfer and innovation.

19. The mission supports an increase of onsite inspections by FINMA, across all categories of banks. This is essential and overdue. FINMA must, over time, bring as much work in house as it reasonably can. Coupled with the upgrades to the analytical focus, the mission agrees that FINMA has adopted the appropriate direction of travel.

20. A key finding of the mission is that the regulatory audit system is not the same product as supervisory onsite work. The one is not a substitute for the other. The role, purpose and function of supervision and audit differ. Both are important but supervisory strategy cannot be blind to the difference without exposing all parties to risk. The regulatory audit is a compliance check. By contrast the supervisor can and must consider whether the risk environment will be sufficient to withstand possible future headwinds. A critical gap concerns the regulatory auditor's ability to comment on management failings. This is beyond the scope of the auditor, as was made clear to the FSAP mission in discussion with market participants. Regulatory auditors also commented on this limitation in documents provided to FINMA that the mission saw. Addressing management failings is the role of the supervisor and cannot be delegated. The mission found that this difference to be well understood by professional market participants, although it has not always been clearly communicated by FINMA itself. In the case of the regulatory audit a source of discussion is whether there are findings that are relevant and valuable for the supervisor and whether the regulatory audit process is missing findings that an audit process, as distinct from a supervisory process, could be expected to have identified. Supervisors indicated reluctance to increase scope of regulatory audits on the basis that there would be more audit work done, more fees paid by the bank, but nothing added to the supervisory knowledge base. This is unsatisfactory for all parties.

21. The mission recommends that FINMA is granted the power to mandate directly the regulatory audit work that the auditors carry out. The work that the auditors should do in the banks should be specified according to clear standards set out by FINMA. By taking this step, therefore, the professional firms should be more able to identify relevant findings that supervisors can make use of. This adaptation will make more effective use of the skills embedded in the audit firms, not least their wider pool of cyber risk capabilities, reassure banks that the auditor who knows

them remains closely involved and, ultimately, yield most supervisory value for the funds that are spent. Importantly, this adaptation will move the supervisory process away from a backwards looking compliance focused approach to a forward-looking, risk-based approach. That said, this recommendation is presented as a steppingstone to FINMA taking a full program of onsite supervision in-house over the course of time.

22. There is a discernible shift into stronger data approaches in FINMA's supervision and to support more granular analysis than before. The assessors note that FINMA is, appropriately, paying particular attention to the data needs surrounding the G-SIB. Enhanced data collection is one way to strengthen supervisory reach without going onsite. Similarly, the supervision of the smaller category 4 and 5 banks is also planned to be more data driven and a major transformation project on digitalization is underway. Part of this project, or ancillary to that is that FINMA is about to take over the receipt of some regulatory reporting from the SNB. FINMA will need to ensure the quality of the data it is receiving. It is recommended that, in keeping with the importance of the "tone from the top" and risk culture that FINMA is now communicating to the banks as well as personal responsibility from senior individuals in banks, that FINMA require a named individual, at least at the level of the executive management to sign off on the regulatory data that is submitted to FINMA and to take responsibility for the timely submission to FINMA.

Corrective and Remedial Powers (CP11)

23. FINMA's powers of intervention require critical improvement to promote and ensure effective supervisory action. At present, FINMA's powers are not specific enough to allow for timely, decisive, and immediately enforceable early intervention. This should be addressed as a matter of priority. FINMA needs an unambiguous ability to act when concerns arise, even before an obvious violation or point of non-viability, as that is the hallmark of forward-looking supervision that is most likely to achieve effective solutions for the bank. The general provision of a supervisor's powers is covered in CP1, but CP11 focuses particularly on the effective use of corrective and sanctioning powers. Even allowing for the need to enhance its legal basis, though, FINMA's record of effective formal actions is weak.[3]

24. At present FINMA's formal powers are effectively triggered only due to breach of law or regulation (Art 31 FINMASA) or at points of non-viability (Art 26 Banking Act). While FINMASA (Art 31), in principle, also grants FINMA the broad discretion to act if there are "other irregularities," the provision is articulated in such high-level terms that concerns have been expressed to the mission that courts may be reluctant to support corrective measures on this basis. Were FINMA to base its actions on "other irregularities" it is only bound by the limits of administrative procedural law, in particular the principle of proportionality, which requires that FINMA adopts measures that have the least impact on the rights of the persons concerned, but which nevertheless ensure the

[3] For the sake of completeness, it is noted that FINMA may impose capital or liquidity surcharges, (Art 4, para 3 Banking Act) but these powers are not typically regarded as early intervention but are seen as basic powers a supervisor should have to set standards above the minimum, as expected by the Basel Framework, or to apply Pillar 2 measures, neither of which are regarded as corrective or sanctioning measures.

restoration of the orderly situation.[4] There is no record proving that this legal provision has been used by FINMA in any action against a bank. The provision was only used once when FINMA required a self-regulatory organization (SRO) to amend its regulations regarding AML/CFT, action which was supported in a ruling of the Federal Supreme court.[5] Furthermore, FINMA's own description of its approach to enforcement refers to investigating "irregularities" but only describes taking action in response to violations of law and restoring compliance with the law.[6]

25. In addition, if a bank appeals against FINMA's actions the appeal has a suspensive effect unless FINMA itself revokes the suspensive effect. However, the court may reinstate the suspension, based on the bank's application. In fact, the decision of Federal Supreme Court on the SRO's appeal against the removal of the suspensive effect (re AML/CFT regulations) found in favor of the SRO, noting, "The legislature has designed the withdrawal of the suspensive effect as an exception. It must be based on convincing reasons."[7] These legal possibilities, used by banks, or threatened by banks, make it difficult for FINMA to effect necessary supervisory interventions.

26. The most effective supervisory practices are when banks are responsive to supervisory concerns and messages. To act at an early stage, at present, FINMA is reliant on the bank's willingness to cooperate. The mission was able to see ample evidence of slow reactions from banks in response to FINMA correspondence citing clear and important concerns, and extreme care on FINMA's part in building its case towards being able to use formal powers. Considering the very different tone of remarks and findings made by the assessors in the 2014 BCP assessment, which cited no difficulties regarding delays, or lack of responsiveness by the banks, it can be concluded that the banking culture has deteriorated in terms of discipline and responsiveness over the past decade.

27. The mission fully supports FINMA's new focus on the importance of risk culture and risk appetite in banks. More than one institution has failed in this regard. FINMA needs a graduated suite of early intervention powers as stated in the international standards of banking supervision (notably CP11 EC4). The sooner an institution can course-correct, the less damage is done and the less risk to depositors, investors, and creditors.

28. It is critical that FINMA is provided with effective and comprehensive early Intervention powers. These powers should be established on a sound legal basis and should, at a minimum include the measures set out in CP11 EC4 and not require the breach of law or regulation for these measures to be applicable. The powers should apply to all Swiss banks.

29. FINMA's decisions should not be subject to suspension upon appeal by the bank upon which they have been imposed. While suspension is not an option for all FINMA's decisions,

[4] See Investigation Report by Albrecht Langhart and Matthias Hirschle for Parliamentary Commission of Inquiry into the emergency merger of CS and UBS, margin no 57. (Langhart and Hirschle)

[5] Ruling of the Federal Supreme Court of December 13, 2016 (BGE 143 II 162)

[6] https://www.finma.ch/en/enforcement/all-about-enforcement/

[7] 2C_575/2014 - 2014-07-28 - Economy - Adaptation of the regulations to the requirements of the FINMA Anti-Money Laundering Ordinance

notably those that take place close the point of non-viability, FINMA can reinstate the effect of its decision if it has been suspended (Federal Act on Administrative Procedure, Art 55). However, this reinstatement can be, again, reversed (as in the instance of the SRO AML/CFT challenge). The public interest is served by FINMA's measures remaining in place even if an appeal is lodged, although it is accepted that, in the interests of fairness, narrow exclusions to this principle should be allowed.

30. Proposals brought forward by the Federal Council after the assessment mission, in the TBTF package, are highly welcome. Although beyond of the scope and mandate of this assessment report to analyze, the Swiss Government notes "FINMA's supervisory powers are also to be extended. FINMA should be able to order measures earlier and more effectively (early intervention). It should also be able to issue pecuniary administrative sanctions (fines) to non-compliant institutions." Strengthening FINMA by clarifying and extending the measures at its disposal are a vital step forward, though FINMA itself must be ready and willing to use all options currently at its disposal, including issuing rulings, until legislative amendments can be delivered.

Consolidated Supervision and Home-Host Relations (CP12–CP13)

31. Swiss regulation focuses attention on solo entities within the group and grants the ability to restrict activities based on the business regulations of an entity. FINMA's ability to harness these positive attributes of the regulatory framework is, though, largely conditioned by factors that are common throughout the assessment. The treatment of capital consolidation, e.g., capital at group level, is considered in CP 16.

32. In terms of supervisory powers, FINMA's powers to intervene at group or individual entity level, while seemingly positive on paper, suffer from the weaknesses discussed in CP1 and 11. Equally, there are very limited powers with respect to the holding company of a consolidated group, even though the powers are augmented compared with the 2014 FSAP as FINMA's jurisdiction in respect of recovery and bankruptcy has been extended to group holding companies and group companies which perform significant functions for activities requiring authorization. However, enforcement powers for ongoing activities when insolvency is not envisaged are mostly limited to the enforcement at group level and do not cover single entity level. FINMA actively monitors and restricts exposures to holding companies, as the assessors witnessed, but enhanced powers are recommended.

33. In terms of supervisory practice FINMA is heavily reliant on the regulatory audit work. This tool is not suited to determine whether or not a bank's management understands and is appropriately controlling group risks. This point is discussed in CP9. The same factor is also important in appreciating the limitations of effectiveness of the regulatory audit possibilities in corporate governance.

34. In terms of supervisory guidance to banks, FINMA was, at the time of the FSAP mission, consulting on a Circular that was expected to enter into force in mid-2025. The mission strongly welcomes the initiative, while recognizing that the Circular was being objected to on the grounds that it was being perceived as a form of regulation. In the view of the mission the

Circular does not create new regulation. Instead, the Circular is a valuable step in confirming good practices and ensuring there is clarity for entities subject to consolidation.

35. FINMA has fostered its core home-host relationships. The core college relationships for the G-SIBs stood FINMA in good stead in the March turmoil of 2023 and the subsequent restructuring of the major banks. While other colleges are less developed, FINMA has been responsive in the context of building bilateral relationships which may be more relevant for the authorities involved in respect of a number of the other group structures in place.

Corporate Governance (CP14)

36. The current limitations on FINMA's resources mean that CP14 is currently not met with consistency beyond the systemic banks. This is despite FINMA's clear understanding of the importance of corporate governance. While the regulatory audit process can address some aspects, the regulatory audit process is not and cannot be designed to capture management failure. The determinations required regarding the banks' boards and executive management are not suited to review under the regulatory audit process.

37. Furthermore, FINMA's powers to act if it concludes that members of a bank's board are not fulfilling his or her duties is at best problematic. FINMA has formal powers against individual board members under the Banking Act if fitness and propriety requirements are no longer met. However, the high threshold for enforcement in practice—especially the difficulty of attributing violations to individuals—raises concerns about the effectiveness of these powers outside of the most clear-cut cases. In this context, the mission strongly supports the proposals to introduce a Senior Managers Regime concept that would identify responsibility for actions and present a framework that would allow FINMA to act meaningfully and while providing transparency, consistency, and equity of treatment to individuals.

38. Corporate governance is one of the risk areas where supervisors are expected, by the international standards, to issue guidance but FINMA's guidance is overly high level. It is unlikely that banks outside the top cadre will grasp the appropriate and necessary expectations for governance. Guidance on how such key risk areas can be approached in a proportionate manner by the less complex and advanced institutions is exactly what the international standards expect FINMA to do and it is disappointing that there appears to be pressure objecting to FINMA issuing such guidance. The mission strongly advocates that FINMA follows the BCP standard and articulates its supervisory expectations, by providing clear guidance to the range of diverse banks. In terms of supervisory practices and tools the mission welcomes the further evolution of the corporate governance questionnaire. FINMA is developing a promising program and cannot afford to lose momentum.

Risk Management (CP15)

39. The combination of the legislative weaknesses that limit FINMA's ability to set standards for risk management, set general requirements for banks to perform stress tests or prepare Internal

Capital Adequacy Assessment Process (ICAAPs) sends the wrong signal to industry and auditors. FINMA is also unable to require banks to ensure that the CRO is a standalone position that should be elevated to executive board level. As a consequence, the guidance for banks and regulatory auditors in this area is high level. There is also no comprehensive supervisory manual to guide supervisors. The work already planned by FINMA to develop a new supervisory manual and more detailed risk requirements should be prioritised. Clearer articulation of FINMA's expectations would enhance institutions' understanding and promote more consistency in the quality of risk management and the extent to which regulatory audits are appropriately addressing the right things. The integration of climate-related financial risks into risk management supervision is at an early stage and should be continued so that consideration of climate-related risks is embedded into supervisory processes.

Capital Adequacy (CP16)

40. The current capital framework has serious weaknesses and deficiencies. It should be noted that an assessment of capital adequacy under the BCP is not the same as the Basel Regulatory Consistency Assessment Programme (RCAP) which examines fidelity to the Basel Capital Framework.7F[8] The BCP is broader and considers whether, in addition to meeting the Basel Framework, prudent and appropriate capital adequacy requirements have been set for banks that reflect the risks undertaken by a bank in the context of the markets and macroeconomic conditions in which it operates. If the requirement for prudent and appropriate capital adequacy is not met, this will be reflected in the BCP assessment and grade.

41. There are a number of elements where the approach to capital adequacy has caused concern, and the authorities' current steps towards addressing these issues are highly welcome. Requiring participations to be risk weighted rather than deducted means that a parent bank's participations in its subsidiaries only have to be partially backed by capital and may partially finance capital at its subsidiary through debt ("double leveraging"). This approach, in place since 2019 for all banks, had very real financial stability consequences during the Credit Suisse crisis, as the parent bank's limited capital levels significantly restricted its room for maneuver.

42. The CAO amendment, which came into force on January 1, 2019, introduced a risk weighting-based capital adequacy requirement for all banks on their participations for consolidation. Prior to 2019, banks were required to phase in a deduction of participations held and consolidated at group level from CET1 capital in the standalone calculation, with full deduction in effect from 2019. However, FINMA had to grant capital reliefs (Art. 125 CAO abrogated), meaning that the full deduction of participations was never applied. At the same time as the new risk-weighting approach was introduced in 2019, a regulatory filter was permitted, which in addition to neutralizing a change to the Swiss Code of Obligations with regard to the accounting requirements for holdings, obscured the true capital situation of CS. The Parliamentary Investigation Committee observed that, "without applying the filter, the capital ratio would have fallen from 10 percent at the

[8] RCAP Risk Based Capital Standards Switzerland June 2013

end of 2019 to 5 percent in the third quarter of 2022, well below the regulatory minimum."8F[9],9F[10] The change to a risk-weighting approach led to higher capital requirements than had previously applied when the reliefs were taken into account, but lower capital than would have applied if the deduction approach had been implemented without reliefs. As noted by the Federal Council, "the complex group structure and the discounts applied led to a structurally weak capitalization of the parent bank, which instead of being a source of strength for the group, was a weakness." 10F[11]

43. There is scope for inconsistent treatments in the capital calculations of banks for similar activities. Regulatory capital calculations are made based on accounting standards. FINMA permits banks to use different accounting frameworks (IFRS, US GAAP, Swiss GAAP), which can lead to inconsistent capital calculations. For D-SIBs, gone concern capital requirements are only 40 percent of the total going concern capital requirement, much lower than their closest EU peers.

44. FINMA's Pillar 2 powers are not fully articulated, making them weak and open to legal challenge. FINMA can and does impose Pillar 2 charges but they can be difficult to enforce should a bank wish to challenge them. Recent cases indicate that banks can, and do, mount legal challenges against the use of this supervisory tool by FINMA. The legal framework also means that there are no general requirements for banks to undertake stress testing or an ICAAP. It is crucial that FINMA's powers in this area are strengthened and put on a solid legal footing.

Credit Risk (CP17)

45. Credit risk, particularly in relation to mortgages, is a key area of focus for FINMA. However, FINMA has no explicit legal basis to set binding standards for sound credit risk management practices and consequently the guidance in this area is high level. A disparity of lending practices in relation to affordability and the granting of exception to policy loans has recently been observed from onsite inspections so the need for clearer articulation of sound risk management practices in this area is clear and compelling. FINMA should develop more detailed guidance for banks, supervisors and auditors on credit risk to clearly articulate its supervisory expectations in this area. While there has been some work undertaken on climate-related financial risks, FINMA should more systematically integrate this topic into supervisory processes to ensure that banks are appropriately considering the impact of climate-related risk drivers on their credit risk profiles; and incorporating them into credit risk management systems and processes as appropriate. There is also scope, as FINMA plans, to enhance and improve data collection and analysis in this area.

Problem Assets, Provisions and Reserves (CP18)

46. FINMA does not have the specific power to require a bank to increase its level of provisioning. As noted in CP17, because FINMA's powers are not clearly set out in legislation, there

[9] See pages 6-7: Parliamentary Investigation Committee Summary Report 17 December 2024.

[10] See page 66 and footnote 84: Report of Expert Group on Banking Stability to FDF 1 September 2023.

[11] See page 62, Federal Council report on banking stability.

is a lack of detail in FINMA's circulars on sound credit practices. This may limit FINMA's ability to require changes to a banks policies, processes or methodologies for classification and provisioning. FINMA regularly analyzes movements in different credit portfolios, and – based on data collected by the Swiss National Bank—regularly monitors the trends for impaired loans, non-performing loans, and specific and general provisions. The planned additional data collection and analysis on credit risk should support supervision of this area.

Concentration Risk and Large Exposures (CP19)

47. There are gaps regarding concentration risks and large exposures. The Basel RCAP assessment in 2023 identified two potentially material findings related to the definition of exposure values which have not been addressed. Concessions applied to Category 4 and 5 banks may also give rise to additional risk. For example, the exemption of residential mortgages in Switzerland up to a certain amount from the calculation of the large exposures limit may allow significant single-name concentration risk for smaller banks. As it has been noted in other risk areas, in part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in this area is high level. FINMA should also ensure that banks are identifying, measuring, evaluating, monitoring, reporting, and managing the concentrations within and between risk types associated with climate-related financial risks.

Transactions With Related Parties (CP20)

48. The definition of related parties and the transactions that should be monitored by banks is not comprehensively defined in legislation and regulation. The definition of related parties in the legislation only refers to transactions involving credit risk. Other transactions not covered by this definition such as sales and purchases of real estate, service contracts, or forgiveness of loans may also pose a risk to the health of a bank. In addition, as has been noted in other risk areas, in part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in this area, with the exception of intra-group exposures, is high level. Given that the definition of related parties in the legislation does not explicitly refer to all the relevant related parties that should be captured by these provisions, it is an area where further specification and guidance is needed. Without such guidance, there is a risk that banks are not adequately capturing this risk as they should be.

49. There is no dedicated reporting of related party transactions to the supervisor. Some related party transactions are captured in the large exposures and/or intra-group reporting, but this does not provide a complete picture. FINMA should implement reporting requirements and develop more detailed guidance for banks, supervisors, and auditors to clearly articulate supervisory expectations in this area. FINMA should also consider a thematic review on related parties, as the absence of supervisory guidance and reporting may mean that risks and poor practices remain undetected.

Country and Transfer Risks (CP21)

50. Although FINMA captures certain country and transfer risk data from banks, the reporting is incomplete, and breaches cannot be detected. FINMA can and does send out ad hoc surveys to banks to gather information on potential risks in response to specific global developments. However, whilst there is a focus on these risks at the category 1 bank, country and transfer risk is not the subject of supervisory focus for other categories of banks. The 1997 industry guidelines, which are recognised by FINMA as a minimum standard don't include, for example, the need for a bank to define a country risk appetite. These industry guidelines should be updated. FINMA is planning to collect more regular data in this area to develop more enhanced analysis. This should support supervision in this area and extend FINMA's supervisory reach to allow benchmarking and the identification of outliers across all categories of banks. FINMA should consider a thematic review on country and transfer risk to gain an overview of exposures and practices across the banking sector.

Market Risk and Interest Rate Risk in the Banking Book (CP22–23)

51. IRRBB is a key area of focus for FINMA. Comparatively there is less focus on market risk as this represents a smaller proportion of risk weighted assets. The implementation of the final Basel III standards in January 2025 is expected to result in an increase in market risk RWA for all banks, particularly internationally active banks. The assessors view the market risk and IRRBB frameworks as compliant with the related principles.

Liquidity Risk (CP24)

52. FINMA should increase and enhance its data analysis capabilities in liquidity to support its supervision in this area. Consideration should also be given to the appropriateness of the application of proportionality in relation to liquidity risk requirements and supervision. Exempting small banks, for example, from a qualitative requirement on diversification of the financing structure is not warranted, as even a small bank could face problems if it is relying on a few large depositors for funding. In this respect, improved data and diagnostic analysis would also support greater reach and oversight of smaller banks.

53. The Basel RCAP assessment in 2023 rated the implementation of the NSFR in Switzerland as 'largely compliant,' one notch below the highest overall grade. The two potentially material findings related to the definition of exposure values which led to this grade have not been addressed. FINMA should also ensure that banks identify and quantify climate-related financial risks and incorporate those assessed as material over relevant time horizons into their internal liquidity adequacy assessment processes, including their stress testing programs where appropriate.

Operational Risk and Operational Resilience (CP25)

54. The new circular on operational risks and resilience is still in the transitional phases of implementation and banks are finding it challenging to meet the requirements. The circular on outsourcing captures parent companies but not financial groups or conglomerates, potentially leaving regulatory gaps for financial groups. FINMA is also limited in its ability to directly access and assess critical outsourcing providers. These regulatory gaps should be addressed to ensure financial groups are captured as part of outsourcing requirements. Resources within FINMA are insufficient to appropriately supervise these risks which currently means that Category 3–5 banks are not receiving enough supervisory attention particularly in the area of cyber. In addition to hiring expertise, FINMA should leverage the skills of professional services firms to extend its supervisory reach. There is also an opportunity to more effectively leverage data to provide additional analysis and insights to support supervision in this area.

Internal Control and Audit (CP26)

55. The importance of a strong internal audit function in banks makes it appropriate for FINMA to take a more direct role in assessing the adequacy of this function and its activities. This should be done in a more systematic way and also to a higher standard than the current negative assurance provided by the regulatory audit. The Head of Internal Audit should also be subject to a fit and proper review undertaken by FINMA. Strong internal controls are central to effective risk management and should also be audited to the higher standard of positive assurance rather than the default of negative assurance.

Financial Reporting and External Audit (CP27)

56. Given that audit firms provide both regulatory and financial audit services to banks, it is right that greater scrutiny is placed on their independence. There is currently no requirement for external audit firm rotation for the financial audit. In line with international best practice, mandatory audit firm rotation should be introduced. Given that the same external audit firm currently audits all Category 1 and 2 banks, the introduction of mandatory rotation may need to be phased in. However, in an already concentrated audit market, the risks of reliance on one audit firm for all systemically important banks in Switzerland cannot and should not be ignored. Furthermore, at a minimum, for Category 1-3 banks, there should be a requirement for a different lead audit partner to oversee the regulatory and financial audits.

Disclosure and Transparency (CP28)

57. In the assessors' view, the disclosure and transparency provisions are deemed compliant. FINMA should follow up with 'SIX Exchange Regulation' in relation to their reviews of the financial statements of listed banks which apply IFRS, US GAAP or Swiss GAAP to ensure that they are aware of any discrepancies found. The inclusion of Pillar 3 disclosures in the FINMA supervision system would also assist in the identification of any inconsistencies between the regulatory data reported to FINMA and the banks' public disclosures.

Abuse of Financial Services (CP29)

58. FINMA has put increasing emphasis on the supervision of AML/CFT conduct risks and there is a clear awareness of the relevance of conduct risk across the supervisory units. There are no waivers for conduct risks in the Small Banks Regime. Some of the general weaknesses identified across the assessment affect the supervision of AML/CFT: resource limitations affecting frequency, depth and range of inspections. Some regulatory gaps appear to exist regarding requirements for dedicated "anti-money laundering officers" and prohibitions on certain banking relationships. Also, relevant guidelines (e.g., Operational Risk Circular) which are key to support a careful AML/CFT environment are articulated at a very high level.

INTRODUCTION[12]

59. This assessment of the current state of the implementation of the Basel Core Principles for Effective Banking Supervision (BCP) in Switzerland has been completed as part of the 2025 FSAP. The FSAP was undertaken by the International Monetary Fund (IMF) and the BCP assessment mission took place from October 22nd to November 11th, 2024.

60. It should be noted that the ratings assigned during this assessment are not directly comparable to previous assessments. The current assessment of the BCB was against the BCP methodology issued by the Basel Committee on Banking Supervision (BCBS) in April 2024. The revised BCP has raised the bar to measure the effectiveness of supervisory framework, and assessments will inevitably be country-specific and time-dependent to varying degrees. The authorities have opted to be assessed and graded on the essential and additional criteria. The last BCP assessment in Switzerland was prepared in the course of the 2014 Financial Sector Assessment Program (FSAP). The BCP methodology has been revised since the last assessment took place and the revisions have led to substantive changes in some areas, as well as all additional criteria in the former methodology being upgraded to Essential Criteria.

61. To assess how well the principles have been met, the BCP Methodology uses a set of essential and additional assessment criteria. An assessment must be based on Essential Criteria (EC). The additional criteria (AC) cover recommended best practices against which the authorities of some more complex financial systems may agree to be assessed and rated. The assessment of each principle is made on a qualitative basis, using a five-part rating system. Assessment of each CP requires a judgment on whether the intent of the principle as expressed in the methodology has been met and whether the criteria are fulfilled in practice. Evidence of effective application of relevant laws and regulations is essential to confirm that the criteria are met.

62. Grades can be one of five categories: compliant, largely compliant, materially noncompliant, noncompliant, and non-applicable. An assessment of "compliant" is given when all the essential and additional criteria are met without any significant deficiencies, including instances where the principle has been achieved by other means. A "largely compliant" assessment is given

[12] This Detailed Assessment Report has been prepared by Katharine Seal, IMF, and Jane O'Doherty, external expert.

when only minor shortcomings are observed that do not raise any concerns about the authority's ability and clear intent to achieve full compliance with the principle within a prescribed period of time. The assessment "largely compliant" can be used when the system does not meet all essential and additional criteria, but the overall effectiveness is sufficiently good, and no material risks are left unaddressed. A principle is considered to be "materially noncompliant" in case of severe shortcomings, despite the existence of formal rules and procedures and there is evidence that supervision has clearly been ineffective or that the shortcomings are sufficient to raise doubts about the authority's ability to meet the principle. A principle is assessed "noncompliant" if it is not substantially implemented, several Essential Criteria are not complied with, or supervision is manifestly ineffective. Finally, a category of "non-applicable" is reserved for those cases where the criteria do not relate the country's circumstances.

63. A BCP assessment is not, and is not intended to be, an exact science. The assessment criteria are not checklist but are the basis of a qualitative exercise involving judgement by the assessment team. While compliance with the BCP can be met in different ways, compliance with some criteria may be more critical for the effectiveness of supervision, depending on the situation and circumstances in a given jurisdiction. Hence, the number of criteria that are met is not always an indication of the overall compliance grade for any given principle. Nevertheless, by adhering to a common, agreed methodology, the assessment should provide the Swiss authorities with an internationally consistent measure of the quality of their banking supervision framework in relation to the BCP, which are internationally acknowledged as minimum standards. Emphasis should be placed on the comments accompanying each principle, rather than on the grade itself.

64. The assessment team reviewed the framework of laws, rules, and guidance and held extensive meetings with authorities and market participants. The assessment team met officials from FINMA, and additional meetings were held with the Federal Department of Finance (FDF), Swiss National Bank, auditing firms, and banking sector participants. The authorities provided a comprehensive self-assessment of the CPs, as well as responses to additional questionnaires, and assisted in access to staff and to supervisory documents on a confidential basis. The team acknowledges the quality of cooperation received from the authorities. The team extends its thanks to staff of the authorities.

65. The standards were evaluated in the context of the sophistication and complexity of the financial system of Switzerland. The CPs must be capable of application to a wide range of jurisdictions whose banking sectors will inevitably include a broad spectrum of banks. To accommodate this breadth of application, a proportionate approach is adopted within the CP, both in terms of the expectations on supervisors for the discharge of their own functions and in terms of the standards that supervisors impose on banks. An assessment of a country against the CPs must, therefore, recognize that its supervisory practices should be commensurate with the complexity, interconnectedness, size, and risk profile and cross-border operation of the banks being supervised. In other words, the assessment must consider the context in which the supervisory practices are applied. The concept of proportionality underpins all assessment criteria, and this dimension has

been further emphasized in the revised 2024 BCP methodology. For these reasons, an assessment of one jurisdiction will not be directly comparable to that of another.

Box 1. The 2024 Revised Core Principles

The revised Core Principles reflect regulatory and supervisory developments, structural changes in banking, and lessons learnt from FSAP assessments since the last revision in 2012. The update took account of the lessons learned from: countries' implementation of the Core Principles as updated in 2012; the impact of, and policy responses to, the COVID-19 pandemic; and FSAP assessments completed since 2013. Several thematic topics also informed the revisions to the Core Principles, including evolving risk considerations related to: (i) financial risks; (ii) operational resilience, including cyber security risks; (iii) systemic risk and macroprudential supervision; (iv) risks from structural transformations driven by climate change and the digitalization of finance; (v) the sustained growth of nonbank financial intermediation; and (vi) evolving corporate governance and risk management practices, including sound risk culture and sustainable business models.

There is a greater emphasis on systemic risk and sound risk management practices. Supervisors continue to be required to assess the risk profile of the banks not only in terms of the risks they run and the efficacy of their risk management, but also the risks they pose to the banking and the financial systems. Expectations regarding supervisory assessment of risk have been raised to incorporate more clearly the analysis of banks' business models, and risks brought by the wider group, as well as considerations on how the macroeconomic environment, business trends, and the build-up and concentration of risk inside and outside the banking sector may affect the risk to which banks are exposed. Amendments were introduced to reinforce the need for group-wide approach to supervision, and requirements regarding operational risk and operational resilience have been significantly updated to ensure that banks are better able to withstand, adapt to and recover from severe operational risk-related events, such as pandemics, cyber incidents, technology failures and natural disasters.

The revised BCP reinforce aspects that were already present in the previous methodology, highlighting their materiality for effective supervision. In particular, the BCPs continue to emphasize the powers that supervisors should have to address safety and soundness concerns, and the expectation on the actual use of the powers, in a forward-looking approach through early action. This includes a heightened focus on powers and independence, and expectations concerning capacity for timely, consistent, and conclusive supervisory actions; adequacy of liquidity arrangements; and the interface between daily supervisory practices and crisis management measures. As a reflection of the enhanced expectations, 9 additional criteria have been upgraded to Essential Criteria.

The BCPs are universally applicable and accommodate a wide spectrum of banks and financial systems. The revised standard reinforces the concept of proportionality, in terms of both the expectations on supervisors for the discharge of their functions and the complexity of standards that supervisors impose on banks, and standards emphasize that proportionality should not be understood as dilution of standards, but as maintaining stringency of approach through proportionate methods and ensuring appropriate responses to the global diversity of banks and banking systems.

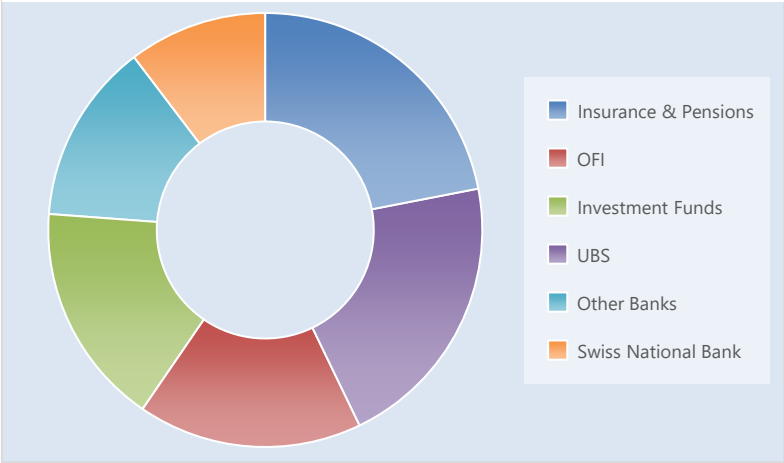
INSTITUTIONAL AND MARKET STRUCTURE—OVERVIEW

66. Banks are supervised by FINMA, an integrated financial markets authority established

as an independent public law institution, with its mandate set out in law. FINMA's scope encompasses banks, insurance companies, financial market infrastructures (exchanges, central counterparties, central depositories and securities settlement systems), securities dealers, collective investment schemes and their asset managers. Its mandate is to protect creditors, investors and policyholders as well as ensuring that Switzerland's financial markets function effectively.

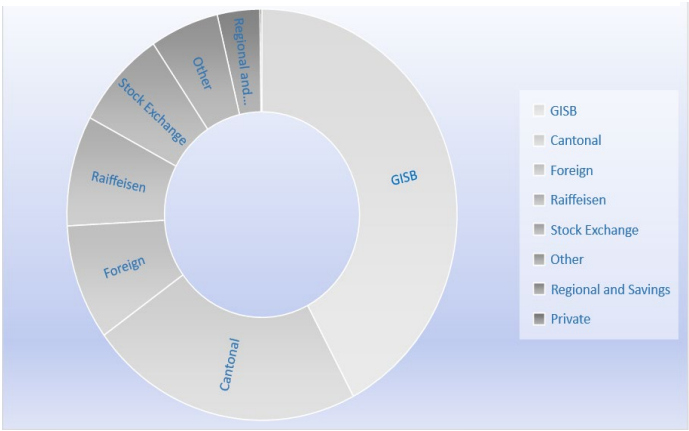
67. Switzerland is a significant international financial center where financial services provide an important contribution to the national economy. Overall, the Swiss financial sector provided 9.1 percent of gross domestic product (GDP) and 5.2 percent of overall employment in 2023, which are broadly similar, though marginally lower levels than at the 2019 FSAP.[13] Banking is the dominant sector. As at the end of 2023, total banking sector assets represented approximately 430 percent of Swiss GDP. Since the merger of UBS and Credit Suisse in 2023, Switzerland has been home to one global systemically important bank (G-SIB). Insurance (189 companies with 573 CHF bn total capital assets), pensions (1,065 CHF bn total capital assets) and wealth management activity (7,1777 CHF bn assets held under custody) complement the banks' presence.[14]

Financial Sector Structure



68. The landscape of the Swiss banking industry is overshadowed by its global player but approximately two thirds of the banking system is spread across a range of sectors. The four domestic systemically important banks hint at some of the diversity to be found. In addition to UBS, there is PostFinance, whose ultimate owner is the Swiss Confederation, Raiffeisen Group, the Swiss cooperative group, and Zurcher Kantonalbank (ZKB), the largest of the 24 cantonal banks. Aside from UBS, the largest sector is represented by the 24 Cantonal banks which held nearly a

Concentration in the Swiss Banking System 2023



[13] State Secretariat for Economic Affairs Switzerland (SECO) and the Federal Statistical Office (FSO).
[14] SECO, FSO, FINMA and SNB.

quarter of all banking assets in 2023. The cantonal banks are established under cantonal laws and must be at least one-third owned and controlled by their respective cantons who may also guarantee their obligations. Important on a regional basis, and created to provide local economic support and development, the cantonal banks have largely evolved towards the universal banking model. The banks within the Swiss Raiffeisen Group also focus on local provision of credit but pursue the cooperative banking model with a central entity and hold just under 10 percent of the banking assets in the system as do the Stock Exchange Banks which specialize in securities brokerage and asset management. Taken together, other banking institutions, private banks and regional and savings banks also represent approximately 10 percent of Swiss banking assets. Finally, the foreign banking sector, which is involved in cross-border and wealth management activities rather than engaged with the domestic economy, represents a further 9 percent of banking assets.

69. FINMA is an integrated regulatory and supervisory authority. FINMA was established as a public law institution in its own right with a two-tier board structure. FINMA commenced its activities on 1 January 2009. It is funded through levies and fees it charges for its supervisory work. FINMA's accounts are audited by the Swiss Federal Audit Office. Its mandate under Financial Market Supervision Act (FINMASA) is to supervise banks, insurance companies, financial institutions, collective investment schemes, and their asset managers and fund management companies. It also supervises insurance intermediaries. FINMA describes its core task as prudential supervision of the financial market. It also uses private audit companies to extend its reach. FINMA regulates and supervises banks, securities firms, insurance companies and asset management activity. Since 2020, unless portfolio managers and trustees are already covered by consolidated supervision, FINMA supervises these entities in conjunction with supervisory organizations (SOs) which are responsible for ongoing supervision. The SOs are licensed and supervised by FINMA. They are not government agencies. Institutions with a FinTech license (Art. 1b Banking Act) or a license as a Distributed Ledger Technology trading facility are subject to supervision by FINMA.

70. Self-regulation and Self-Regulatory Organizations feature in the Swiss regulatory landscape and FINMA distinguishes between three types of self-regulation:

- voluntary self-regulation on a private, autonomous basis without state involvement;
- self-regulation recognised as a minimum standard, which is permitted under Article 7 para. 3 FINMASA; and
- compulsory self-regulation.

71. Under FINMASA (Article 7 para. 3) FINMA can recognise self-regulation as a minimum standard. FINMA can then use its supervisory powers to enforce the standard which will apply not only to the members of the SRO but all other organizations in the sector. FINMA can insist on wide consultative practices for these standards. Examples include due diligence for banks and mortgage financing. These standards then apply not only to members of the self-regulatory organization (SRO), but also to all other organizations in the sector. Legislation can also require self-regulation on specific issues including deposit guarantee Banking Act (Art. 37h, Banking Act) and the Anti-Money Laundering (Art. 24 ff AMLA). FINMA’s approval is required for compulsory self-regulation.

PRECONDITIONS FOR EFFECTIVE BANKING SUPERVISION

A. Soundness and Sustainability of Macroeconomic Policies

72. Switzerland has maintained macroeconomic stability despite challenges. Growth sprang back from a pandemic-induced recession in 2020 with steady growth from 2021. Inflation has returned to the 0-2 percent price stability range since set by the SNB early 2024 following a peak of 3.4 percent in 2023. Unemployment remains at historical lows, while the fiscal balance closed with a small surplus. Public debt, at 33 percent of GDP, is predominantly held by domestic creditors. The exchange rate appreciated in 2023, following net FX sales by the SNB. The external balance is positive, close to 7 percent of GDP, and FX reserves are close to 800 million Francs.

73. Macrofinancial vulnerabilities have increased since the 2019 FSAP. Private credit has grown rapidly over the past two decades, particularly in the mortgage sector. Households' debt is high, although partly offset by high and liquid net worth. Banks are heavily exposed to the mortgage market (86 percent of the total loans, mostly at fixed interest rates). Real estate prices remain high, with overvaluation estimated in the range of 15 to 40 percent. The share of mortgages with loan-to-value ratios (LTV) above 75 percent remains close to 40 percent for owner-occupied estate. Loan-to-income (LTI) ratios have increased since 2019. Data gaps limit a full assessment of exposure to commercial real estate (CRE).

74. The failure of Credit Suisse in 2023 generated market turmoil, though wider contagion was averted by its state-assisted acquisition by UBS. The intervention took place outside of the resolution regime based on emergency legislation and involved a temporary state-committed support of 25 percent of GDP, though 15 billion CHF of additional Tier 1 was written down in conjunction with the state support. While the financial sector proved resilient, vulnerabilities increased, including from higher concentration and significant transition risks from the integration of UBS-CS.

75. The Swiss National Bank (SNB) conducts the country's monetary policy as an independent central bank. Its mandate is to conduct monetary policy in such a way that money preserves its value and the economy develops favorably. This mandate is set out in the Constitution and the National Bank Act (NBA).

76. The current financial market policy was adopted in 2020 by the Federal Council. The SNB holds a mandate for contributing to financial stability, set out in the NBA. The SNB carries out analysis of sources of risk to the financial system, overseeing systemically important financial market infrastructures, and helping to shape the operational framework for the Swiss financial center.

B. Financial Stability Policy Framework

77. The NBA also grants the SNB the mandate of contributing to the stability of the financial system. The SNB is responsible, following consultation with FINMA, for the designation of the SIBs under Art. 8 of the Swiss Banking Act. Under the Capital Adequacy Ordinance (Art 44) the SNB, also following consultation with FINMA, can propose the activation of the countercyclical capital buffer to the Swiss Federal Council. It must notify the FDF at the same time. The Basel III countercyclical capital buffer (CCyB) in Switzerland is at 0 percent as of the date of the FSAP. The Swiss sectoral CCyB targeted at mortgage loans financing residential property located in Switzerland is at 2.5 percent since September 2022, as decided and communicated by the Federal Council in January 2022. Mandatory reciprocity as foreseen in Basel III does not apply to the Swiss sectoral CCyB requirements.

78. Coordination between the SNB and FINMA is set out in a bilateral Memorandum of Understanding (MoU). The MoU covers the areas of mutual interest and facilitates regular meetings for the heads of the organizations as well as exchange of information and views in the areas of (i) assessment of the soundness of systemically important banks and/or the banking system; (ii) regulations that have a major impact on the soundness of banks, including liquidity, capital adequacy and risk distribution provisions, where they are of relevance for financial stability; (iii) contingency planning and crisis management. The MoU has also established holding (at least) biannual meetings of a Steering Committee and an at least quarterly meeting of a Standing Committee on Financial Stability have been established.

79. In addition, the FDF, SNB and FINMA signed a trilateral MoU in 2011 which was replaced in 2019. The agreement governs collaboration between the three authorities, which includes the exchange of information on financial stability and financial market regulation issues, as well as collaboration in the event of a crisis. The tripartite committee meets at least biannually and assesses the situation on the financial markets.

C. Public Infrastructure

80. The Swiss legal system is based on the civil law tradition. The Federal Supreme Court (FSC) is the highest court in Switzerland and acts as an appellate court, reviewing cases which have been previously decided by lower federal and/or cantonal courts. The FSC also reviews the constitutionality of federal statutes. However, the Constitution itself obliges the Court to apply a federal statute even if the court concludes that it is unconstitutional as it has no right to challenge an act of the Federal Council or the Federal Assembly (Art 189 para 4). Federal Judges in Switzerland are appointed by the Federal Assembly (both chambers of Parliament) for six-year terms.

81. The Financial Market Supervision Act (FINMASA) functions as an umbrella law for the other laws governing financial market supervision. FINMASA sets out principles governing financial market regulation, liability rules and harmonised supervisory instruments and sanctions. The Financial Market Acts, as set out in FINMASA Art 1, are the Mortgage Bond Act; the Federal Act

on Contracts of Insurance; of 2 April 1908; the Collective Investment Schemes Act; of 23 June 2006; the Banking Act; of 8 November 1934; the Financial Institutions Act; of 15 June 2018; the Anti-Money Laundering Act; of 10 October 1997; the Insurance Supervision Act; of 17 December 2004; the Financial Market Infrastructure Act; and the Financial Services Act of 15 June 2018. All financial-market laws and ordinances governing the financial market are enacted by Parliament, while the Federal Council issues all ordinances. FINMA regulates through ordinances of its own only where it has explicit authorisation to do so. These ordinances serve, for examples, to determine technical details, for instance, or to provide regulation in areas subject to particularly dynamic change.

82. Auditors are licensed by the Federal Audit Oversight Authority (FAOA). The FAOA is responsible for licensing both individuals and audit firms who offer statutory audit services and as well as for the oversight of firms auditing public interest companies. The FAOA has signed bilateral agreements with a number of foreign authorities, including Canada, Japan, the UK and the US as well as receiving formal mutual recognition from the European Commission. Based on data collected by Accountancy Europe, a European professional accounting body, Switzerland has roughly one third of the accounting and auditing professionals per capita compared with France.

83. All stock corporations and other commercial entities in Switzerland are required to prepare financial statements including a balance sheet, an income statement and notes. The two main corporate entities provided under Swiss law are the corporation (Aktiengesellschaft, AG) and the limited liability company (Gesellschaft mit beschränkter Haftung, GmbH). The financial statements of stock corporations are subject to an annual audit. Publicly traded companies, banks, other financial institutions, mutual funds and pension funds are subject to additional reporting requirements. In general, the annual business report, which includes the financial statements, must be made available to all shareholders and holders of participation certificates on request. Companies with publicly traded shares or debt securities must publish their financial statements or make them available to anyone who requests them. The financial statements of private companies are generally not made available to the public. Contract law is governed by the Swiss Code of Obligations.

84. SIX Group Ltd (SIX) operates the key financial infrastructure in Switzerland. SIX is an unlisted public limited company based in Zurich. The company is owned by 120 domestic and international financial institutions, with shareholdings distributed such that no single owner or type of bank has an absolute majority. SIX Interbank Clearing Ltd (SIC Ltd) operates the Swiss Interbank Clearing (SIC) payment system, Switzerland's central payment system, on behalf of the SNB. SIX is a Central Counterparty (CCP) providing clearing and settlement services. SIX also operates Switzerland's national Central Securities Depository (CSD) as part of SIX's post-trade portfolio. SIX established and operates the only FINMA-approved Swiss trade repository for reporting OTC and exchange traded derivatives reportable under the Financial Market Infrastructure Act (FMIA). The SNB is responsible for overseeing systemically important financial market infrastructures.

D. Crisis Management, Recovery and Resolution

85. FINMA is the supervisory authority and also the insolvency authority for banks and securities dealers in Switzerland. It is responsible for intensified supervision of banks in a recovery

status. At the point of non-viability, FINMA is responsible for establishing protective measures and for the resolution or the liquidation of the bank.

86. FINMA is the resolution authority for banks under the Swiss Banking Act. Advance resolution planning is required for SIBs. Restructuring is investigated if insolvency is a risk, but restructuring appears possible, and for SIBs, FINMA can draw on the institutions' resolution plans. FINMA may only restructure an institution if this is expected to be more beneficial to creditors than immediate insolvency (the "no creditor worse off" principle). If there is no prospect of restructuring the bank, or a restructuring has failed, the bank must be placed into bankruptcy. If there is no prospect of successful resolution, FINMA will withdraw the bank's license, place the bank into insolvency and announce this publicly. Where the license is returned voluntarily, the bank is responsible for dissolving itself under FINMA's oversight. The objective in bankruptcy is to meet the claims of all creditors equally in accordance with the creditor hierarchy. FINMA does not usually carry out the insolvency proceedings itself but appoints a liquidator as its representative. The liquidator carries out the insolvency under the supervision and direction of FINMA.

87. To facilitate effective crisis management, the FDF, SNB and FINMA have agreed a tripartite memorandum of understanding on crisis management ("tripartite MoU"). In addition to governing the exchange of information and views and cooperation on financial stability and regulation, the MoU governs cooperation aimed at crisis prevention and management in the event of crises with the potential to threaten financial market stability. It provides for a joint national crisis management organization, consisting of a Steering Committee and a Committee on Financial Crises. The Steering Committee, made up of the Head of the FDF, who chairs the Committee, the Chairman of the SNB Governing Board and the Chair of the FINMA Board of Directors, is responsible for the strategic coordination of the crisis management organization and of any intervention. The Committee on Financial Crises, made up of the Director of FINMA, who chairs the Committee, the State Secretary of the FDF, the Vice Chairman of the SNB Governing Board and the Director of the Federal Finance Administration (FFA), is responsible for coordinating preparatory efforts and for crisis management. It commissions preparatory work for decision-making in crisis situations. Both committees meet as needed but the Committee on Financial Crises generally meets on a bi-annual basis to maintain crisis awareness and preparedness.

E. Systemic Protection (or Public Safety Net)

88. Depositor protection in Switzerland applies to up to CHF 100,000 per customer. Under the Banking Act, (Art. 37a) up to CHF 100,000 per customer are preferred or privileged deposits and must be covered by 125 percent of domestic assets. If depositor protection is triggered, then the preferred deposits are immediately paid out in full or pro rata from the bank's available liquidity, e.g., outside the ordinary liquidation procedure. If the bank has insufficient liquidity to fulfil the payout then deposit insurance is triggered. The deposit guarantee scheme is "esisuisse," a self-regulatory organization of the banks and securities firms, which all authorized financial institutions with protected deposits are required to join esisuisse's payment liability is limited by law to 1.6 percent of total protected deposits in Switzerland (with a minimum of CHF 6 billion). Changes to the

Banking Act since January 2023 have tightened the payout deadlines under the deposit guarantee system so that payment from the deposit guarantee must be made within seven days of notification and there is also a seven-day deadline for payment to the depositors. Further, the banks must post collateral to support their obligations and not merely hold liquidity. In times of crisis, the SNB can provide emergency liquidity assistance to banks that have prepared collateral in its function as lender of last resort.

F. Effective Market Discipline

89. The two Swiss stock exchanges, SIX Swiss Exchange AG (SIX) and the smaller BX Swiss AG (BX), are both self-regulatory organizations under the FinMIA. The exchanges have issued listing rules with specific reporting and disclosure requirements. SIX has issued a Directive on Information Relating to Corporate Governance, last amended in January 2023 requiring issuers with a main Swiss listing to disclose, in their annual report, information on the management and control mechanisms at the highest corporate level, or to give valid reasons for not doing so ("comply or explain"). Companies with publicly traded shares have to comply with additional corporate governance requirements. In particular, the election and remuneration of the board of directors is more strictly regulated.

90. More broadly, the Swiss Code of Best Practice for Corporate Governance (SCBP) has been issued by economiesuisse, a cross sectoral business association. The SCBP is a voluntary instrument of self-regulation issued since 2002, and most recently amended in February 2023. The code, to which the Swiss Banking Association is a supporting organization, provides non-binding recommendations on a "comply or explain" basis. Listing Rules of the SIX and BX provide for specific reporting and disclosure requirements and the SIX Directive Corporate Governance requires SIX-listed companies to disclose, in annual business reports, information on the management and control mechanisms at the highest corporate level, or to give valid reasons for not doing so ("comply or explain").

91. Non-financial disclosure requirements are expanding. Public interest entities with at least 500 full time employees and either a balance sheet total exceeding CHF20 million or revenues exceeding CHF40 million have Environmental Social and Governance (ESG) obligations including CO2 targets, social concerns, labor concerns, human rights, and anti-corruption measures. Violations of these reporting duties are subject to criminal fines.

92. The Swiss Code of Obligations has been revised so that since 1 November 2019, bearer shares have been considerably restricted, although not completely abolished. The move was in the wake of continued international pressure in relation to transparency and information exchange. Bearer shares are now only permitted if a company (i) has listed equity securities on a stock exchange or (ii) the bearer shares are issued as intermediated securities and deposited with a custodian in Switzerland or entered in the main register. Also, the company must register this fact in the commercial register within 18 months. All other companies must convert any bearer shares into registered shares within 18 months, or the shares will be converted by law. No new bearer shares

may be issued, except for listed companies or in case of issue as intermediated securities. In terms of registration, however, shareholder(s) can remain anonymous on the online commercial registry entry, meaning the Swiss AG company form retains its advantage of anonymity of ownership.

DETAILED ASSESSMENT

A. Supervisory Powers, Responsibilities, and Functions[15]

Principle 1	**Responsibilities, objectives and powers.**[16] An effective system of banking supervision has clear responsibilities and objectives for each authority involved in the supervision of banks and banking groups. A suitable legal framework for banking supervision is in place to provide each responsible authority with the necessary legal powers to authorize banks, conduct ongoing supervision, address compliance with laws and undertake timely corrective actions to address safety and soundness concerns.
Essential Criteria	
EC1	The responsibilities and objectives of each of the authorities involved in banking supervision are clearly defined in legislation and publicly disclosed. Where more than one authority is responsible for supervising the banking system, a credible and publicly available framework is in place to avoid regulatory and supervisory gaps.[17]
Description and Findings re EC1	The Swiss Financial Market Supervisory Authority (FINMA) is an integrated supervisory authority, responsible for the supervision of Switzerland's banking sector. FINMA's objectives, according to Article 4 of the Financial Market Supervision Act (FINMASA), are to protect "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 center." The SNB, the Swiss central bank, contributes to the stability of the financial system in accordance with the National Bank Act (art. 5 para. 2 (e) NBA). It is also responsible for the supply of liquidity (art. 5 para. 2 (a)–(c) NBA) and the SNB conducts monetary policy, (art. 5 para. 1 NBA). In fulfilling its mandate, the SNB monitors developments in the banking sector from the perspective of the system as a whole but does not exercise any banking supervision and is not responsible for enforcing banking legislation. In the event of a crisis, the SNB may also act as lender of last resort in accordance with art. 9 (1) (e) NBA. In doing so, it is guided by the criteria of systemic importance, solvency and sufficient collateral (Guidelines of the Swiss National Bank on monetary policy instruments). FINMA and the SNB cooperate and coordinate on financial stability and the proper functioning of markets. Please see also CP3.

[15] Please note that while this table replicates the methodology in the BCP standards as included in the Basel Framework (BCP), the numbering of footnotes follows this document and not the latter.

[16] Reference documents: BCBS, Sound Practices: implications of fintech developments for banks and bank supervisors, February 2018; BCBS, Report on the impact and accountability of banking supervision, July 2015; BCBS, Principles for the supervision of financial conglomerates, September 2012; [SCO40].

[17] If countries have shared or transferred prudential tasks to a supranational supervisor, the roles and responsibilities that have been shared or transferred are clearly set out in law and publicly disclosed. Any residual powers or responsibilities that are retained must be publicly disclosed so that there is clarity on the division of responsibility.

	FINMA and the SNB have signed a Memorandum of Understanding (MoU) which sets out the common areas of interest of the two institutions in the area of financial stability, and which is published on the websites of both institutions (FINMA SNB MOU). The MOU was last updated in 2017. Macroprudential tasks are defined in law and in ordinance with respect to FINMA and SNB responsibilities as follows: • The SNB, in consultation with FINMA, designates the systemically important banking institutions and their systemically important functions (Article 8 para. 3 of the Banking Act). • The SNB proposes to the Swiss Federal Council to activate, adjust or deactivate a countercyclical buffer. The SNB must consult FINMA prior to issuing such a proposal. (Article 44 of the Capital Adequacy Ordinance (CAO)). The legal basis is published on FINMA's website and on that of the Swiss Federal Administration.
EC 2	The primary objective of banking supervision is to promote the safety and soundness of banks and the banking system. If the banking supervisor is assigned broader responsibilities, these are subordinate to the primary objective and do not conflict with it.
Description and Findings re EC2	FINMA's objectives and mandate are set out in FINMASA, Article 4, as noted in EC1, namely: "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". There is no reference to the term "depositors" in the German, French or Italian versions of FINMASA. During the mission the authorities argued that the German term, "Gläubiger" which means "creditors" is understood to cover the concept of depositors. The assessors note that in the parallel versions of FINMASA, the French term used is "créanciers" and the Italian term is "creditori." The assessors also note that the deposit protection system in Switzerland, esuisse, refers to "Einlagen" when discussing protected deposits. FINMA argues that by pursuing these objectives through its supervisory activities, FINMA also "promotes the safety and soundness of banks and the banking system." Although the assessors agree that FINMA is in practice promoting safety and soundness of banks, the objective FINMA has been set in legislation and which should guide it in motivating and prioritizing its actions and scarce resources, does not give recognition to banks as individual entities and while many financial actors (creditors, investors) enjoy a specific acknowledgement, depositors are unmentioned. It is not reasonable to suppose that a class of individuals that is not listed will enjoy the same measure of concern as the classes that are specified directly in the legal mandate. FINMASA Article 4 also states that "it (financial market supervision) thus contributes to sustaining the reputation, competitiveness and sustainability of Switzerland's financial center." The explanation given to the assessors is that the wording of Article 4 – "it thus contributes" –subordinates the contribution to "sustaining the reputation and competitiveness of Switzerland's financial center" to promoting the safety and soundness of banks and the banking system.

	Over the course of the past ten years, FINMA's mandate has been discussed in the Swiss Parliament – in 2015 and again in 2018. The discussion in the context of legislation for Financial Services Act and a Financial Institutions Act in 2016-2018 (Business Item 15.073) concluded not to amend the priorities inherent in FINMA's objectives, but instead to enlarge its secondary objective. The secondary objective includes a contribution to sustaining the reputation and competitiveness of Switzerland's financial center by contributing to the future viability of Switzerland's financial center. The second discussion, between September 2018 to 2020, did not lead to legislative amendment. This discussion was initiated by a parliamentary motion that was not followed up: The Economic Affairs and Taxation Committee of the National Council (EATC-N) (Business Item 17.454) had put forward a proposal to amend FINMA's legally defined objectives to "always take the decision most favorable to the competitiveness of the Swiss financial center."
EC3	Laws and regulations provide a framework for the supervisor to set and enforce minimum prudential standards for banks. The supervisor has the power to increase the prudential requirements for individual banks based on their risk profile and systemic importance.
Description and Findings re EC3	The Swiss regulatory framework for banking supervision has three levels of hierarchy: *Federal Acts*: The primary basis for the Swiss regulatory framework is established in laws issued by Parliament, including laws as the Federal Act on Banks and Savings Banks (Banking Act) and the Financial Market Supervision Act (FINMASA). Responsibility for drafting rests with the Federal Department of Finance. *Ordinances issued by the Federal Council*: Ordinances are based on parliamentary laws and are issued by the Swiss Federal Council. Responsibility for drafting banking regulation rests with the Federal Department of Finance. *Ordinances issued by FINMA* Where authorized by law or ordinance of the Federal Council to do so, FINMA may enact its own ordinances to articulate technical details more clearly and issue corresponding implementing provisions. Unless expressly stipulated otherwise, FINMA's legislative competence is limited to the enactment of regulations with technical content of minor importance (Art. 5 para. 1 of the Ordinance to the FINMASA). *Circulars issued by FINMA*: FINMA has the authority to issue circulars to set out its practices and expectations such as how it interprets applicable laws and ordinances with regard to the above regulations. The sole purpose of circulars is to create transparency regarding FINMA's supervisory practice. Circulars are not legislative instruments and may not contain any legislative provisions. FINMA is bound by its own circulars when applying the laws and ordinances, for example in reaching decisions on individual firms. FINMA is responsible for drafting circulars. The Banking Act and the Banking Ordinance lay down the framework of minimum prudential standards that banks must meet. FINMA's supervisory instruments are set out in Articles 24 - 37 FINMASA and Article 23 BA f. FINMA has powers to address compliance with laws and the safety and soundness of the banks under its supervision. If a bank seriously violates the provisions of banking, FINMA, under FINMASA (Art. 31) must ensure that the bank restores its compliance with the law (Art. 31 FINMASA). FINMA has the power and the duty to instruct a supervised institution to take any measure necessary to this end.

	In addition, the Swiss principles based regulatory framework gives FINMA discretion regarding the power to impose corrective capital measures in specific cases where ordinary capital requirements are considered insufficient. For example, FINMA can conclude that the business focus, the risk profile, the strategy, the quality of risk management or the sophistication of techniques used by a supervised institution (Article 45 Capital Adequacy Ordinance (CAO)) require a buffer above the standard capital requirements.
EC4	Banking laws, regulations and prudential standards are updated as necessary to ensure that they remain effective and relevant to changing industry and regulatory practices. These are subject to public consultation, as appropriate, and published in a timely manner.
Description and Findings re EC4	Relevant banking laws, regulations and standards are typically updated in line with national and international developments. Work is carried out to identify and understand the relevant risks, and with the collaboration of the Federal Department of Finance (FDF) and the Swiss National Bank (SNB) to understand the evolution of international regulation of financial markets and its impact on Switzerland. In terms of peer comparisons, Switzerland has an excellent record implementing the international Basel capital and liquidity framework. Unlike other jurisdictions it has not had to contemplate significant delays. In Switzerland the regulatory process can be initiated as a result of FINMA investigations, market developments and related expectations in politics or on the part of the public, as well as through national and international regulatory developments. All levels of the regulatory framework, laws, ordinances and circulars, are subject to public consultative processes. Public consultation processes for laws and regulations, e.g., laws and ordinances, are the responsibility of the of the Federal Department of Finance (FDF). FINMA is responsible for ordinances that it issues. The Federal Act on the Consultation Procedure (Consultation Procedure Act, CPA) applies to all of these on laws and ordinances. In relation to its own consultative practices, FINMA involves stakeholders including, where possible, customers of the supervised sectors, and, if appropriate, other authorities. This dialogue takes place via public hearings on draft regulations. If warranted by the significance of the project and if time allows, workshops and working groups may be possible. FINMA provides regular communication on regulatory initiatives and their current status. The website provides Financial Markets Regulation: Pending Projects (status and updates). Draft regulations and explanatory reports are generally submitted for open consultation. As a rule, comments received are published together with a report on the hearing and the adopted legislation. FINMA`s reactions to issues raised during the consultation are also included in the consultation report. To underpin transparency, FINMA has issued policies in three areas which are particularly relevant to members of the public: communication, enforcement and regulation. The policies on communication and enforcement were last updated in 2014 and the Guidelines on financial market regulation were last updated in 2019.
EC5	The supervisor has the power to:

	(a) have full access[18] to a bank's board, management, staff and records (including records that are held by relevant service providers and can be accessed either directly or through the supervised bank); (b) review the overall activities of a bank (including activities performed by relevant service providers), whether domestic or cross-border; and (c) supervise the foreign activities of banks incorporated in its jurisdiction.
Description and Findings re EC5	(a) *have full access to a bank's board, management, staff and records* FINMA is granted full access to a bank's board, management, staff and records through FINMASA Article 29, which states that, "The supervised persons and entities, their audit companies and auditors as well as persons or companies that are qualified investors or that have a substantial participation in the supervised persons and entities must provide FINMA with all information and documents that it requires to carry out its tasks." (b) *review the overall activities of a bank (including activities performed by relevant service providers), whether domestic or cross-border*; When FINMA is the lead home country regulator, FINMA requires all banks subject to its supervision to report on a group-wide consolidated basis. As a result, FINMA reviews the overall activities of a banking group, both domestic and cross-border, if it is the lead home country regulator of such a group. If a financial group is subject to group supervision, FINMA carries out both solo supervision of a bank at individual institution level and group supervision. FINMA will not carry out consolidated group supervision where a group entity is non-financial, or is financial but inactive. If a bank outsources significant functions to other natural persons or legal entities, these are subject to the duty to disclose and report in accordance with Art. 29 FINMASA. FINMA may conduct audits of these persons at any time (Art. 23bis BA). (c) *supervise the foreign activities of banks incorporated in its jurisdiction* FINMA requires all banks subject to its supervision as a lead home country regulator to report on a group-wide consolidated basis. Moreover, Article 4 quinquies of the Banking Act authorizes the Swiss-based affiliates (and branches) of foreign financial institutions to furnish information required for the parent institution's internal control purposes or for consolidated supervision by their home country regulator to their parent institution. Subsidiaries of foreign banks, and also branches of foreign banks, must obtain a license from FINMA. These institutions are subject to regulatory requirements similar to those which apply to all other Swiss banks. If a bank is part of a financial group or conglomerate, FINMA can make authorization dependent on the consent of the controlling foreign supervisory authority.

[18] For this purpose, "access" includes supervisory access in person to the bank's premises, and to senior executive staff and the board (both individual members and as a whole) in person or virtually as needed.

EC6	When, in a supervisor's judgment, a bank is not complying with laws or regulations, or it is engaging or is likely to be engaging in unsafe or unsound practices or actions that have the potential to jeopardize the bank or the banking system, the supervisor has the power to: (a) take (and/or require a bank to take) timely corrective action; (b) impose a range of sanctions; (c) revoke the bank's license; and (d) cooperate and collaborate with relevant authorities to achieve an orderly resolution of the bank, including triggering resolution where appropriate.
Description and Findings re EC6	FINMA lacks a suite of graduated powers to engage with a problematic bank in a timely manner. In the first instance, FINMA's approach is to address problems with the bank within the scope of its regular supervision. For example, it may ask the bank to take immediate corrective measures and impose deadlines for the implementation of such measures. Provided that the bank is cooperative and responsive, this is an effective approach. This approach does not rely on FINMA using any powers. *(a) take (and/or require a bank to take) timely corrective action;* Should the bank fail to implement the corrective measures as requested and it becomes clear that either the bank is unable or unwilling to do so or if the situation poses immediate risks to the bank, the banking system or the interests of depositors, FINMA has powers to order the restoration of compliance with the supervisory law, (Art. 31, para 1 FINMASA) which states, "Where a supervised person or entity violates the provisions of this Act or of a financial market act or if there are any other irregularities, FINMA shall ensure the restoration of compliance with the law." When opening proceedings, FINMA will notify the parties that it is doing so (Art 30). In enforcement proceedings, when FINMA has notified the parties, FINMA can order interim measures to safeguard a situation. In particular, FINMA can appoint an investigating agent to implement the required corrective measures with immediate effect (Art. 36 FINMASA in conjunction with Art. 55 of the Administrative Procedure Act (APA)). Depending on the mandate, the investigating agent can be authorized to act for the bank instead of the former management (e.g., interim management). During enforcement proceedings, regular supervision continues and the proceedings may be accompanied by supervisory actions required in the course of regular or intensified supervision. Importantly, however, banks have the right to challenge FINMA's enforcement decisions and take them to appeal at the Federal Administrative Court ("FAC"). Appeals normally have a suspensive effect, e.g., FINMA's decisions are not immediately enforceable, under the terms of the Administrative Procedure Act (Art. 55 para. 1). FINMA may withdraw the appeal's suspensive effect in its decision if it deems the immediate enforceability of imposed measures necessary to safeguard the orderly regulatory situation for the duration of the appeal proceedings (Art. 55 para. 2 Code of Administrative Proceedings). The appeal court may, however, reinstate the appeal's suspensive effect if it

	considers the prerequisites for a withdrawal of the suspensive effect as not met (art. 55 para 3 Code of Administrative Proceedings). The FAC has the right to review FINMA's decisions fully on legal process as well as on factual grounds and also whether FINMA has correctly applied its discretion. FINMA may, itself, appeal the decisions of the FAC to the Federal Supreme Court ("FSP"). However, the FSP will generally only review the decisions of the FAC on legal grounds, and discretionary decisions can only be challenged before the FSP in exceptional cases. In discussion with FINMA staff the assessors understood that the courts were cautious about applying the enforcement decision when appeals were made and suspension was generally the more likely outcome. There are a number of protracted cases that have extended over years. In other words, an institution may challenge FINMA's formal decisions in court leading to potential delays in enforcement of supervisory measures. *(b) impose a range of sanctions* Currently, FINMA has no statutory power to impose fines. In the aftermath of the CS-takeover FINMA has proposed its introduction. The proposal is currently under evaluation by the Swiss Federal Council. It may be noted that FINMA is an outlier in terms of its inability to impose fines. While views may differ on the efficacy of sanctions, any internationally active bank will be subject to fines if it is guilty of violations outside of Switzerland. Allowing Switzerland as a jurisdiction and FINMA as an authority to have the appearance of a "safe haven" from fines and penalties that apply elsewhere is a signal that should be avoided. In terms of sanctions or penal actions, FINMA can take the following specific measures under FINMASA: (a) issuance of a declaratory ruling (Art. 32 FINMASA), (b) barring a person from acting in a management capacity in the banking sector for a period of up to five years (Art. 33 FINMASA), (c) publication of its final supervisory ruling (Art. 34 FINMASA), and (d) confiscation of any profit made through a serious violation of the supervisory provisions (Art. 35 FINMASA). Under its revised enforcement policy dating from 2014, FINMA has used disclosure as a method of reinforcing the message of its enforcement action and supporting its supervisory objectives. For the years 2014 to 2018, FINMA published anonymized summaries of its enforcement rulings, an overview of court decisions, and statistical information in an annual enforcement report. Since then, FINMA has published the information in the form of a database for case reports, and a database for court decisions, accompanied by data on enforcement. (c) *revoke the bank's license;* FINMA has been granted the power to revoke a banking license under FINMASA Article 37. In addition, FINMA can also revoke fit and proper recognition of an individual. As with the enforcement powers noted above, a bank can appeal revocation. In terms of revoking the fit and proper recognition misbehavior needs to be proven, which is a very high bar and the burden of proof lies upon FINMA. In discussion the authorities noted that when FINMA indicated it had concerns with the quality of a senior (board or executive) individual and was opening an investigation, the bank would sometimes remove the individual voluntarily, but this was by no means the consistent practice.

	(d) *cooperate to achieve orderly resolution* FINMA is the competent authority for the resolution and/or liquidation of banks in Switzerland. In this respect, FINMA decides on the resolution/liquidation of a bank that does not comply with laws or regulations, or it is or is likely to be engaging in unsafe or unsound practices or actions that have the potential to jeopardize the bank or the banking system.
EC7	The supervisor has the power to review the activities of parent companies and of companies affiliated with parent companies to determine their impact on the safety and soundness of the bank. The supervisor has access, whether directly or through the supervised bank, to all necessary information for conducting such a review irrespective of where it is available.
Description and Findings re EC7	FINMA establishes consolidated supervision at the level of the parent company if the latter is a holding or a company operating in the financial sector as noted above. In the context of consolidated supervision, FINMA has access to all necessary information for groups established in Switzerland. When FINMA is supervising the sub-consolidation of a group with an ultimate parent company that is abroad and where there is adequate consolidated supervision by a supervisory authority, usually FINMA does not need access to information directly from the ultimate parent. In cases where there is no adequate consolidated supervision by a supervisory authority abroad, FINMA may establish ring fencing measures to protect the Swiss sub-group. In addition, any "qualified investors or that have a substantial participation" in a bank are also required to provide information and documents requested by FINMA (Article 29, FINMASA). Should the parent be active in another sector (outside banking, finance and insurance), the relationship between the banking/financial group below and the parent would be subject to close monitoring and exposures to the parent would be subject to restrictions (at all levels of the banking group). In terms of affiliates of a parental company, a financial company can be included in the consolidation with information and access rights. However, a non-financial company would fall-outside of the consolidation, and FINMA will have no have direct access or powers over these institutions.
Assessment of Principle 1	MNC
Comments	*Powers* FINMA's ability to act is flawed and needs to be remedied. In the assessors' view FINMA lacks meaningful powers to act in a timely manner and as a result, over time when stress events occur, whether idiosyncratic or system wide, the consequences for the depositors and creditors of institutions within the Swiss banking system are likely to be worse than if FINMA were granted the suite of graduated powers that the international standards expect and that its peers in the EU, UK and US already enjoy. FINMA can be insightful and can issue warnings, but its secure ability to effect appropriate change and avoid undesirable outcomes is missing. The less cooperative the banking sector, the less successful the ultimate outcomes. During periods of cooperation and responsiveness, the high-level principles supporting FINMA's powers appeared to be adequate and the fundamental weaknesses in the legal framework were not exposed, but during the period since the last FSAP they have been. Given the impairment to FINMA's legal powers (and thus ability) to act when needed, due to lack of

	legal powers, which is the function that chiefly distinguishes supervisory authorities from other financial commentators, FINMA's mandate cannot be satisfactorily fulfilled under its current legal arrangements. Evidence from the failure of Credit Suisse provides ample indication of a supervisor that was alert to the deterioration of risk culture and made numerous interventions. However, as the report of the Federal Council pursuant to Article 52 of the Banking Act, notes, (page 55) "Compared to supervisory authorities in other countries, FINMA has fewer instruments at its disposal to enforce effective supervision." As discussed above, under EC6, one of the key issues, is FINMA's lack of effective and complete early intervention powers. The Federal Council acknowledges that the appeals process has led to deeply protracted cases whereby banks have protested supervisory action. It is a matter of public record that one of Switzerland's systemic banks has spent 8 years in court processes to object to capital requirements in relation to interest rate risk in the banking book. Such behavior by a major bank is inimical to the discipline of the financial sector as a whole and is a distraction and cost to FINMA in terms of time and resources. FINMA's ability to act is pushed to a late stage at which effective solutions for the bank may no longer be achievable. In addition, the bank retains the ability to appeal FINMA's actions. While FINMA can revoke the suspensive effect of the appeal, the court may reinstate it based on the bank's application. This situation makes it difficult for FINMA to act effectively at an early stage. Moreover, as discussed in this CP, FINMA's strongest basis for formal action is dependent upon violation of law as the "catch all" drafting of Art 31 is broad and expressed at a high level. It is, at best, disputable for FINMA always to be able to act on its supervisory knowledge and understanding of a problematic institution, which could become a risk to its depositors while still meeting regulatory criteria, such as capital or liquidity. The precepts of effective supervision are that the supervisor should intervene before the point of significant deterioration, but the legislation for FINMA is weak in this regard. Instead, FINMA can apply "preventative" measures that a bank can appeal against and where there is the potential for a suspensive effect. Alternatively, FINMA can act at the point of non-viability to use the range of options under FINMASA Article 26, which include removing members of the board, suspending business lines, withholding dividend, etc. The point of non-viability is the moment at which losses are the most likely to be borne by depositors and creditors, so FINMA is legally in a position where it may not fulfil its mandate in the most effective manner. FINMA needs to have the powers iterated below, that it can deploy at an early moment in order effect a timely and orderly outcome. These measures should have immediate effect and not be subject to suspensive effect if a bank were to appeal. The powers should be based on FINMA's supervisory discretion as creating formal thresholds in the law before a power can be activated or used is likely to have the effect of delaying action or promoting undesired or unexpected consequences. It should be recalled, for example, that at the point at which the Credit Suisse merger took place, its group capital adequacy ratios were, formally, strong. In recent cases there is nothing to suggest that FINMA's supervisory judgment has been at fault—only that its ability to act fully and meaningfully has been lacking.

	Early intervention powers are also discussed in CP11 and are graded in CP11, which is designed to examine the use and practice of the supervisor in corrective actions and sanctions. In other words, CP1 reflects the gaps in FINMA's powers and CP11 reflects FINMA's practices, which are informed by the nature and limit of their powers. Other legal weaknesses The gaps in the suite of powers expected for a supervisory authority, especially one in an advanced jurisdiction responsible for a systemically relevant banking system are by no means limited to early intervention. Some of the more concerning gaps in FINMAs powers are as follows: • FINMA's power to carry out direct supervision, e.g., onsite inspection is technically constrained (Art 23 BA); • No explicit power to set standards for specific risk areas, except for liquidity risk, leaving key gaps in areas including but not limited to corporate governance, risk management, and credit risk; • Weak legal powers to correct banks' deficiencies if identified in areas of corporate governance, risk management etc.; • No explicit power to ensure the CRO is a standalone position elevated to executive board; • Limited legal power to require stress testing; • Limited legal power to require a bank to increase its level of provisioning; • Basel Framework Pillar 2 powers not sufficiently or effectively articulated; • Limited power to require an Internal Capital Adequacy Assessment Process (ICAAPs). For reference purposes, though also covered in CP11, supervisory powers of early intervention, at a minimum, should include: • Powers to act in relation to corporate governance, including removal of senior management and powers in relation to remuneration (the senior management regime would address most if not all of these requirements); risk management and internal controls to ensure the rectification of deficiencies and deterioration as soon as they were identified; • Powers to limit the scope of business; • Powers to ensure that capital buffers can be conserved as necessary, including requiring stops on dividend and share repurchases; • Ability to ensure stabilization of emergency planning for SIBs – e.g., to trigger the plan if necessary (the plan needs to be subject to earlier activation if necessary in order to be able to have a greater likelihood of an orderly outcome); • The statutory power to impose fines. The suite of powers should be available to FINMA and should be applicable to all banks. Such powers enable FINMA to be preventative in the most meaningful sense of the word and represent the best opportunity for banks to avoid deterioration or failure and for depositors to avoid risk of losses. Without these changes, the FSAP considers that FINMA is not in the position to discharge its mandate effectively to protect the depositors and investors of all the banks within the system. The principle of proportionality should not apply to protection to

depositors. All depositors should be able to benefit equally from FINMA's ability to take action on their behalf.

Supervisory Guidance and Expectations

As noted above, FINMA is limited, or even unable to issue guidance or supervisory expectations, much less anything other very high-level principles on key areas such as corporate governance and risk management. Features that existed in past FSAPs, such as "frequently asked questions" have been removed from FINMA's website following a Swiss debate that concluded FINMA was a supervisor not a regulator.

The principles of regulation in Switzerland are set out in law, in FINMASA Article 7. And further specified in the corresponding FINMASA Ordinance. For the purposes of this discussion, it is helpful to see the article in full.

1. FINMA exercises its regulatory powers by issuing:
    a) ordinances, where so provided in the financial market legislation;
    b) and circulars on the application of the financial market legislation.
2. It issues ordinances and circulars only to the extent required for the purposes of supervision, limiting itself as far as possible to the definition of principles. In doing so, it takes account of overriding federal law and in particular of:
    a) the costs that the supervised persons and entities incur due to regulation;
    b) the effect that regulation has on competition, innovative ability and the international competitiveness of Switzerland's financial center;
    c) the different sizes, complexities, structures, business activities and risks of the supervised persons and entities; and
    d) the international minimum standards.
3. It supports self-regulation and may recognize and implement the same as a minimum standard within terms of its supervisory powers.
4. It provides for a transparent regulatory process and the appropriate participation of the parties concerned.
5. It issues guidelines on the implementation of these principles. In doing so, it acts in agreement with the Federal Department of Finance (FDF).

Art. 7 FINMASA establishes that FINMA must follow the same regulatory process for circulars which outline FINMA's supervisory practice (e.g., how it interprets overarching financial market law) as for FINMA ordinances by which FINMA regulates (e.g., specifies obligations and rights of supervised entities outlined in overarching federal financial market legislation).

The same procedure applies to both FINMA ordinances and FINMA circulars, which means that circular comprising supervisory guidance will generally not enter into force sooner than 1–1.5 years after the process started. FINMA is explicitly required to constrain itself, so far as possible, to high level principles and to definitions and to act in agreement with the FDF. These requirements are clear cut. FINMA is further required to take into account the heterogeneity of the industry, the costs of regulation and impact of regulation on competition and the international standards. These requirements require more assessment in terms of what is or is not a reasonable outcome. Switzerland has a diverse banking sector, but is not alone in this. Switzerland wishes to be a competitive financial center and again is

	not unique in this ambition. The desire to ensure a cost benefit assessment of new regulation even when considering international standards is fully appropriate. The law rarely allows for only one interpretation and it is obvious that FINMASA has been vigorously debated in Switzerland. In the view of the mission the current interpretation is too extreme and conservative and not serving Swiss interests. The mission considers the almost complete absence of supervisory guidance to industry in terms of implementing important qualitative standards to be an unacceptable outcome of the current interpretation of Art 7 FINMASA. Since the 2014 FSAP FAQs have been withdrawn from the FINMA website and it has been explained to the mission that it has been clearly determined that FINMA is a supervisor and not a regulator and therefore must not issue documents that could be seen as guidance or regulation outside of the specified processes for issuance of ordinances and circulars as noted above. Although this appears to be a reasonable demarcation on the face of it, the longer-term consequence can be actively damaging to the soundness of the banking sector because nothing has substituted for FINMA's guidance. During the course of the mission, it was clear that the high-level principles based approach is strongly advocated by many voices in the banking sector, but, equally, not by all. Not all banks have the knowledge or the resources to understand how to implement high level principles in a meaningfully competent and sound manner in their banking businesses. The larger players, and the smaller entities who are local establishments of global groups, of course have more than adequate abilities and access to skills and resources to implement key risk and resilience standards according to the highest global practices. Other banks, simply put, do not. The regulatory audit system is not suited to probing the qualitative supervisory matters that are of increasing importance and centrality to safe and sound banks, so weaknesses and vulnerabilities could easily be missed to the detriment of individual banks, their depositors and the system. High-level principles are a technique to express clearly what the desired objective should be, not a free for all for any bank to do what it likes and to think that it has met the principle. Many banks cannot and do not "know what good looks like" and just as importantly do not recognize "red flags." It is the function of the supervisor to step into this gap. Not the function of a government department or a parliamentary committee. The insistence on silencing FINMA so comprehensively – even to the extent of disagreeing with the recent consultation on a circular that sets out FINMA's practices and expectations on consolidated supervision – is an own goal. Some banks need this input from the supervisor and some banks want it. Regardless of banks' preferences, the public authorities need to take their own responsibilities seriously and ensure that sufficient information is available to the banks to guide them. It is important to ensure that the FINMASA condition of respecting the diversity of the market is met through issuing guidance. It is entirely possible to issue guidance that continues to permit major players the discretion to implement standards according to their own view of appropriate practices under a "comply or explain" protocol. In terms of implementation, it merely requires the supervisor and the bank to have sufficient contact to be able to have a dialogue rather than a check box compliance review. However, from the

	perspective of legal certainty, if it is necessary to adjust the law to ensure that FINMA is permitted to issue supervisory guidance then this amendment is urgently required. FINMA should be empowered to codify supervisory practices and interpretations and to do so in a timely manner. International best practices generally allow supervisory authorities to be able to issue circulars/ guidelines/ etc., to ensure an agile handling of technical details, acknowledging that supervisors have the technical expertise to do this in a way that parties without such expertise cannot be expected to do. *Capital Issues* Several of the missing powers relate to assuring the sound capital adequacy of the banks in the Swiss banking system. This topic is also discussed in CP16, but in terms of lack of powers, FINMA is undermined in being able to implement the Basel Framework Pillar 2. Principles 1 and 2 of Basel Pillar 2 expect banks to have a process for assessing their overall capital adequacy in relation to their risk profile and a strategy for maintaining their capital levels and also expects the supervisor to review and evaluate banks' internal capital adequacy assessments and strategies, as well as their ability to monitor and ensure their compliance with regulatory capital ratios. Supervisors are expected to take appropriate supervisory action if they are not satisfied with the result of this process. Pillar 2 in the Basel Framework also expects supervisors to expect banks to operate above the minimum regulatory capital ratios and to have the ability to require banks to hold capital in excess of the minimum. FINMA's scope for action on any aspect of Pillar 2 is not well supported on legal grounds despite being a signatory to the Basel Framework and having stated it applies the Framework to all banks. *Mandate* The first objective of FINMA's mandate (Art 4, FINMASA) is "to protect creditors, investors, and insured persons as well as ensuring the proper functioning of the financial market." A protection mandate is a straightforward objective for a supervisory authority, but FINMA's mandate, given by the legislator, is silent in respect of protecting the safety of banks (as opposed to the financial market) and is also silent in respect of protecting depositors although other classes of financially active individuals are mentioned. FINMA argues that by pursuing these objectives through its supervisory activities, FINMA also "promotes the safety and soundness of banks and the banking system." The assessors accept FINMA's argument up to a point. However, the objective FINMA has been set, and which should guide it in motivating and prioritizing its actions and scarce resources, does not give recognition to banks as individual entities and nor does it acknowledge depositors (as opposed to creditors, investors etc.). It is not reasonable to suppose that a class of individuals that is not listed will enjoy the same measure of concern as the classes that are specified directly in the legal mandate. FINMA's mandate also goes onto state that FINMA "thus contributes to sustaining the reputation, competitiveness, and sustainability of Switzerland's financial center." The reference to competition is problematic for a supervisory authority. Supervisors should not be distracted in their decision making by balancing stability concerns with competitiveness. When a jurisdiction is home to internationally active and globally systemic firm or firms the importance of ensuring stability is critical to the domestic economy and beyond as the costs of failure are high. When a prudential authority is given a competitive

	objective, the prudential, stability objective must take clear precedence. This is not the case for FINMA and the mandate should be amended to ensure that FINMA is able to give priority to banking soundness and stability. FINMA must also act, as discussed above, within the limits set by FINMASA (Art 7) which confirms that FINMA is exercises its regulatory powers by issuing ordinances and circulars where provided in the financial market legislation; and only so far as needed for the purposes of supervision. The limitations of this article are also discussed above. However, FINMASA requires FINMA is required to publish Guidelines on Financial Market Regulation. The precepts set out in the FINMA Guidelines are sound, but equally, depend on maturity and responsibility being demonstrated by the participants in the financial sector. The desire expressed in the Guidelines for competitive neutrality is valid, but the desire to resort to regulation only in the last resort could be interpreted as an objection to the necessary development of early intervention by the supervisor. The concerns related to this topic are covered above and in CP11. There is also a risk that the guideline could be interpreted as an objection to the necessity of intrusive supervision. This would be a risk to the competitive attractiveness of the Swiss market. A safe, sound, well regulated market, where the protection of the depositor and investor is taken seriously is the best advertisement for healthy competition and a thriving international financial center.
Principle 2	**Independence, accountability, resourcing and legal protection for supervisors**.[19] The supervisor possesses operational independence, transparent processes, sound governance, budgetary processes that do not undermine autonomy, and adequate resources, and is accountable for the discharge of its duties and use of its resources. The legal framework for banking supervision includes legal protection for the supervisor.
Essential Criteria	
EC1	The operational independence, accountability and governance of the supervisor are prescribed in legislation and publicly disclosed. There is no government or industry interference that compromises the operational independence of the supervisor. The supervisor has full discretion to set prudential policy and take any supervisory actions or decisions on banks under its supervision.
Description and Findings re EC1	FINMA itself is established as a public law institution and commenced activities on January 1st, 2009. Article 98 of the Federal Constitution provides the constitutional basis for FINMA's supervisory activities. The operational independence, accountability and governance of FINMA are covered in Chapter 2 of the Financial Market Supervision Act (FINMASA) of 22 June 2007. *Independence* FINMA is required, under paragraph 1 of Article 21 of FINMASA, to carry out its supervisory activity autonomously and independently. However, the Federal Council adopts FINMA Ordinance on Levies and Fees and approves the FINMA Personnel Ordinance. In addition, the strategic objectives of FINMA must be approved by the Federal Council under FINMASA Art. 9 para. 1 let. a.

[19] Reference document: BCBS, Report on the impact and accountability of banking supervision, July 2015.

	The Federal Council is also responsible (FINMASA, Art. 9, para. 3) for appointing the Board of Directors, including the appointment of both the Chair and the Vice-Chair. The Federal Council also determines the level of remuneration for the members of the Board of Directors. FINMA's Board of Directors appoints the CEO and the members of the Executive Board. The Executive Board is the operational management body and is headed by the CEO. The Executive Board is responsible for FINMA's operational business (Art.10 FINMASA and FINMA's Organizational Regulation Article 14). Both the appointment of the CEO as well as the maximum amount of remuneration for the CEO is subject to the approval by the Federal Council (Art.9 para. 1 lit. g FINMASA; Art. 17 para. 2 FINMA-Personalverordnung). Similarly, any salary of the Executive Board members above a certain limit requires the approval of the Head of the Federal Department of Finance (Art. 18 para. 2 FINMA-Personalverordnung). Moreover, some additional restrictions exist as legislation from the Federal Personnel Act (Bundespersonalgesetz) applies by analogy. (Art. 9 and Art 13 FINMASA). *Accountability* At least once a year, FINMA is required to review the strategy for its supervisory activities and current issues of financial center policy with the Federal Council (Art. 21 para. 2 FINMASA). The Federal Council must approve FINMA's annual report before it may be published (FINMASA Art. 9 para. 1 let. f.). Experience of approval has been straightforward, though FINMA might be asked to follow up questions in the process. FINMA reports annually to the Federal Council and the Parliamentary Committees on progress and state of play regarding the implementation of the strategic goals. *Financing* FINMA is funded by levying fees for individual cases and services as well as annual supervision charges levied on supervised entities (Art. 15 FINMASA). FINMA's budget is subject to approval by FINMA's Board of Directors (Art. 9 para. 1 let. j). The overall framework for levies and fees is established by the FINMA Fees and Levies Ordinance (FINMA-GebV) which is issued by the Federal Council (Art. 15 para. 3 and para. 4 FINMASA). *Governance* Under the terms of paragraph 4 of Article 9 of FINMASA, the chair of the board is not permitted to carry out any other economic activity or hold any federal or cantonal office unless it is in the interests of fulfilling FINMA's remit. Although FINMASA does not extend these restrictions to other members of the FINMA Board of Directors, these conditions are replicated in the public document setting out the conditions for holding office as a member of the FINMA Board of Directors which was approved by decision of the Bundesrat of 6 December 2013 ("Bedingungen zur Ausübung des Amts als Verwaltungsratsmitglied der FINMA") and was immediately applicable. It was made available on the website of the Federal Department of Finance (FDF) in 2020. It may be noted, for completeness' sake, that the document was marginally revised by a decision of 20 October 2021. *Recent Public Discourse on FINMA Independence* In response to Parliament's concerns (Landolt motion, 17.3317, "Clear responsibilities between financial market policy and financial market supervision"), on December 13, 2019, the Federal Council adopted a new Ordinance to FINMASA. The ordinance entered into force

	on February 1, 2020. It fleshes out the tasks of FINMA at the international level and in terms of regulation, regulatory principles and the cooperation and exchange of information between FINMA and the Federal Department of Finance (FDF). The document is accompanied, on the official website, by an explanation of the relationship between FINMA and the Federal Council (Explanation of the Ordinance). At a narrow level, the discussion in the Ordinance confirms (machine translation) that "the Federal Council has no powers of participation or control in FINMA's operational business. In the case of decisions on individual cases or administrative proceedings (quasi-judicial tasks), FINMA is independent of instructions and the Federal Council has no possibility of revoking or amending FINMA resolutions or of taking over individual transactions and making its own decisions." At a broader level, this discussion also notes, "however, the Federal Council can assert its powers in the medium- and long-term strategy." The Ordinance, Article 4.4, para. 1 also states that, "When defining its strategic objectives, FINMA is guided by the requirements for the adoption of the strategic objectives of independent entities of the Confederation."
EC2	The process for the appointment and removal of the head(s) of the supervisory authority and members of its governing body is transparent. The head(s) of the supervisory authority is (are) appointed for a minimum term and is (are) removed from office during their term only for reasons specified in law or if they are not physically or mentally capable of carrying out the role or have been found guilty of misconduct. The reason(s) for removal is (are) publicly disclosed.
Description and Findings re EC2	As noted in EC1 and set out in FINMASA, the Federal Council is also responsible, under FINMA, Art. 9, para. 3, for appointing the Board of Directors, including the appointment of both the Chair and the Vice-Chair. A double veto procedure involving at least two bodies (FINMA and the FDF) is followed for the appointment of board members. The Board of Directors comprises seven to nine expert members who must be independent of the supervised persons and entities. The Board of Directors is appointed for a term of office of four years; each member may be reappointed twice (Art. 9 paras. 2 and 3 FINMASA). The Federal Council may remove members of the Board of Directors "if the requirements for holding office are no longer fulfilled" (Art. 9 para. 5 FINMASA). The requirements profile is set out in a publicly available document approved by decision of the Bundesrat of 26 January 2022 (https://www.efd.admin.ch/en/authorities-agencies). While the requirements profile covers restrictions regarding financial interests in the financial sector and to have a reputation without reservations, there are no specific requirements such as the disqualification if involved, for example, in failed institutions. However, the Federal Department of Defense, Civil Protection and Sport (DDPS) conducts a personnel security screening to check if a candidate for the Board poses any security or reputational risks. While the DDPS's conditions and guidelines for its assessment are confidential, checks will cover issues such as integrity, vulnerability to coercion, etc. All candidates must pass this screening. Candidates are also screened by FINMA's Compliance Team. The screenings are intended to make sure that any potential conflict of interest is identified, including any involvement in enforcement proceedings. Any such involvement constitutes grounds for exclusion. The

	Conditions for Holding Office are set out in a related document approved with immediate application and published by the Federal Council on 6 December 2013, published on 9 December 2013 and made available on the FDF website in 2020. The profile requirements also cover employment and holding of securities and deposits and state that the member must meet the profile set out in the document. Hence, de-linking from financial relationships with supervised entities and the importance of reputation are covered, and although the expectation of good reputation is expressed at a very high level, detailed scrutiny by the DPPS is conducted. The Chief Executive Officer (CEO) and the members of the Executive Board are appointed by the Board of Directors. The appointment of the CEO is also subject to approval by the Federal Council, however (Art. 9 para. 1 lets. g and h FINMASA). Equally, the Federal Council also has to approve the decision of the Board of Directors to terminate the employment of the Chief Executive Officer "if the requirements for holding office are no longer fulfilled" (Art. 9 para. 5 FINMASA). Moreover, the FINMA Personnel Ordinance (Art. 9 para. 4) states that the termination of an employment contract must be for objective reasons and that these reasons must be communicated in writing to the person concerned. To date no termination has occurred. There are no requirements for the reasons behind a termination (dismissal) to be made public either in respect of a member of the Board of Directors or the Executive Board. FINMA has a consistent track record of publicly disclosing the reasons behind the departure of board members even though there are no requirements set by the Federal Council. The relevant legal basis, including the FINMA Personnel Ordinance, is published on FINMA's website and on that of the Swiss Federal Administration.
EC3	The supervisor publishes its objectives and is accountable through a transparent framework for the discharge of its duties in relation to those objectives. The supervisor regularly communicates its supervisory priorities publicly.
Description and Findings re EC3	FINMASA establishes a requirement for FINMA's Board of Directors to determine FINMA's strategic goals and obtain the approval of the Federal Council (Art. 9 let.a FINMASA), as noted in the text above. The strategic goals must be submitted to the Federal Council three months before the planned approval to (Article 4.4 of the Ordinance to FINMASA, SR 956.11). FINMA publishes its strategic goals as specified in Article 9 para. 1 let. a FINMASA and Article 14 of the Ordinance to the FINMASA (SR 956.11). The Strategic Goals set out the key aspects of its supervisory activity for the medium and long term. The strategic goals cover a period of four years and the period at the time of the FSAP mission was 2021 to 2024 inclusive. There are ten high level goals, of which two relate to competitive, promotional concerns (innovation and structural change). The goals are discussed in greater detail in accompanying documents including "key areas" where FINMA sets out its vision of how it plans to implement its goals. The full archive of all of FINMA's strategic goals is available on its website. FINMA reports annually to the Federal Council and the Parliamentary Committees on progress and state of play with the strategic goals, as described in FINMA's publication Strategic Goals 2021-2024. At least once a year FINMASA (Art. 21) requires FINMA to review the strategy for its supervisory activity and current issues of financial center policy with the Federal Council. In this context, current financial market policy issues and the direction of its

	supervisory activities are discussed. FINMA presents the Federal Council with relevant economic and financial-market data and provides an assessment of progress in implementing the strategic goals. FINMA deals with the Federal Council via the FDF and the Secretariat for International Finance (SIF), which is based there. There are more touch points with the SIF when there is a new strategy being prepared. FINMA is also obligated under FINMASA (Art 22, para 1) to inform the general public at least once each year about its supervisory activity and supervisory practices. FINMA publishes annual reports and financial statements to meet its accountability obligations to the general public and to the Federal Council (see above Art. 21, and Art. 22 FINMASA). The annual report must be approved by the Federal Council prior to publication (Art. 9 para 1, let f, and Art. 22 FINMASA) The Federal Council itself produces an annual report on the achievement of the strategic objectives of the independent units (including FINMA). This report and the annual strategy implementation report prepared by FINMA serve as the basis for FINMA's annual accountability to Parliament, which has ultimate supervisory authority over FINMA (Art. 21, para 4 FINMASA). FINMA has also been subject to Parliamentary Commissions of Inquiry, into the discharge of its functions and activities. For example, on June 8, 2023 the Federal parliament enacted a decree on the establishment of a Parliamentary Commission of Inquiry to investigate the conduct of the authorities in connection with the emergency merger of Credit Suisse with UBS.[20] The subject of the parliamentary investigation is the conduct of business over recent years by the Federal Council, the Federal Administration and other federal bodies in connection with the emergency merger of Credit Suisse with UBS, insofar as they are subject to parliamentary oversight. The Commission reported its findings, after the assessment mission, in Q4 2024.[21]
EC4	The supervisor has effective internal governance and communication processes that enable timely supervisory decisions to be taken at a level appropriate to the significance of the issue and expedited procedures in the case of an emergency. The allocation of responsibilities within the organization as well as the delegation of authority for particular tasks or decisions are clearly defined. Supervisory processes include internal checks and balances to support effective decision-making and accountability. The governing body is structured to avoid any real or perceived conflicts of interest.
Description and Findings re EC4	In the two-tier structure, the Board of Directors is the strategic management body of FINMA. The Executive Board is the operational management body, headed by the CEO, and is responsible for FINMA's operational business (Art.10 FINMASA and FINMA's Organizational Regulation Article 14). Virtually all supervisory decisions are taken by the Executive Board or the appropriate lower levels of hierarchy. Notably, no members of the Board of Directors, including the Chair, sit on the Enforcement Committee. Furthermore, all decisions made by the Board of Directors are based on formal proposals submitted by the Executive Board. The

[20] https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20230427

[21] The Commission delivered its report into Conduct of federal authorities in the context of the Credit Suisse crisis: Report by Parliamentary Investigation Committee of 17 December 2024.

	approval rate of these decisions has been stable over the past ten years. However, while the total number of agenda items has also remained stable over the past decade, the ratio of items intended solely for informational purposes has risen to around one-third in recent years. In 2021, the newly formed Board of Directors introduced the agenda item 'focus topics' under which the Executive Board must report on the five highest risks faced by FINMA. FINMASA (Art. 9, para. 1, let. b) stipulates that the Board of Directors (BoD) decides on business matters of substantial importance based on formal proposals submitted by the Executive Board. In practice these decisions have been very rare. Matters of substantial importance are those which are seen as strategic for FINMA and Switzerland's financial center as they have potentially far-reaching consequences for creditors, investors, insured persons or the proper functioning of the financial market. The Board also has discretion to identify a decision as being of substantial importance although it has never made use of this option. Set out in Article 2bis of FINMA's Organizational Regulations, (Regulations on the organization of FINMA) these key issues relate to supervised institutions in supervisory categories 1 and 2 and are as follows: • first-time licenses or licenses applied for due to significant restructuring of the supervised institution; • protective measures, recovery, (bankruptcy) liquidation; • withdrawal of license; • first approval of legally required emergency plans; and • capital and liquidity requirements or limitations. FINMA took the initiative in 2019 to sharpen and narrow the situations covered by Art 2bis, resolving the previous lack of clarity regarding the decisions on individual institutions FINMA's Board of Directors should take. In exceptional cases of importance and urgency, or operational disruption (e.g., power outage, cyber-attacks, or other technology-induced operational disruption), Article 9 of FINMA's Organizational Regulations confirms that the Chair of the Board of Directors may of their own accord or at the request of the Executive Board take the necessary decisions (Chair's resolutions) in lieu of the Board of Directors. The Board of Directors must be informed as soon as possible of any such decisions. Additionally, in urgent cases, that is to say, cases that cannot wait until the next board meeting and with little potential for discussion within FINMA's Board of Directors can pass resolutions through written procedure, including email (Art 9 FINMA Organizational Regulations). However, there is a three-day window for Board members to insist on an in-person meeting to discuss the decision in such cases. FINMA indicated that the BoD only uses written procedure, if a formal decision is needed and the decision is not expected to be controversial. The Executive Board issues rulings on all matters that do not fall to the Board of Directors, which are the vast majority. Notably, the Executive Board forms the members of the Enforcement committee and members of the Board of Directors cannot sit on this committee. In a few cases of lesser importance, the Executive Board may transfer this competence to the divisions. (Art. 14 FINMA Organizational Regulations). The rubric for

	making decisions in terms of quorum, and written procedure is the same as for the Board of Directors. However, while the CEO has a veto in the Executive Board, the Chair does not have power of veto in the BoD. FINMA's internal governance rules are mainly set out in FINMA's Governance Regulation which covers, among other topics: • the responsibilities of FINMA's management committees and FINMA's divisions; • cross-divisional functions and responsibilities; • signatory powers; • deputation arrangements; • provisions on information and transparency; • responsibilities for crisis management (FINMA has internal guidelines on crisis management); • extraordinary cross-divisional cooperation; • responsibility in respect of liability proceedings. The remit of FINMA's Enforcement Committee (ENA) is set out in Section 3 of the Governance Regulation. Permanent members of the ENA are the CEO (Chair) and the heads of Support, Policy and Legal Expertise Division and Enforcement Division. The heads of the business divisions affected by the relevant business sit on the ENA on a case-by-case basis and also have voting rights. Under the heading of "tasks and powers" the regulation indicates that the Enforcement Committee issues FINMA's intrusive rulings (Article 10) and these are specified, including (non-exhaustive): Measures against supervised persons; Measures against natural persons (e.g., prohibitions on exercising a profession or activity, confiscations) who are or were active as organs or employees of a supervised entity or who have a qualified interest in a supervised entity; . Refusals of authorization; Orders for liquidations, insolvencies and restructuring measures for supervised entities; and decisions on the opening and closing of proceedings against companies authorized by FINMA, their bodies, employees and qualified participants. FINMA's management culture is stated to be (Article 29) in particular based on the delegation principle. "Tasks, competencies and responsibilities should be delegated to the organizational unit which, due to its competence, is best placed to handle and decide on the corresponding task." Additionally, this is supported by the principles of competence and reserved competence so that each organizational unit has the competences to perform its tasks and that management has the authority to intervene in the units below at any time. The assessors discussed practical examples of decision making, escalation and handling of high stress supervisory situations. One advantage FINMA enjoys of its current size is that escalation through the organization when any issue emerges in an institution can be very rapid. For crisis situations a dedicated project mode is launched. Usually a team composed of ExCo members heading the project and the project team below. The CEO, head of the relevant division, resolution, enforcement and communications will be engaged. Sub teams can be composed according to the business need and frequency of meetings can respond to the events, whether daily or weekly.

	Conflicts of Interest There are a number of legal references to ensure conflicts will be avoided. Under FINMASA, (Articles 9, para. 2) all members of the Board of Directors must be independent of the supervised persons and entities. In particular, the Chair of the Board of Directors may not carry out any other economic activities nor hold any federal or cantonal office unless they are in the interest of fulfilling FINMA's tasks. Similarly, the "Conditions for holding office as a member of the Board of Directors of FINMA" forbid secondary employment or public office that pose conflicts of interest. Moreover, Article 11 of the FINMA's Organizational Regulations address conflict of interest issues with respect to the Board of Directors in more detail. Article 11 of the regulations confirms that members of the Board must not engage in activities for any supervised institutions (para. 1) and also that their vested interests must be publicly disclosed (para. 2). The disclosure can be found on the FINMA website. Reporting of any existing or potential conflicts of interest and incompatibilities must be made to the head of the Legal and Compliance Department to check whether recusal is necessary ahead of a Board meeting (para 4). In terms of cooling off periods, a period of 6 months only is specified for the Chair of the Board (per the 6 December 2013 document on Conditions for Holding Office as a Board Member of FINMA). Nothing is specified for other members of the Board.
EC5	The supervisor and its staff have credibility based on their professionalism and integrity. There are rules on how to avoid conflicts of interest and on the appropriate use of information obtained through work, with sanctions in place if these are not followed.
Description and Findings re EC5	The FINMA Personnel Ordinance (Section 10) addresses conflict of interest and loyalty issues for staff and requires the Board of Directors to adopt a Code of Conduct, this latter requirement is also set out in the Organizational Regulations (Art. 2, para. 2). Section 10 of the Personnel Ordinance also requires staff of FINMA to behave and express themselves in a manner that preserves FINMA's reputation and credibility and refrain from anything that could jeopardize it. The Personnel Ordinance permits secondary employment provided that there is no conflict of interest with FINMA. The employment must be disclosed and approved however. FINMA's Code of Conduct includes extensive rules on avoiding conflicts of interest. FINMA also has rules on the appropriate use of information (Regulations on the protection of information). In the event of breaches of these rules, FINMA can impose sanctions, up to and including dismissal. Breaches of official secrecy are subject to prosecution under the Swiss Criminal Code (Art. 320) The Code of Conduct sets expectations for staff and also, in some circumstances, related parties (such as spouses). It addresses investments in supervised entities, cooling off periods if an employee moves to a supervised entity, and acceptance of gifts and other benefits. It also covers the handling of official secrecy.

	In certain situations, FINMA employees may be forbidden from withdrawing deposits at supervised institutions and FINMA managers hold their savings deposits at the Federal Employees' Savings Bank to avoid conflicts of interest. The mission found that FINMA's staff were considered to be professional and responsive.
EC6	The supervisor has adequate resources for the conduct of effective supervision and oversight. It is financed in a manner that does not undermine its autonomy or operational independence. This includes: (a) a budget that provides for staff in sufficient numbers and with skills commensurate with the risk profile and systemic importance of the banks supervised; (b) salary scales that allow it to attract and retain qualified staff; (c) the ability to commission external experts with the necessary professional skills and independence to conduct supervisory tasks subject to the necessary confidentiality restrictions; (d) a training budget and program for the regular training of staff; (e) a technology budget sufficient to equip its staff with the tools needed to supervise the banking industry and assess individual banks; and (f) a travel budget that allows appropriate on-site work, effective cross-border cooperation and participation in domestic and international meetings of significant relevance (eg supervisory colleges).
Description and Findings re EC6	(a) *Budget* FINMA is not funded through the federal administration budget, but through fees and levies. However, the FINMA Fees and Levies Ordinance (FINMA-GebV) is subject to Adoption by the Federal Council (Art. 15 FINMASA). The employment of personnel including, in particular salaries, and additional benefits as well as other matters is required to be set out in an Ordinance FINMA-Personalverordnung). This Ordinance must be approved by the Federal Council and some legislation from the Federal Personnel Act (Bundespersonalgesetz) set by the parliament applies by analogy. (Art. 9 and Art. 13 FINMASA). **Budget and full time equivalent development** in TCHF and FTE 2019..2024 2019 | 2020 | 2021 | 2022 | 2023 | 2024 FINMA Budget approved by BoD: 127'148 | 126'840 | 131'423 | 139'835 | 148'817 | 159'651 Reserving (Art. 16 FINMASA): 12'715 | 12'684 | 13'142 | 13'984 | 14'882 | 15'965 **Total FINMA budget including reserving**: **139'863** | **139'524** | **144'565** | **153'819** | **163'699** | **175'616** **Full time equivaltens (budget)**: 497 | 501 | 514 | 544 | 591 | 642 Staff salaries are benchmarked with the market, director level salaries with government and the CEO's salary is set by the government. Although no individual director or CEO salary is made public, the base level of director salary is made transparent. For the CEO the maximum amount of remuneration, consisting of salary, allowances and other FINMA benefits, is subject to approval by the Federal Council (Art. 17 para. 2 FINMA-Personalverordnung). In addition, any other salary, namely of the Executive board members, above a certain limit

	must be approved by the head of the Federal Department of Finance (Art. 18 para. 2 FINMA-Personalverordnung). Any overall funding shortfall is then met through an annual supervisory levy. Banks which are supervised by FINMA are subject to an annual levy (Art. 15 FINMASA). FINMA can also take advantage of the specialized resources of the audit firms and other specialized experts performing regulatory audits or other mandated tasks (see lit. c) below and principle 9 EC 11 for more information on FINMA's use of audit firms). *(b) Salary Scales* FINMA's Staff Ordinance ("Personalverordnung") sets out five salary scales. The framework of the salary system is based on clearly defined roles and easily comparable with labor markets. FINMA has been awarded the independent and nationally recognized "Good Practice in Fair Compensation" certificate for its fair and simply structured salary policy. FINMA is also an above-average employer with regard to its non-monetary employment conditions: flexibility of working-time models, measures to reconcile work and family life, and measures to ensure employees' social security (including pension funds) are in many ways superior to standard terms and conditions in the industry and the federal administration. All this has supported FINMA in attracting and retaining qualified staff with the required skills. (c) *External Experts* FINMA has the ability to appoint third parties, known as mandataries, to assist it in performing its duties. The cost of mandataries is borne by the supervised entities concerned. Mandataries are used in both supervision and enforcement proceedings and are seen as essential in giving FINMA rapid access to external experts when needed and enabling complex audits or investigations to be completed within a reasonable time frame. In terms of supervisory tasks, the types of mandataries may include the following: -Mandated auditors who can conduct audits on FINMA's behalf as part of the ongoing supervision of a supervised institution. They are used, for example, in response to special or institution-specific events where specific expert knowledge is required or if there are doubts regarding the quality of the audit conducted by the audit firm. -Investigating agents who can act to clarify circumstances relevant to enforcement proceedings or monitor the implementation of supervisory measures. FINMA defines the content and expected costs of the mandate at the outset and monitors performance of mandate and costs on an ongoing basis. (d) *Training Budget* The budget for education and training has been CHF 3,000 per FTE per year and this has been unchanged since 2012. FINMA indicated that in recent years the Board of Directors have intensified the request for measures to be taken to increase demand. Strategic education and training needs are identified annually, using a systematic process and are also linked to recruitment and succession planning as noted below in EC7. Every department is required to assess each individual staff's training needs and to plan accordingly. There are five paid vacation days per employee for education and training annually. For part-time employees, this amount is reduced pro-rata. There is some mandatory training, such as Cyber

	risk and there is a range of optional training that staff can choose. It was noted that some training options are at no cost to FINMA. (e) *Technology budget* A budget for the development of IT tools has been in place since FINMA was established. The need for additional tools and major enhancements to existing tools is clarified, estimated and prioritized on an ongoing basis. Review and approval lies with the Executive Board and the Board of Directors as a part of the annual budgeting process. There is a current multi-year plan for digital transformation in FINMA. Resource constraints were not perceived to be an issue. (f) *Travel budget* The travel budget covers domestic and international meetings, on-site work, cross-border cooperation, and other important meetings. The Executive Board reviews the detailed planning for cross-border cooperation meetings on an annual basis. No concerns were identified with FINMA meeting domestic or international policy, supervisory or coordination responsibilities. As with other authorities there had been a spending dip during the pandemic which has since come back strongly.
EC7	As part of their annual resource planning exercise, supervisors regularly take stock of existing staff skills and projected requirements/needs over the short and medium term, considering relevant emerging risks and practices as well as supervisory developments. Supervisors review and implement measures to bridge any gaps in numbers and/or skillsets identified.
Description and Findings re EC7	FINMA seeks to align its personnel planning with its strategic needs, such as those set out in its Strategic Goals. There is an annual planning process which forms part of the management board's program, including a planning development conference each year. The planning includes a talent program to identify future leadership within the organization and there are processes in place within the organization at a more micro level to ensure succession and training is in place to avoid dislocation and disruption if staff in key roles move or are unavailable, for whatever reason. In terms of the technical skills there is mixed policy in terms of development and hiring-in. Supervisory skills are largely developed in-house, which is a standard global practice. The more specific skills are more likely to be hired from the market. At present FINMA finds most skills to be available other than, Cyber Risk which is scarce and also personnel are hard to retain in this field, which is also a common finding. FINMA noted that the overall objective is to align the skills and resources in the workforce with foreseeable challenges. The planning horizon is 2-3 years. The assessors saw data to indicate the type and volume of training that staff had been engaging in. FINMA has flexibility in its planning and recruitment for the skills needed with regard both to permanent employees and temporary personnel, contractors, freelancers and inbound secondees.
EC8	In determining supervisory programs and allocating resources, supervisors consider the risk profile and systemic importance of individual banks and the different risk mitigation approaches available.

Description and Findings re EC8	Supervised institutions, both banks and securities firms are assigned to a category (1-5) and both the supervisory resources and intensity of supervision assigned to an institution correspond to the supervisory category. In essence the firms whose failure will cause the greatest impact are category 1 and the least are category 5. Please see CP8 for more details. The details of the supervisory activities according to category are set out in the "Standard Operating Procedures" (SOPs). The assessors were able to review the SOPs for each of the categories of banks and were also able to see the supervisory activities for banks that fell under the categories to determine whether the SOPs were met. FINMA noted that the SOPs represented minimum levels of activity. As part of the risk-based approach, and also respecting the importance of proportionality, FINMA has developed the Small Banks Regime, so that the banks with a low risk profile, but meeting higher regulatory standards can be subject to a simplified, proportionate regime. For a bank to qualify for the Small Bank Regime (account holding securities firms are also eligible), the institution must be a Category 4 or 5 bank and must meet the following criteria: • Simplified leverage ratio of at least 8 percent; • Average liquidity coverage ratio (LCR 12 months) of at least 110 percent; • Refinancing rate of at least 100 percent. FINMA can reject the bank's application if supervisory measures or proceedings have been initiated in relation to: • The Anti-Money Laundering Act (AMLA); • Cross-border business; • Inadequate interest rate risk management, or unreasonably high interest rate risk. • Rules of conduct under the Financial Services Act (FinSA) • Market conduct rules under the Financial Market Infrastructure Act (FinMIA) There is no disqualification based on FINMA's discretionary view that the institution lacks appropriate standards of risk management, controls or governance. The benefits of the simplified regime are: • Elimination of quality and quantity requirements in relation to the required capital including elimination of the calculation of risk weighted assets (RWA); • Elimination of the capital buffer and sectoral countercyclical capital buffer (CCyB); • Disapplication of NFSR; • Qualitative simplifications in FINMA circulars; • Elimination of specific requirements for handling electronic customer data; • Reduced disclosure obligations; • Reduced requirements in relation to the duties of risk control; • Lower frequency of comprehensive risk assessment by internal audit; • Elimination of specific outsourcing requirements.
EC9	Laws provide protection to the supervisor and its staff against lawsuits for actions taken and/or omissions made while discharging their duties in good faith. The supervisor and its

	staff are adequately protected against the costs of defending their actions and/or omissions made while discharging their duties in good faith. [22]
Description and Findings re EC9	FINMASA, Article 19 establishes that FINMA as an institution and its agents are liable if: a) its staff have committed a breach of fundamental duties; and b) loss or damage is not due to a breach of duty by a supervised person or entity. The legal protection applies only when supervisory measures are taken in good faith. A breach of fundamental duties may have occurred if measures were taken in bad faith. Staff are not personally and directly liable in civil law for discharging their duties. The definition of staff includes the management bodies, members of the Board and FINMA mandatories carrying out tasks in support of the supervisory function. As in the case of other administrative bodies, the criminal prosecutor requires authorization from the Federal Department of Justice and Police before he can undertake criminal proceedings against FINMA staff members. If a staff member acts in good faith, however, FINMA's policy and track record is to cover the expenses of any criminal and civil proceedings (e.g., court and lawyer fees).
Assessment of Principle 2	MNC
Comments	*Autonomy* The approval of FINMA's strategic objectives by the Federal Council represents an infringement of the supervisory authority's operational autonomy and does not represent a facet of necessary and important accountability. In other words, accountability should not be confused with management, or the strategic direction of supervision which in itself would represent ex-ante interference. The appropriate involvement of the parliamentary process is by setting the supervisory mandate (discussed in CP1). In practice, although FINMA staff report a smooth process in obtaining approval for their objectives and it is important to respect consensus driven decision making in the Swiss context, FINMA is legally established as an independent authority and must be treated as such. Work carried out in recent years on the institutional setting for bank supervision provides some empirical corroboration for the international standards. Econometric analysis suggests that the better a jurisdiction meets CP1 and CP2, the less fragile its banks typically are. *Resources* The government is responsible for ensuring that the supervisor is provided with appropriate mandate and adequate powers and resources to carry out its function. In this instance the government has discharged its function by authorizing FINMA to fund itself through levying the supervised firms. However, the Federal Council approves the FINMA Personnel Ordinance (FINMA-Personalverordnung) and adopts FINMA's Ordinance on Levies and Fees. One of the main fragilities typically identified across jurisdictions in respect of CP2 is resource constraint and insufficient personnel to carry out the necessary functions. Avenues through which

[22] The term "supervisor and its staff" is to be understood as covering the head of the authority, the governing body, employees and any professional service providers who carry out tasks for the supervisory authority. As the protection is provided in respect of actions taken and/or omissions made while discharging duties in good faith, it is not removed when the term of appointment, engagement or employment is ended.

	political influence is discharged is another significant factor. Both these aspects are visible for FINMA (in addition to mandate concerns discussed in CP1). In principle FINMA can write its own budget. In practice it is understaffed and lacks the personnel to carry out it lacks the personnel to execute the range of analytical and on-site activities that are appropriate to the diversity of the Swiss banking sector and that it wishes to. There has been a valuable increase in thematic and horizontal work and the attention paid to category 1 and 2 banks is notably more intensive than other categories. Constraint on resource, however, is leading to very light engagement with category 3 banks and even more so for banks in category 4-5 banks which is undesirable from a supervisory perspective. Even for category 2 banks FINMA does not have sufficient resources to bring all of its supervision "in house" and not rely heavily on the regulatory auditor process, where the output has been of mixed quality. Nowhere is the potential regulatory and supervisory risk to FINMA more evident than in the field of cyber risk - cybersecurity in the financial sector is only as strong as its weakest link and focusing mostly on category 1 and 2 institutions may not serve the cause of securing the financial sector fully – but there are no risks that are unaffected, as this report notes. The mission warmly welcomes the visible increase in on-site engagement that FINMA has achieved in recent years but not only does the rate of increase need to be sustained, it needs to increase. In this context the assessors are concerned that the training budget per capita has not increased since the 2014 budget. The arguments presented by the budget and HR staff to explain why no increase had been necessary, much of which rested on lack of staff appetite, were not persuasive to the assessors. Supervisory skillsets are specialized and are growing in scale, scope, and complexity. Supervisors need time to be trained and develop competence. It appears highly possible that FINMA is at risk of underestimating its own development needs. It is also possible that the training budget has been frozen as a de facto cost freeze to permit more flexibility in other areas. Nevertheless, the assessors recognize that even with no theoretical growth constraints, FINMA will need to be judicious in order to absorb and train new entrants effectively. All the same, the ultimate objective is clear: it is essential for FINMA to drive up its contacts with firms and increase its on-site engagements and depth of its analysis. As more than one staff member commented, "it is the only way we can understand what is going on in the firm and get under its skin." *Regulation* FINMA and the Swiss authorities must be significantly applauded for maintaining momentum in the implementation of the final aspects of the Basel Framework – the "Basel 3 Endgame." In terms of developing and supporting regulatory changes, the assessors also recognize that FINMA has aimed to be active. The consultative processes are lengthy, as is typical under better regulation practices, but supervisory practices are being written up into circulars to ensure that firms have greater regulatory certainty in their understanding of FINMA's expectations. This is a highly positive step and fills gaps in the "supervisory library." *Governance and Conflict of Interest* FINMA has acted successfully to resolve the recommendations regarding its internal governance as set out in the 2014 BCP assessment. Notwithstanding the important changes

	made subsequent to the previous BCP assessment, there are a number of elements of FINMA's governance that warrant updating now in order to meet the BCP standard and current international good practice. Efforts to strengthen FINMA's governance structure should focus on the Board of Directors, which, arguably, represents the public interest and is a buffer against political influence. There are no requirements for the reasons behind a termination (meaning a dismissal or removal) of a member of the Board of Directors to be made public. It is a positive indication that reasons for voluntary departures/resignations have routinely been made public by FINMA, in keeping with good practice and despite there being no requirement to do so. The requirements that members of the Board must meet are expressed at a very high level and while acknowledging that any candidate is subject to rigorous screening processes (as discussed in more detail in EC2 and including checks conducted both by the Federal Department of Defense, Civil Protection and Sport (DDPS) and FINMA itself) which every board member must pass. It would be wise to provide greater public information on what constitutes a clear disqualification, for example any involvement with a failed financial institution. The conditions and guidelines for the DDPS's assessments are confidential, although there is high-level general information on its website, signaling that it reviews security and reputational risks, and confirming the legal basis for its checks. Broadening the publication of requirements a member of the Board must meet can be used to signal the high standards that apply to the office and thus support the integrity of the position and the transparency of expectations. Additionally, although it is expected that the power of the Chair of the Board of Directors to take a decision (Chair's resolution) in lieu of the Board of Directors would only be used in the most exceptional of circumstances, in the age of electronic communications this fall back power appears to be out of date and can be reviewed to better reflect the circumstances under which the power might be needed, such as widespread power outages or cyberattack. FINMA's Organizational Regulations were sharpened and published in 2019. The revision clarified under which circumstances the BoD can be involved in supervisory decisions on individual entities. However, standards of governance are not static as the bar rises over time and further refinement is now recommended, namely that cooling off periods for all members of the Board should be specified. At present only 6 months is specified for the Chair. It is noted that that under FINMASA (Art 9) the Chair may not hold any federal or cantonal office unless this is in the interest of the fulfilment of the tasks of FINMA. This restriction, avoiding potential political interference in the supervisory authority is wise and is replicated for the remainder of the Board via the "Conditions for Membership" which is a public document (approved and published in December 2013 by the Federal Council). It is not clear why this restriction is set out in legislation with respect to the Chair and in a Federal Council decision for the remaining members of the Board of Directors. The restriction should be articulated in the law for all and the adjustment included in the next revision of the law. It recommended, albeit as a low priority, that FINMASA and other relevant regulations be amended to address the issues in relation to governance and conflict of interest and, through codification, ensure continuation of good practices and continually evolving standards.

	Proportionality The Small Bank Regime appears to be a successful initiative. Banks participating in the regime that, during continued supervision, fail to meet the criteria, are addressed through intensive supervision. FINMA is planning to enhance its data-based supervisory approach towards these institutions, to simultaneously deepen its insight into the banks but keep the regulatory burden light. However, there is a current flaw in the Small Bank Regime in that the entry criteria are too heavily reliant on quantitative criteria. It is typical of small banks that they can have strong regulatory ratios, but equally display volatility. They can be weak in management, governance and controls and find it difficult to attract good quality personnel. Therefore, it is imperative that FINMA ensure that one of the entry criteria to the regime is that it considers the applicant institution to have sufficiently sound qualitative skills with respect to risk management, governance and controls and not rely only on data that can give a superficial comfort. Both the BCBS paper on High Level Considerations on Proportionality and IMF work drawing conclusions on successful application of proportionality and simplification of international standards have stressed the importance of supervisors having awareness of risk management and governance practices in the firms subject to the simpler standards. The IMF work, in addition to conservative quantitative thresholds identified the need for sound corporate governance and risk management and also a legal and operational framework for financial sector oversight to allow supervisors to take preventative measures at an early stage, even when no minimum regulatory threshold has yet been breached. The factors that the BCBS and the IMF's field work have identified are not in place and need to be. These gaps need to be remedied particularly as the liquidity threshold in particular is not abundantly conservative and banks are not required to have liquidity contingency plans in place, as part of the simpler regime.
Principle 3	**Cooperation and collaboration.** Laws, regulations or other arrangements provide a framework for cooperation and collaboration with relevant domestic authorities and foreign supervisors. These arrangements reflect the need to protect confidential information.[23]
Essential Criteria	
EC1	Arrangements, whether formal or informal, are in place for cooperation, including analysis and sharing of information and undertaking collaborative work, with all domestic authorities with responsibility for the safety and soundness of banks, other financial institutions and/or the stability of the financial system. There is evidence that these arrangements work in practice, where necessary.
Description and Findings re EC1	FINMA has the legal gateway to provide Swiss National Bank (SNB) with non-public information that it needs to fulfil its tasks (art 39 FINMASA). FINMA may also exchange non-public information on certain financial market participants with the Federal Department of Finance (FDF) where this helps maintain the stability of the financial system (art. 39 para. 2 FINMASA).

[23] Principle 3 is developed further in Principle 12 [BCP40.27], Principle 13 [BCP40.30] and Principle 29 [BCP40.66].

	There is a tripartite Memorandum of Understanding (MoU) creating a formal arrangement between FINMA, the FDF and the SNB to organize the exchange of information and cooperation. In addition, an MoU between FINMA and the SNB is in place which provides for an exchange of views in the areas of (1) assessment of the soundness of systemically important banks and/or the banking system; (2) regulations that have a major impact on the soundness of banks, including liquidity, capital adequacy and risk distribution provisions, where they are of relevance for financial stability; and (3) contingency planning and crisis management. Furthermore, FINMA shares relevant confidential information and cooperates with federal and cantonal prosecution authorities, as well as the other domestic regulators, such as the Federal Audit Oversight Authority, the Swiss National Bank, the Takeover Board, the Self-Regulatory Organizations (SROs) under information gateways of the Anti-Money Laundering Act (AMLA), and with the relevant bodies of the Swiss stock exchanges and the Competition Commission based on Swiss law.
EC2	Arrangements, whether formal or informal, are in place for the supervisor to coordinate, within its mandate, with relevant authorities with responsibility for macroprudential policy when undertaking actions related to monitoring, identifying and addressing systemic risks that have the potential to affect the stability of the banking system.
Description and Findings re EC2	The bilateral MoU between FINMA and the SNB noted in EC1 supports coordination on macroprudential policy and actions. Under the MoU, the two authorities have established at least biannual meetings of a Steering Committee and an at least quarterly meeting of a Standing Committee on Financial Stability. As also noted in EC1, FINMA, the SNB and the FDF have a trilateral MoU, dating from 2011 governing cooperation and collaboration between the three authorities, and covering the exchange of information on financial stability and financial market regulation issues, as well as collaboration in the event of a crisis. The tripartite committee meets at least biannually and assesses the situation in the financial markets.
EC3	Arrangements, whether formal or informal, are in place for cooperation, including analysis and sharing of information and undertaking collaborative work, with relevant foreign supervisors of banks. There is evidence that these arrangements work in practice, where necessary.
Description and Findings re EC3	FINMA has concluded a number of MoUs to support arrangements on cooperation and information exchange with foreign supervisory authorities, in particular where cross border activity of supervised institutions warrants it. At the time of the FSAP, FINMA had concluded 47 such MoUs in the banking sector and also maintains a webpage to disclose which authorities, and for which financial sectors, it has these agreements. These MoUs specify, amongst other things, cooperation and modalities on information exchange and on-site inspection and are supported by the legal framework (Arts. 42, 42a, 42b, 42c and 43 FINMASA). FINMA also participates in Supervisory Colleges for cross-border institutions and is the host supervisor for UBS AG. In this role, FINMA hosts an annual meeting with all foreign supervisory authorities which are of importance for the respective banking group (general colleges). Additionally, more focused core colleges with the key US and UK regulators take

	place semi-annually, meeting with senior management and aligning supervisory priorities., FINMA conducts joint on-site inspections with core college authorities. Press releases and reports concerning the handling of the Greensill and Archegos cases as well as Credit Suisse provide corroboration of good supervisory cooperation under crisis conditions.
EC4	The supervisor may provide confidential information to another domestic authority or foreign supervisor but must take reasonable steps to determine that any confidential information so released will be used only for bank-specific or system-wide supervisory purposes and will be treated as confidential by the receiving party.
Description and Findings re EC4	*Domestic Authorities* FINMA has the legal authority to share confidential information with and transmit documents to domestic authorities, if they require the information to fulfill their duties. (Article 38 ff. FINMASA, Article 22 AOA, Article 29 AMLA, Article 10 CartA.) Swiss legislation provides for professional secrecy obligations, breach of which is subject to criminal law prosecution. Relevant stipulations are Article 47 Banking Act, Article 147 FinMia, Article 69 FinIA and Article 320 Criminal Code. *Foreign authorities* Article 42 para. 2 let. b FINMASA expressly requires, in the scope of international administrative assistance, that in order to share non-public information with another competent authority, the latter must be subject to official or professional secrecy. FINMA insists on a declaration as an integral part of the request for administrative assistance with regard to compliance with the rules of confidentiality (principle of confidentiality). Furthermore, FINMA demands that the requesting authority assures that the transmitted information and documents are used exclusively to implement financial market law or be forwarded to other competent authorities, courts or bodies for these purposes (Art. 42 para. 2 let. a FINMASA; principle of specialty). FINMA is not required to have an agreement in place prior to exchanging information (Article 42 et seq. FINMASA). If the cooperation involves the exchange of confidential data, FINMA generally requires, as noted above, a declaration from the requesting supervisory authority stipulating that the information will exclusively be used to implement financial market law and that the supervisory authority is bound by official or professional confidentiality provisions. In general, the foreign supervisory authority may forward the information to other authorities, courts or bodies for the purposes of the implementation of financial market law (Article 42 para. 2 let. a FINMASA). Only if the foreign supervisory authority is a Non-IOSCO(E)MMoU signatory or if the information is supposed to be forwarded for other purposes than the implementation of financial market law (for example, to prosecution authorities), will FINMA require that the foreign supervisory authority asks for FINMA's prior consent before the information is passed on the other authorities, courts or bodies in or outside its jurisdiction.

	FINMA's experience to date has been that foreign counterparts respect the principle of confidentiality and the principle of specialty in the scope of international administrative assistance.
EC5	The supervisor receiving confidential information from other supervisors uses the confidential information for bank-specific or system-wide supervisory purposes only. The supervisor does not disclose to third parties confidential information received without the permission of the supervisor providing the information and is able to deny any demand (other than a court order or mandate from a legislative body) to disclose confidential information in its possession. If the supervisor is legally compelled to disclose confidential information it has received from another supervisor, it promptly notifies the originating supervisor, indicating what information it is compelled to release and the circumstances surrounding the release. Where consent to passing on confidential information is not given, the supervisor uses all reasonable means to resist such a demand or protect the confidentiality of the information.
Description and Findings re EC5	FINMA treats information from other supervisors as confidential and uses the information only for the implementation of financial market law. In terms of receiving confidential information, both the FINMA Board of Directors and FINMA employees are bound by official secrecy under Article 14 FINMASA, the FINMA Employees Act (SR 956.121) and the FINMA Code of Conduct. This duty applies not only with regard to third parties but also towards other offices of the federal or cantonal administration. In addition, FINMA must comply with the Data Protection Act (SR 235.1) that imposes restrictions on the processing of personal data. A violation of official secrecy may lead to administrative disciplinary measures and a prison sentence or a fine under Article 320 of the Criminal Act (SR 311). As a result, FINMA may in principle neither disclose confidential information nor transfer such information to third parties. However, FINMA has the competence to decide whether to waive official secrecy (decision of the Swiss Supreme Court, BGE 123 IV 157, E. 1b). Should FINMA be legally compelled to disclose confidential information it has received from another supervisor, FINMA promptly notifies the originating supervisor, indicating what information it is compelled to release and the circumstances surrounding the release. Where consent to passing on confidential information is not given, FINMA uses all reasonable means to resist such a demand. Under Article 40 FINMASA, FINMA may refuse to disclose information that is not publicly accessible or to hand over files to prosecution authorities and other domestic authorities where (a) the information and the files solely serve the purpose of forming internal opinions; (b) their disclosure or handover would prejudice ongoing proceedings or the fulfillment of its supervisory activity; or (c) it is not compatible with the aims of financial market supervision, or with its purpose. FINMA has an obligation to cooperate with the criminal authorities. These obligations necessarily mean that the hurdle to apply Article FINMASA is high. FINMA asks for consent from the foreign authorities but without clear grounds, does not have the ability to refuse to comply with disclosure requests from the criminal authorities.
EC6	Processes are in place for the supervisor to support resolution authorities (e.g. central banks and finance ministries as appropriate) undertaking recovery and resolution planning and actions.

Description and Findings re EC6	FINMA acts as both supervisor and resolution authority. Cooperation between FINMA, the SNB and FDF where needed is set out in the framework of a Memorandum of Understanding most recently updated in 2019. The MoU details the architecture to deal with crises that threaten the stability of the Swiss financial system, including the Steering Committee and the Committee on Financial Crisis. The Steering Committee (SC) is responsible for strategic coordination of crisis management organization and for any intervention. It is chaired by the Head of the FDF and meetings are held whenever necessary. The Committee on Financial Crises (CFC) is responsible for coordinating preparatory efforts and for crisis management and for commissioning preparatory work for decision-making in crisis situations. It is chaired by the Director FINMA and meets once or twice a year in non-crisis times and whenever necessary during a crisis. In terms of cooperation with foreign authorities Article 37f Banking Act provides a general legal framework for coordination between FINMA and foreign authorities in case of foreclosure proceedings against a bank with cross-border activities. This article aims to prevent creditors from taking advantage of poor coordination in order to obtain overcompensation for their losses.
Assessment of Principle 3	C
Comments	The frameworks for cooperation and coordination are in place. FINMA has actively participated in both multilateral and bilateral configurations. The effectiveness of the arrangements was clearly proven in the March turmoil of 2023.
Principle 4	**Permissible activities**. The permissible activities of institutions that are licensed and subject to supervision as banks are clearly defined, and the use of the word "bank" in names is controlled.
Essential Criteria	
EC1	The term "bank" is clearly defined in laws or regulations.
Description and Findings re EC1	The definition of a bank is set out in Article 1a of the Federal Act of 18 November 1934 on Banks and Savings Banks (BA) which defines banks as institutions primarily active in the financial sector that: a) accept deposits from the public of more than CHF 100 million on a professional basis or publicly advertises as doing so; b) accept deposits from the public up to CHF 100 million or crypto-based assets designated by the Federal Council on a professional basis or publicly advertises as doing so, and invest or pay interest on these public deposits or assets; or c) refinance themselves to a significant extent with several banks that do not hold a significant interest in it, in order to finance in any way for their own account an unspecified number of persons or companies with which it does not form an economic unit. For more detailed information and exceptions, see Article 5 of the Federal Ordinance of 17 May 1972 on Banks and Savings Banks (BO) and FINMA Circular 08/3, "Public deposits at non-banks" elaborate on funds that are not to be considered public deposits.

EC2	The permissible activities of institutions that are licensed and subject to supervision as banks are clearly defined either by supervisors, or in laws or regulations.
Description and Findings re EC2	The Swiss banking system is based on the universal banking model. Therefore, banking authorization permits a range of potential financial services such as deposit, credit, asset management, trading, etc. Non-banking activities are permitted so long as the balance of business and the main character of the bank as an institution is predominantly financial. At licensing the bank must describe precisely its field of business operations with regard to its objectives and geographic terms, in by-laws and business rules (Art. 9 BO). The bank's articles of incorporation, by-laws and internal regulation are subject to FINMA's formal approval (Art. 3 para. 3 BA). The bank will have to continue to meet these objectives and internal regulations as part of the conditions of its ongoing authorization. Also, as a part of supervisory practice, FINMA needs to confirm that the scope of the bank's operations corresponds with its financial capacities, personal resources and administrative organization.
EC3	The use of the word "bank" and any derivations, such as "banking", in a name, including domain names, is limited to licensed and supervised institutions in all circumstances where the general public might otherwise be misled.
Description and Findings re EC3	The term "bank" or "banker" either alone or in combination with other words, may only be used in the company name, designation of the business purpose or advertising, in the case of institutions which have obtained a license from FINMA (Art. 1 para. 4 BA). The term "savings" is similarly protected. A fine of up to half a million CHF can be imposed on anyone who uses these terms improperly or who fails to provide information to FINMA as requested (Art. 1 para. 4 BA). However, the fines are not levied by FINMA itself, but the department of Finance, although FINMA files the criminal complaint. The use of the term 'bank' by non-banks is only permitted if there is no risk of the public being misled. As a result, this is only the case if it is clear from the company name that no bank in the sense of financial market law is meant (e.g., 'sperm bank').
EC4	The taking of deposits from the public is reserved for institutions that are licensed and subject to supervision as banks.[24]
Description and Findings re EC4	In principle, only licensed banks are permitted to solicit deposits from the public on a commercial basis although the Federal Council may permit exceptions provided that depositor protection is in place (Art. 1 para 2 BA). This prohibition extends to all entities except corporations and institutions that established under public law as well as funds, for which such a corporation or institution is fully liable, and persons pursuant to Art. 1b BA. These entities, including persons pursuant to Art. 1b BA, are not deemed to be banks, even if they accept deposits from the public on a commercial basis (Art. 3 BO). Such institutions, with full state liability, are regulated and supervised based on individual regulations of public law. They are considered to be as stable as common banks licensed by FINMA. The authorities explained that municipalities, cities and cantons came under this

[24] The Committee recognizes the existence of non-bank financial institutions that take deposits but may be regulated differently from banks. These institutions should be subject to a form of regulation commensurate to the type and size of their business and, collectively, should not hold a significant proportion of deposits in the financial system.

	category. Were such bodies to issue stable coins, this would represent deposit taking and would normally require a license but this exemption would permit these bodies to issue. In the past the cantonal banks had benefited from this exemption and had been subject to cantonal supervision before they had been brought under federal supervision. Persons pursuant to art. 1b BA are allowed to accept public deposits of up to CHF 100 million, provided that these funds are not invested, e.g., not lent out, and no interest is paid on them (cf. art. 1b para. 1 lit. b BA). As a general rule, the banking provisions also apply mutatis mutandis for the persons pursuant to Art. 1b BA (cf. art. 1b para. 1 BA), but with certain exceptions (cf. art. 1b para. 4 BA) due to the lower risks, as the deposits may not be invested and no interest is paid on them, meaning that certain bank-like risks such as liquidity and interest rate risks do not exist. Since the so-called Fintech license came into force on 1 January 2019, persons pursuant to art. 1b BA are also permitted to accept public deposits. In contrast to a bank, however, there are restrictions. The Fintech license only permits institutions to accept public deposits up to CHF 100 million, and on the condition, as noted above, that these funds are not invested and no interest is paid on them (cf. art. 1b para. 1 BA). In practice, the so-called Fintech license is a license for payment service providers. As a general rule, the banking provisions also apply mutatis mutandis for persons with a Fintech license (cf. art. 1b para.1 BA), but with certain exceptions (cf. art. 1b para 4 BA). One of these exceptions is that the deposits are not covered by the deposit insurance regime (cf. art. 1b para 4 let. d BA). Furthermore, there is no possibility of segregation for fiat deposits in the case of bankruptcy. FINMA formally highlighted this lack of protection for client assets in the event of bankruptcy as a major disadvantage of the current regulation for persons pursuant to art. 1b BA when submitting their report to the Federal Council on amendments to the Banking Act in 2018 (cf., Evaluation Report, chapter 3.3). Currently, there is a regulatory project underway, which aims to implement among other things, a segregation solution for payment service providers (now person pursuant to Art. 1b BA) to protect customers in the event of bankruptcy (cf. Evaluation Report, chapter 4). Consultation with industry is currently underway and the expected timeline for legislation to be final is 2026/27. In the interim, customers must receive a clear and separate notification that their deposits are not subject to the same protections as banking deposits, though FINMA indicated that while they considered this to be better than providing the explanation as a part of the terms and conditions of the account, they thought it represented a low level of warning that could easily be misunderstood or overlooked. The entities holding these licenses are not permitted to carry out any investments – and have limited options for placing funds – public deposits have to be held at the SNB, other banks or in HQLA (cf. Art. 14f para. 2 lit. b Banking Ordinance). The original concept of the license was somewhat, though not perfectly, analogous to e-money licenses in the EU. E-money institutions, though, are subject to certain segregation of assets requirements. To date the Swiss license has only been used by payment service providers who may not use the word "bank" in their name. Even terms such as "banking as a service" are actively discouraged as such names would fall under the legal prohibition.

EC5	The supervisor or licensing authority publishes or otherwise makes available a current list of licensed banks, including branches of foreign banks, operating within its jurisdiction in a way that is easily accessible to the public.
Description and Findings re EC5	FINMA publishes and maintains lists of currently authorized banks and branches of foreign banks on its website in four different languages (German, French, Italian and English).
Assessment of Principle 4	LC
Comments	The term "bank" is clearly protected, as are similar terms such as "banking as a service." The Fintech license permits deposit taking by non-banks and these deposits are neither covered by deposit protection nor segregated in case of bankruptcy as FINMA has stressed to the legislative authorities. While client asset protection will be remedied this is not expected for several years. It is recommended that the legal power to segregate fiat deposits in bankruptcy is accelerated not least in the interests of Switzerland's reputation as a safe jurisdiction to carry out transactions.
Principle 5	**Licensing criteria.**[25] The licensing authority has the power to set criteria for licensing banks and to reject applications where the criteria are not met. At a minimum, the licensing process consists of an assessment of the ownership structure and governance (including the fitness and propriety of board members and senior management) of the bank and its wider group, its strategic and operating plan, internal controls, risk management and projected financial condition (including capital base). Where the proposed owner or parent organization is a foreign bank, the prior consent of its home supervisor is obtained.
Essential Criteria	
EC1	The law identifies the authority responsible for granting and withdrawing a banking license. The licensing authority could be the banking supervisor or another competent authority. If the licensing authority and the supervisor are not the same, the supervisor has the right to have its views on each application considered and its concerns addressed. In addition, the licensing authority provides the supervisor with any information that may be material to the supervision of the licensed bank. The supervisor imposes prudential conditions or limitations on the newly licensed bank, where appropriate.
Description and Findings re EC1	The Banking Act (Art 3, para 1) establishes FINMA as the bank licensing authority. Within FINMA licensing and supervision are separate organizational functions. The licensing and supervisory sections work closely together. When issuing licenses and changing licensing requirements, opinions are exchanged that take the views of ongoing supervision into consideration. If there are differences of opinion, the heads of division head are always involved. New licenses normally contain conditions and requirements that must be considered when setting up a company. Initially, the business activities that the bank is allowed to conduct are limited at statutory and regulatory level. The statutory level is represented in the bank's articles of association where the principles for general assembly, board of directors, etc. are set out. The business regulations then set out the functions of the bank in concrete terms – the rules and responsibilities of the board, the delegation of duties to the executive

[25] Reference documents: BCBS, Corporate governance principles for banks, July 2015; BCBS, Shell banks and booking offices, January 2003.

	management. Both levels – the articles and regulations – are subject to FINMA approval, even though the license is universal in the sense that, in principle it is a gateway to a wide suite of activities. In practice, therefore, FINMA can ease a new entrant into the banking market cautiously. It is unlikely that FINMA will approve business regulations that permit all possible types of activities from the outset. As and when the bank has demonstrated its capabilities it can approach FINMA to authorize an approval to amend the business regulations to add to its business services. The bank's activities are then rolled-out in a controlled manner, taking into account financial, personnel and organizational resources. A number of interim audits are conducted during the first two years. Depending on the specific circumstances, it is also possible to define areas to be audited that require special attention when the bank is being set up. This approach allows FINMA to "accompany the newly born bank through its milestones" with success unlocking new activities, if so wished. The authorities indicated that the new crypto banks were a good example of institutions where FINMA had been keen to keep a close grip on the development in the early stages. Even despite the pandemic, interest in entering the market has persisted with 27 formal or preliminary applications having been submitted in the previous five years. Nearly half of these applications were not considered strong enough to proceed and the great majority of the successful applicants were domestic.
EC2	Laws or regulations give the licensing authority the power to set criteria for licensing banks. If the criteria are not fulfilled or if the information provided is inadequate, the licensing authority has the power to reject an application. If the licensing authority or supervisor determines that the license was based on false information, the license can be revoked.
Description and Findings re EC2	The licensing requirements are set out in the Banking Act (Article 3 ff. BA) and the Banking Ordinance (Article 8 ff. BO). A new applicant can use templates that are available on FINMA's online survey and application platform ("EHP") for banks' initial applications. The information in the templates replaced guidelines for licensing in 2023. However, FINMA also operates a screening process for applicants to avoid the investment of time and resources in concepts that have no prospect of success. This feature of the Swiss licensing process initiates contact at an early stage in a project phase where FINMA requires a presentation of the project prior to the application. It is relatively light on documentation but sufficient to allow FINMA to screen the concept and identify potential red flags. If the licensing requirements cannot be met, or if incomplete information is submitted, or if FINMA is not persuaded about compliance with the licensing requirements or for some other reason, then the license is refused and the application is rejected. FINMA is authorized to issue decrees stating that a license has not been granted. Under administrative procedural law, appeals against these decrees can be brought before the Federal Administrative Court. Generally, however, an informal negative assessment of the application is sufficient to convince an applicant to withdraw his/her application or at least to make the necessary adjustments to remedy the potential red flags.

	Licenses issued on the basis of incorrect information can be revoked under the rules set out in general administrative procedural law. If there are few shortcomings and they can be remedied, less stringent measures may be taken.
EC3	The licensing authority determines that the proposed legal, managerial, operational and ownership structures of the bank and its wider group will not hinder effective: (a) supervision on both a solo and a consolidated basis; and (b) implementation of corrective measures in the future. Shell banks must not be licensed.
Description and Findings re EC3	Banks may choose their own legal form, but if an unusual format were adopted, FINMA would review its suitability. In practice all applications have been limited companies. Only structures which can be suitably supervised and in which supervisory requirements can be effectively implemented are permitted. Structures that impede supervision (e.g., complex participation structures that are not transparent) are not permitted. Such cases must be rendered more transparent or simplified. Otherwise, assurance of proper business conduct provided by shareholders cannot be unconditionally affirmed (Art. 3 para. 2 let. cbis BA) Senior management of a bank domiciled in Switzerland must be resident in the place where they manage and bear responsibility for the bank (Art. 3 para. 2 let. d BA). This requirement is intended to ensure that the main focus of the management functions is in Switzerland. This should also be the case for globally active companies where at least the majority of senior management, including those who assume the most important leadership responsibilities, is resident in the jurisdiction in which the bank is domiciled. The same applies at group level: if FINMA is responsible for supervising the group, effective group control must be anchored credibly in Switzerland. Business structures without substance (e.g., offshore / shell entities) are discouraged. There is no legal prohibition but FINMA discourages Swiss domiciled banks from establishing entities without physical presence abroad,. If a foreign bank operates from within Switzerland or does business only or primarily in or from Switzerland, its organization must comply with Swiss law and it is subject to the provisions for Swiss banks (Art. 1 para. 2 of the Federal Ordinance of 21 October 1996 of the Swiss Financial Market Supervisory Authority on Foreign Banks in Switzerland (FBO-FINMA)).
EC4	The licensing authority identifies and determines the suitability of the bank's major shareholders[26] (including the beneficial owners) and others that may exert significant influence. It also assesses the transparency of the ownership structure, the sources of initial capital and the ability of shareholders to provide additional financial support, where needed.
Description and Findings re EC4	The fit-and-proper test for qualified shareholders and other persons substantially influencing a bank is a licensing requirement with which banks must comply on an ongoing basis (see Art. 3 para. 2 let. cbis BA). Under Art. 3 para. 2 let. c and let. cbis BA, direct and indirect qualified shareholders, members board of directors and senior management are subject to fit-and-proper scrutiny. These

[26] This includes corporate owners of banks, for those countries which allow corporate ownership of banks.

	persons must, at a minimum, provide the information and documents required under Art. 8 para. 1 let. a BO: e.g., personal data, signed curriculum vitae, proof of good character, references, and extracts from the criminal record and the debt collection register, judicial or administrative proceedings if such are of commercial relevance or could adversely affect the requirement to provide assurance of proper business conduct, and qualified participations in other companies. The fit-and-proper requirement for qualified shareholders focuses primarily on reputational aspects. Qualified shareholders and banking institutions are under a legal duty to report relevant shareholdings and any changes to FINMA. To enforce the fit-and-proper standard, FINMA is authorized to impose sanctions that include the suspension of voting rights or revocation of the banking license. As discussed on a number of occasions with FINMA staff, however, the bar for revoking the recognition of the fit and proper standard is extremely high, with the burden of proof resting on FINMA. The fit-and-proper requirement also aims at establishing a clear and transparent participation structure up to the ultimate beneficial owner. In addition, significant shareholders are required to disclose the origin of their wealth and provide evidence of the capacity to inject further capital if necessary.
EC5	A minimum initial capital amount is stipulated for all banks.
Description and Findings re EC5	The BO (Art 15) states that the minimum capital is CHF 10 million for a new bank. It must be paid in full. Should the amount not be paid in cash (Art 15, para 2) the value of the assets contributed, and the amount of liabilities must be reviewed by an approved audit firm. FINMA may permit exceptions to the CHF 10mn capital when the bank is affiliated to a central organization (e.g., it is part of a cooperative system).
EC6	At authorization, the licensing authority evaluates the bank's proposed board members and senior management in terms of their expertise and integrity, availability and time commitment to assume the responsibility, and any potential for conflicts of interest (fit and proper test). The fit and proper criteria include: skills and experience in relevant financial operations commensurate with the intended activities of the bank; and no record of criminal activities or adverse regulatory judgments that make a person unfit to hold important positions in a bank.[27] The licensing authority determines whether the bank's board has collective sound knowledge of the material activities the bank intends to pursue, and the associated risks. The supervisor reassesses the suitability of board members in case of significant events (e.g., change of control or major acquisition) or upon receipt of information that impacts their fitness and propriety.
Description and Findings re EC6	FINMA evaluates the bank's proposed Board members and senior management with respect to expertise and integrity (fit-and-proper test), availability and time commitment as well as any potential for conflicts of interest. The minimum documentation to be submitted to FINMA for this purpose is defined in the guidelines "Organmutationen" (see: FINMA-website). The fit-and-proper criteria include: (i) skills and experience in relevant financial operations commensurate with the intended activities of the bank; and (ii) no record of

[27] Refer to Principle 14 [BCP40.33].

	criminal activities or adverse regulatory judgments that make a person unfit to uphold important positions in a bank. The licensing authority determines whether the bank's Board has collective sound knowledge of the material activities the bank intends to pursue, and the associated risks. As noted above in EC4, FINMA differentiates between the skillset needed for Board and executive management. In discussion FINMA noted that the review of fit and proper standards began with the review of documentation – including C.V., declarations, references. FINMA would then hold in person meetings. The objective was to get an idea of the corporate culture that would be established and FINMA did not assess the individuals solely on a one by one basis, but aims to generate insight into how the board and management will work as a totality. All functions need to be represented, but not all individual need to have banking experience to be able to contribute effectively. It was observed in discussion with FINMA staff that regardless of track record and interview practices (both group and individual), it can be very hard to predict how individuals will perform when in post. With respect to applications that have been made more recently FINMA noted that business and technical skills tended to be very strong. Some very impressive entrepreneurial skills were available. Risk control was, broadly, more weakly represented. If risk and compliance report to the same individual, FINMA is keen to see strong profiles lower down the org-chart that are dedicated separately risk and compliance. Systemic banks are required to have the chief risk officer on the executive board, though this is not compulsory for other categories of banks. Once authorization is granted, an audit firm takes on the audit mandate of the bank – so that is once the bank has started operation. But there can be conditions for the license and any auditor for that must be different from the ongoing auditor. And there has to be an audit report as part of the application. The website application includes details of what this report must contain. Any irregularities must be reported to the licensing authority ad hoc or in the annual audit report. Furthermore, FINMA reassesses the composition of the governing bodies when changes take place or in the case of significant events (such as change of control or significant adjustments to the business focus).
EC7	The licensing authority reviews the proposed strategic and operating plans of the bank. This includes determining that an appropriate system of corporate governance, risk management and internal controls, including those related to the detection and prevention of criminal activities[28] as well as the oversight of proposed outsourced functions, will be in place. The operational structure is required to reflect the scope and degree of sophistication of the proposed activities of the bank.
Description and Findings re EC7	FINMA sees the proposed business strategy and business plan as the key elements when examining license applications and setting organizational regulations specific to the bank. The bank's operational structures are expected to be balanced in proportion with the planned business activities. FINMA analyzes the following aspects in detail:

[28] Refer to Principle 29 [BCP40.66].

	• Management structure with two management levels – board and executive management - (Art. 3 para. 2 let. a BA, Art. 11 BO, FINMA Circular 2017/1 Corporate governance - banks); • Organization, particularly regarding separation of functions, an effective internal control system, including risk management and compliance (Art. 3 para. 2 let. a BA; Art. 12 BO, FINMA Circular 2017/1 Corporate governance – banks); • Measures to comply with due diligence obligations and combating money laundering and terrorist financing (Anti-Money Laundering Act, AMLA), AMLO-FINMA, Agreement on the Swiss banks' Code of Conduct with regard to the exercise of due diligence (CDB 20); • Compliance with business conduct rules in four key areas (Fact Sheet 1 July 2018 Supervision of business conduct): AML requirements (see above bullet point), suitability, market integrity (FINMA Circular 2013/8 Market conduct rules) and cross-border; • Compliance with provisions on outsourcing (FINMA Circular 18/3, Outsourcing - banks and insurers); • Managing operational risks and operational resilience (FINMA Circular 2023/1 Operational risks and resilience – banks).
EC8	The licensing authority reviews pro forma financial statements and projections of the proposed bank. This includes an assessment of the adequacy of the financial strength to support the proposed strategic plan as well as financial information on the principal shareholders of the bank.
Description and Findings re EC8	An applicant bank must submit not only a sound business plan, but also a budget for the first three business years (including balance sheet, income statements and capital planning). The external auditor must examine the prospective financial information closely and judge its plausibility. The application will be rejected if the business plan is too vague or there is any doubt about how it can be realized, or if a higher capital cushion is required. The principal shareholder must be able to prove to FINMA that, if necessary, they are capable financially of supplying the bank with more fresh capital and that they can answer for the sustainable development of the company. Determination is made on a case by case basis but would include such confirmation as tax statements and certificates and questions on source of funds. Standard background checks look for history of insolvency, outstanding claims, data on proceedings etc.
EC9	In the case of foreign banks establishing a branch or subsidiary, before issuing a license, the host supervisor establishes that no objection (or a statement of no objection) from the home supervisor has been received. For cross-border banking operations in its country, the host supervisor determines whether the home supervisor practices global consolidated supervision and uses this information to inform its approach to licensing and supervision.
Description and Findings re EC9	FINMA asks the home regulator is asked for a statement of no objection in the case of foreign banks establishing a branch or subsidiary (for branches, see Art. 4 para. 1 let. c FBO-FINMA; for subsidiaries see Art. 3bis para. 1bis BA). In the case of branches or subsidiaries forming part of a foreign financial group, the lead home regulator is asked to provide a statement about adequate supervision at a

	consolidated level (for branches, see Art. 4 para. 2 FBO-FINMA; for subsidiaries, see Art. 3b BA).
EC10	The licensing authority or supervisor has policies and processes to monitor the progress of new entrants in meeting their business and strategic goals, and to determine that the supervisory requirements outlined in the license approval are being met.
Description and Findings re EC10	A newly authorized institution is subject to immediate, ongoing supervision. During the set-up phase, various interim audits are requested and special areas that need to be audited can be defined on a case-by-case basis. As indicated above, it is normal for a new license to be linked to a set of requirements and conditions to ensure that the bank can conduct its business in an orderly manner and that its organization functions well. Moreover, the scope of the bank's business activities during the initial set-up phase may be subject to limits or restrictions. Once financial and organizational resources are available, the areas in which the bank conducts business can be gradually extended, and controlled growth can be permitted.
EC11	The criteria for issuing licenses are consistent with those applied in ongoing supervision. The supervisor determines that banks continue to comply with the applicable criteria once they are licensed.
Description and Findings re EC11	Banks must comply with the relevant licensing requirements at all times as a going concern. The ongoing prudential and conduct-related supervision of continued compliance with the licensing requirements is part of the standard mandatory program. See also FINMA Circular 2013/3, Auditing.
Assessment of Principle 5	C
Comments	FINMA has maintained a watchful gatekeeper role on new entrants to the banking sector. Prospective applicants are given clear and early indications of whether they have a viable proposal and the staff member who works with them is likely to become the key account manager if the application is successful. In paying close attention to the development of the bank in its early stages, attaching conditions to the license and permitting additional activities only as and when the new bank has demonstrated its capabilities, FINMA is enhancing the likelihood of success for the new entrants and diminishing the potential for damage to depositors or the market. FINMA indicated that it is considering adding a further new condition for new applications – which is that a wind-down plan should be in place in the event that milestones cannot be met. The FSAP agrees with this eminently sensible and proactive measure that would facilitate an orderly exit for an institution that failed to meet its business objectives and encourages FINMA to act on the idea.

Principle 6	**Transfer of significant ownership.**[29] The supervisor[30] has the power to review, reject and impose prudential conditions on any proposals to transfer significant ownership or controlling interests held directly or indirectly in existing banks to other parties.
Essential Criteria	
EC1	Laws or regulations contain clear definitions of "significant ownership" and "controlling interest".
Description and Findings re EC1	The Banking Act, Art. 3 para. 2 let. cbis, sets a 10 percent threshold of capital or voting rights, whether direct or indirect, or having ability to influence the bank's business activities in a significant manner in any other way, as a qualified holding. The definition covers both natural persons and legal entities. Exercising influence in any other way or "by other means" is important in supervisory practice. Regardless of the thresholds, the supervisors have regard to elements including parties which have beneficial ownership or close ties and which can exercise their influence based on a mutual agreement such as a shareholders' agreement or mutual informal arrangements. Consideration is also given to particularly significant financial or personal dependency relationships such as additional top management positions, a high level of leverage or large-scale business dependencies. Business-related or capital-related dependencies such as third-party financing and service contracts will also be considered. Although controlling interest is not explicitly defined, the concept is referred to in the context of non-Swiss nationals or entities taking over or taking a qualified holdings in a Swiss entity. (Art. 3bis para. 3 BA). The requirements for consolidated supervision also include a similar definition (Art. 21 BO). Accordingly, a person or a company is considered to be controlling if directly or indirectly holding more than half of the voting or capital rights or in any other way exercising a controlling influence. Exercising controlling influence "in any other way" may include various additional elements which increase the influence as noted above. While no specific distinction is drawn between qualified holding and control (other than implied greater than 50 percent take-over) in the Banking Act, institutions are, however, subject to the Swiss Code of Obligations which sets out a definition of control in Article 963 para 2. Nevertheless, the authorities note that this concept is also used more generally when determining controlling interests. It may also be noted that there are reporting thresholds such that the acquisition or disposal of qualifying holdings that cross the thresholds of 20, 33 or 50 per cent of the capital or votes (Art 3 para 5 BA). In discussion FINMA explained that the high-level principle created discretion so that the burden was upon them to create cogent arguments in respect of what fell in/outside of

[29] Reference documents: BCBS, Parallel-owned banking structures, January 2003; BCBS, Shell banks and booking offices, January 2003.

[30] While the term "supervisor" is used throughout Principle 6, the Committee recognizes that in a few countries these issues might be addressed by a separate licensing authority.

	control. In fact, the concepts are not dissimilar from the close link concepts in the EU "BCCI" directive which aims to expose significant influence.
EC2	There are requirements to obtain supervisory approval or provide immediate notification with respect to proposed changes that would result in a change in ownership (including beneficial ownership), to the exercise of voting rights over a particular threshold or to a change in controlling interest.
Description and Findings re EC2	FINMA must be informed in advance about any changes in qualified participation, (Art. 3 paras. 5 and 6 BA and Art. 8a para. 1 BA). This reporting requirement is imposed on both buyers and sellers, as well as the bank (Art. 3 paras. 5 and 6 BA). The Ultimate beneficial owner (UBO) is regarded as an indirect qualified participation and is also subject to this reporting requirement. The transaction can only be carried out after FINMA has approved the change (see Art. 3 paras. 5 and 6 BA and Art. 8a para. 2 BO). A reporting requirement is also triggered whenever a qualified participation is increased or decreased, at the thresholds of 20 percent, 33 percent or 50 percent of the capital or the voting rights (Art. 3 paras. 5 and 6 BA). If a foreign-owned bank experiences a change in qualified participation or if a bank is taken into foreign ownership, it is necessary to apply for an additional license (Art. 3 paras. 5 and 6 and Art. 3ter BA).
EC3	The supervisor has the power to reject any proposal for a change in significant ownership (including beneficial ownership) or controlling interest, or prevent the exercise of voting rights in respect of such investments to ensure that any change in significant ownership meets criteria comparable with those used for licensing banks. If the supervisor determines that the change in significant ownership was based on false information, the supervisor has the power to reject, modify or reverse the change in significant ownership.
Description and Findings re EC3	FINMA is authorised to prohibit planned changes in participation about which it has received notification but which do not meet the requirements set out in supervisory law. In practice, formal notices of disapproval are not generally required as a written indication of inadequacies is sufficient for the applicant to withdraw on their own initiative. Licenses which have been issued on the basis of incorrect information can be revoked as also noted in CP5. Depending on the case, if there are only few shortcomings and they can be remedied, less stringent measures can be taken. In order to restore compliance with the lawful conditions, FINMA can take appropriate measures in cases where changes in participation have already been made (Art. 31 FINMASA). Licenses can be revoked in particularly serious cases (Art. 37 FINMASA); it is also possible to suspend shareholders' voting rights (see Art. 23 BA). Revocation and the other measures listed under this criterion are implemented through enforcement proceedings.
EC4	The supervisor obtains from banks, through periodic reporting or on-site examinations, the names and holdings of all significant shareholders or those that exert controlling influence, including the identities of beneficial owners of shares being held by nominees, custodians and through vehicles that might be used to disguise ownership.
Description and Findings re EC4	Banks are required to report all direct and indirect qualified participations as soon as they become aware of them and also annually within 60 days of the end of the financial year. The

	reporting and information requirements are set out in law (Art. 3 para. 6 BA; Art. 8a BO which requires information on nationality, place of residence, qualifying holdings in other companies and any pending judicial and administrative proceedings; a signed curriculum vitae; references, any relevant details on criminal or debt records in Switzerland or abroad; and 13 BO which requires that the list contains information on the identity and participation rate of all qualified participants on the closing date as well as any changes compared to the previous year; and the Declaration of the holders of qualified or principal participations).
EC5	The supervisor has the power to take appropriate action to modify, reverse or otherwise address a change of control that has taken place without the necessary notification to, or approval from, the supervisor.
Description and Findings re EC5	Please see EC3.
EC6	Laws, regulations or the supervisor require banks to notify the supervisor as soon as they become aware of any material information which may negatively affect the suitability of a major shareholder or a party that has a controlling interest.
Description and Findings re EC6	Yes. There is a clear reporting obligation under Art. 29 para. 2 FINMASA, for supervised banks to report immediately, without prompting, any incidents that are of relevance to supervision. This includes important information about qualified shareholders who negatively impact the bank's reputation or sound business activities.
Assessment of Principle 6	C
Comments	The Swiss approach to the definition of significance and control is high level. There is no clear distinction between a significant interest and a controlling interest in the Banking Act. There is, however, a clear threshold for a "qualified" holding, in the Banking Act and control is defined in the Code of Obligations so there is the necessary transparency for any potential investor, that it will need to be aware of specialist banking law and relevant supervisory authorities in taking the shareholding. FINMA takes ultimate beneficial ownership (UBO) and significant influence seriously and changes of control in a bank are the times when the institution can be at its most vulnerable to unwanted UBO or significant influence gaining a foothold. As discussed in CP5, FINMA suffers serious limitations with respect to enforcement powers, but in relation to change of control, it is able to use the Banking Act tests as gateway hurdles to protect the integrity of the banking system – e.g., qualified participants must be assessed as compliant with the fit-and-proper standards. In terms of ongoing supervision, the UBOs are regarded as indirect qualified participants and are also subject to the reporting requirements (see answer to EC2). Qualified shareholders are legally obliged to refrain from exerting any detrimental influence on the bank (Art. 3 para. 2 let. cbis BA)., which must be met at all times. Furthermore, financial soundness is an essential component of the shareholder guarantee. Of course, after the change of control has occurred, and ongoing supervision has begun FINMA's ability to act suffers from the weaknesses of enforcement that are discussed in CP5.

Principle 7	**Major acquisitions**. The supervisor has the power to: (i) approve or reject (or recommend to the responsible authority the approval or rejection of) and impose prudential conditions on major acquisitions or investments by a bank (including the establishment of cross-border operations), against prescribed criteria; and (ii) determine that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.
Essential Criteria	
EC1	Laws or regulations clearly define: (a) what types and amounts (absolute and/or in relation to a bank's capital) of acquisitions and investments need prior supervisory approval; and (b) cases for which notification after the acquisition or investment is sufficient. Such cases are primarily activities closely related to banking and where the investment is small relative to the bank's capital.
Description and Findings re EC1	There are three respects in which acquisitions and investments are governed by laws and regulations. *Location of Activity* Banks organized pursuant to Swiss law must notify FINMA in advance if they intend initiating activities in a foreign country either by establishing a physical presence abroad (in particular, subsidiaries, branch offices, representative offices and business offices) or by acquiring participating interests in foreign companies active in the financial sector. (Art 3 para. 7 BA) Financial groups subject to FINMA group supervision are to report the acquisition of participating interests by entities shown within the scope of consolidation (as discussed in CP6 EC4 and required by Art 3 para 6 BA). The reporting requirements provide FINMA with the opportunity to assess whether the expansion plans are well founded or not. Equally, FINMA can use this information to respond to any applications or inquiries made by the host supervisory authorities. Also, as discussed later in CP12/13 FINMA checks whether the potential host country has any laws or regulations that would prevent or prohibit adequate information flow and the application of effective consolidation. FINMA would consider the effectiveness of supervision in the host country. Taking all information into account, FINMA makes a determination on whether or not the planned developments can be approved. *Business Model* The business strategy and organization of a bank is defined in its strategy (business plan), its articles of incorporation and in its main organization and business rules. Significant acquisitions and investments that may require these rules to be changed (in particular the articles of incorporation and organization and business rules including specific delegations of competences) are subject to FINMA's approval, as also discussed in CP5. Such changes may not be entered in the Commercial Registry unless they have been approved by FINMA (Art. 3 para. 2 let. a; Art. 3 para. 3 BA). A major acquisition would affect the strategy, organization, and business rules and therefore is subject to FINMA approval. Furthermore, since 2019, "If the changes are of material importance, the authorization of FINMA must be obtained in advance in order to continue the activity" (Art 8 para 2, BO).

	Limits Investments in any company by a bank or by a company belonging to the same group may not exceed 15 percent of the net own funds of the bank or of the consolidated group to which the bank belongs. Additionally, the total of financial fixed assets of a non-affiliated company acquired for the purpose of investment may not exceed 60 percent of the net own funds of the bank or the consolidated group. (Art. 4 para. 4 BA); The Capital Adequacy Ordinance (CAO) provides exceptions to these limits, if such investments are acquired for restructuring purposes, or for a standard underwriting period, or the difference between the carrying value of these investments and the limits applicable is fully covered by eligible capital (Art.13 of the CAO). In addition, the BA prescribes that a bank's loans to any single customer, as well as participation in any single company, must bear an appropriate relationship to the bank's eligible capital (Art. 4bis BA). (b) See answer (a) above.
EC2	Laws or regulations provide criteria by which to judge individual bank proposals for acquisitions and investments.
Description and Findings re EC2	*Foreign Activities* The notification requirement is established in Art 3 para. 7 BA and key details of the notification requirements that must be provided are found in Art 20 BO. The foreign activity must not prevent the bank from maintaining all regulatory standards but no specific details are set out. *Business Model* The criteria of how a change of business strategy would be assessed where that strategy affected the articles of the bank (per Article 3 para. 2 let. a; Article 3 para. 3 BA) are not set out. However, Banks must meet the standards of their authorization conditions at all times and the regulatory standards set out by FINMA and be able to do so following the acquisition. In other words, the test is de facto that of the licensing criteria itself. A bank must have an organization appropriate to its business activity. *Limits* As noted in EC1 In addition, the Banking Act (BA) prescribes that a bank's loans to any single customer, as well as participation in any single company, must bear an appropriate relationship to the bank's eligible capital. (Art 4bis BA.) But there is no additional guidance.
EC3	The supervisor determines that any new acquisitions and investments will not expose the bank to undue risks or hinder effective supervision, and (where appropriate) that they will not hinder effective implementation of corrective measures in the future.[31] The supervisor can prohibit banks from making major acquisitions/investments (including the establishment of cross-border banking operations) in countries with laws or regulations prohibiting information flows deemed necessary for adequate consolidated supervision. In making this

[31] The supervisor may consider whether the acquisition or investment creates obstacles to the orderly resolution of the bank.

	assessment, the supervisor considers the effectiveness of supervision in the host country and its own ability to exercise supervision on a consolidated basis.
Description and Findings re EC3	Should a bank wish to make an acquisition in another Swiss bank, there will be a prior notification and the transaction cannot take place without FINMA approval. (See CP6) The requirement for FINMA to have regard to whether the bank continues to meet, or may be permitted to vary its business strategy (see CP7 EC1) means that any other major acquisition is also subject to supervisory scrutiny. As noted in EC1, FINMA has the ability to prevent a bank from making a major-acquisition, including establishment of cross-border banking operations if it does not consider that the acquisition is compatible with the articles of incorporation or organization and business of the bank and it does not approve the change. Nor will FINMA approve such changes if they are incompatible with effective consolidated supervision and will undertake checks to determine whether such supervision would be impeded as well as the supervision in the host jurisdiction. In particular, FINMA has regard to the requirement that the business area and its geographical extent of a bank must correspond to its financial resources and administrative organization (Art 9 para 2 BO) risk management function and recording (Art 12 para 2 BO). The assessors discussed a case where FINMA had blocked an acquisition on the grounds that governance and risk control needed to be remediated before growth could be considered.
EC4	The supervisor determines that the bank has, from the outset, adequate financial, managerial and organizational resources to manage the acquisition/investment.
Description and Findings re EC4	In terms of assessing the adequacy of the bank to manage a major acquisition or investment, FINMA has regard to the following regulations: *Resources* • That participation in any single company, must bear an appropriate relationship to the bank's eligible capital. (Art 4bis BA.) • Investments in any company by a bank or by a company belonging to the same group may not exceed 15 percent of the net own funds of the bank or of the consolidated group to which the bank belongs 4 para. 4. NB FINMA will also have regard to potential exemptions permitted under Art 13 CAO. • That the geographical extent of a bank must correspond to its financial resources and administrative organization (Art 9 para 2 BO) *Managerial and Organizational* • Strategy affected the articles of the bank (per Article 3 para. 2 let. a; Article 3 para. 3 BA) • Risk management function and recording (Art 12 para 2 BO) • Ability to meet the terms of consolidated supervision (Art 3d ff BA)
EC5	The supervisor is aware of the risks that non-banking activities can pose to a bank and has the means to take action to mitigate those risks. The supervisor considers the ability of the bank to manage these risks prior to permitting investment in non-banking activities.
Description and Findings re EC5	There are no specific requirements or powers related to non-banking activities. Nonetheless, a major acquisition would be likely to affect the business strategy of the bank and require assessment and approval by FINMA before it could move forward, under Art 3, para 3 BA. For its part, FINMA's assessment needs to provide assurance that the bank will be able to

	continue to meet the conditions of its authorization in future and must therefore consider the bank's ability in respect of the non-banking activities.
EC6	The supervisor reviews major acquisitions or investments by other entities in the banking group to determine that these do not expose the bank to any undue risks or hinder effective supervision. The supervisor also determines, where appropriate, that these new acquisitions and investments will not hinder effective implementation of corrective measures in the future. Where necessary, the supervisor is able to effectively address the risks to the bank arising from such acquisitions or investments.
Description and Findings re EC6	Banks are required to notify FINMA of any changes in circumstances on which the license is based (Art. 8a para. 1 BO). In addition, if the changes are of high importance, FINMA's approval must be obtained before continuing the activity (Art. 8a para. 2 BO). In this context, FINMA is able to address the risks to the bank and, if necessary, to require adjustments. FINMA noted that in the context of consolidated supervision, in extremis, ring fencing was an option that could be applied.
Assessment of Principle 7	C
Comments	The design of FINMA's powers allow it to scrutinize the suitability of major acquisitions and the ability of a bank to manage and absorb a significant change. The assessors saw evidence that FINMA had examined and questioned proposals brought to them, including requiring audit reports and investigations, before being willing to grant approval.
Principle 8	**Supervisory approach.**[32] An effective system of banking supervision requires the supervisor to develop and maintain a forward-looking assessment of the risk profile of individual banks, proportionate to their systemic importance; identify, assess and address risks emanating from banks and the banking system as a whole; have a framework in place for early intervention; and have plans in place, in partnership with other relevant authorities, to take action to resolve banks in an orderly manner if they become non-viable.
Essential Criteria	
EC1	The supervisor uses a consistent methodology and processes to determine and assess on an ongoing basis the nature, impact and scope of the risks which banks: (a) are exposed to; and (b) present to the safety and soundness of the banking system (including implications for and interlinkages with financial system stability). The methodology and processes address (among other things): banks' group structure (including risks posed by entities in the wider group); risks around banks' business models,

[32] Reference documents: BCBS, High-level considerations on proportionality, July 2022; BCBS, Principles for the effective management and supervision of climate-related financial risks, June 2022; BCBS, Frameworks for early supervisory intervention, March 2018; BCBS, Sound Practices: implications of fintech developments for banks and bank supervisors, February 2018; BCBS, Guidelines for identifying and dealing with weak banks, July 2015; [SRP10], [SRP20], [SCO50].

<table>
<tr><td></td><td>including business model sustainability;[33] banks' risk profile with a forward-looking view;[34] their internal control environment; and their resolvability. The methodology is intended to permit relevant comparisons between banks, and the nature, frequency and intensity of supervision reflect the outcome of this analysis.</td></tr>
<tr><td>Description and Findings re EC1</td><td>The risk-based approach for bank supervision was most recently revised and updated in 2019. FINMA notes that the concept of risk covers both the specific risk profile of the institution and the risk for the financial center / for FINMA in the event of a default.

Categorisation
As noted in CP2, FINMA categorises all banks according to their relative size into 5 groups as set out in the Banking Ordinance (Art 2 para 2 and Annex 3, see table below). The categorisation is based on total of the balance sheet; assets under management; privileged deposits; minimum own funds.

Criteria and thresholds in CHF billions
<table><tr><th>Category</th><th>Balance sheet total</th><th>Assets under management</th><th>Privileged Deposits</th><th>Minimum own funds</th></tr><tr><td>1</td><td>≥ 280</td><td>≥ 1625</td><td>≥ 32</td><td>≥ 20</td></tr><tr><td>2</td><td>≥ 115</td><td>≥ 815</td><td>≥ 21,5</td><td>≥ 2</td></tr><tr><td>3</td><td>≥ 17</td><td>≥ 32,5</td><td>≥ 0,53</td><td>≥ 0,25</td></tr><tr><td>4</td><td>≥ 1,125</td><td>≥ 3,25</td><td>≥ 0,105</td><td>≥ 0,05</td></tr><tr><td>5</td><td>< 1,125</td><td>< 3,25</td><td>< 0,105</td><td>< 0,05</td></tr><tr><td colspan="5">Banking Ordinance Annex 3</td></tr></table>
Following the turmoil of 2023, there is one bank in category 1, three in category 2, 29 in category 3 and the remaining banks are in categories 4 and 5.

Rating System
FINMA uses a rating system (FRB) and has done so for a number of years in order to assess risk profiles of banks and groups consistently over time. The most recent update enhanced the system's discriminatory power and allowed for more forward-looking evaluations of supervised entities. A further evolution to the rating system is currently being prepared and should be in use from 2025.

FINMA observed that under its current approach, supervisory priority and measures are driven by the final overall rating. Under the forthcoming approach, it will be possible to identify particular weaknesses or vulnerabilities in a bank and tailor the supervisory program towards addressing them in a timely manner. The new system will support a more risk focused, responsive supervisory approach. The assessors were able to review the risk drivers</td></tr>
</table>

[33] The ultimate responsibility for designing and implementing sustainable business strategies lies with a bank's board.

[34] The time horizon for establishing a forward-looking view should appropriately reflect climate-related financial risks and emerging risks as needed.

	in the factors populating the current rating system and also the architecture of the new system. For the time being the FRB is based on CAMELS as well as on audit findings. The quantitative data comes from regulatory reporting and is evaluated using multiple, in fact several hundred, key parameters and is also subject to peer group analysis. The FRB is recalibrated annually. The qualitative data is drawn from the annual audit report among other sources. The Risk to Future (R2F) rating is based on the annual risk analysis of the audit firms (net risks of individual audit fields) and any override by the supervisor or cross-sectional risk specialist. The analytical results of the cross-divisional functions (specialists in the areas of liquidity, capital, interest rate risks, conduct, etc.) flow directly into the rating calculation. All components are combined into an overall rating which becomes a significant driver in the supervisory action plan. The rating is based on a 1-9 scale, though banks are also color-coded green/amber/red. The final rating can be over-ridden by the KAM. If so the system will also flag that there has been an override. There are checks and balances to ensure that decisions are reviewed by management, (e.g., Governance Meeting – so called GovA). During the Governance Meeting, cases for up-or downgrading are discussed and challenged by senior management, which supports the appropriate and fair treatment of institutions. For example, whenever there is a rating downgrade (e.g., from 6 to 7), we are implementing a much more intensive supervision. A downgrade to rating 7 or below triggers intensive supervision (please see below). Ratings are updated automatically by the system on an ongoing basis whenever new regulatory figures or other input data become available: typically several times a month, though not all updates have a material impact on ratings. Should a change in data or rating trigger an alert the KAM receives a notification and there is a system to ensure that management can review whether alerts are being acted on in a timely manner. In addition, the FRB system provides an overview of the relevant key figures of supervised institutions and sub-ratings (e.g., conduct), as well as an alert system in case of violations of licensing and supervisory requirements (so-called Red Flag Alerts). The supervisor in charge of a bank can interrogate the system to a certain degree, and has access to data for the other banks in the system. The ability to create analyses or comparative reports is relatively limited but the data unit is highly responsive and will create bespoke reports on request. In addition, FINMA's data innovation lab is working on being able to add further enhancements and functionality to the supervisors' dashboard. (See also CP10) Further developments and enhancements are planned and will include broader data sets, integrating both external and internal data as well as making use of innovations such as machine learning and natural language processing. *Supervisory Intensity* Supervisory intensity is a product of the bank's category and its rating. The matrix is set out in FINMA's Standard Operating Procedures (SOPs) (Please see CPs 2 and 9). The Categorisation and rating also indicate the choice of supervisory instruments to be used and

	the level of interaction between FINMA and the assigned regulatory audit firms for individual institutions. All material supervisory instruments are documented on a standardized basis. SOPs are based on a methodology that requires key account managers (KAMs) to adapt the frequency and intensity of the supervision of banks depending on their classification (combination of rating and category of the bank). The SOPs act as binding minimum standards on the KAMs and the supervisory activities are tracked in the FINMA system. The assessors reviewed the SOPs for the different categories of banks. Minimum intensity is clearly differentiated dependent on categorisation and the assessors saw evidence that the standards were being met or exceeded for the higher categories. Intensive supervision applies to institutions rated 7 or lower. The supervised institution is handled within a case management approach. In the IT System (SIRIUS) a problem case/ case management is opened and an escalation checklist filled out (indicating the reasoning for problem case/ case management). This checklist gives guidance to the supervisor in charge and needs to be signed off by senior management. FINMA indicated that staff is trained on when and how problem cases /case management are used and dealt with. Monitoring covers the early identification of risks, changes to the risk profile, any refocusing activities or group structure, corporate governance, organization and internal control, or even crisis planning in some cases. Further expert teams are involved for the relevant risks to assure consistency in cross-institution analysis of the risk assessments. *Risk Barometer* Prioritisation within the supervisory methodology is informed by the "risk barometer" which is a risk identification exercise produced twice a year. It seeks to define a holistic forward-looking heat-map of the main risks that supervised entities need to manage over a three-year horizon. The barometer produces a Red/Amber/Green status for each risk. These risks may be either industry-wide (e.g., cyber risk) or business line (e.g., mortgage credit risk). Once the risk barometer is approved by FINMA's Executive Board, supervisory measures are designed to address the 'RED' and 'AMBER' risks and the supervisory measures themselves (e.g., on-site inspections) also need to be approved by the Executive Board. Once approved, the supervisory measures become priorities for the supervisory plans. E.g., as the Swiss real estate market or interest rate risk in the banking book are defined as principal risks, banks with significant business lines or sectorial exposures to these risks are captured in the on-site inspections performed by FINMA at selected supervised institutions. The risk barometer includes a forward-looking view and reflects e.g., climate-related financial risks and other emerging risks. For climate- and other nature-related financial risks, FINMA has been building out its supervisory approach in the past years, which is an ongoing process. A the time of the mission FINMA was in the process of finalising and communicating its supervisory expectations to banks and insurance companies as part of a regulatory project to publish a new FINMA Circular on "Nature-related financial risks" – the consultation has

	already closed.[35] The risk barometer also forms the basis for the risk monitor published annually by FINMA. *Small Bank Regime (see also CP2)* In 2019 FINMA reorganized its supervision of small banks and securities firms, with a further update in 2023. As at the end of 2023, 54 small banks and securities firms participated in the regime. FINMA designed the Small Bank Regime to achieve proportionality in the application of regulatory burden on suitably qualified small institutions.[36] For example, the planned Circular on climate risks will not apply to the small banks. However, the Small Banks are not exempt from Conduct Risk or AML/CFT discipline. The FINMA 2023 Annual Report announced a plan to perform more on-site inspections at small banks (cat. 4 and 5) starting in 2025, specifically on the topic "Combating Money Laundering/ Terrorism Financing and Sanctions", as proportionality within the supervision over small banks does not apply to conduct risks. Supervisory audits also continue to apply and FINMA has prescribed the minimum depth and frequency for every audit field. Two FINMA teams are responsible for supervisory oversight: One for the regular supervision of institutions without specific supervisory issues, while another team is responsible for "case management," meaning intensive supervision where regulatory issues have arisen or a significant increase in risks have been identified.
EC2	The supervisor, in conjunction with relevant authorities where appropriate, uses a process to assess and identify which banks are systemically important in a domestic context. Supervisors publicly disclose information that provides an outline of the process employed to assess and determine systemic importance. The supervisor conducts these assessments sufficiently regularly to ensure they reflect the current state of the domestic financial system.
Description and Findings re EC2	Under the provisions of Art 8 para 3 of the Banking Act, the SNB, after consulting with FINMA, is responsible for the designation of systemically important banks. A review of systemic designation is carried out each year and in addition any indication of a change in systemic importance would trigger a new assessment. In the Swiss banking system, though, as the SNB observed, there is a significant gap between the systemic banks and the other institutions, so the threshold is not finely balanced. The SNB's methodology follows the criteria outlined in the Banking Act closely, namely size, interconnectedness and substitutability. In particular, the Banking Act specifies the following four criteria: market share of system-relevant functions (these include the domestic deposit and credit business and payments), the amount of secured deposits, the ratio of a bank's total assets to Swiss GDP and a bank's risk profile. The SNB monitors developments in the banking sector, runs top-down stress tests which complement the bottom-up stress tests organized by FINMA and, due to the legal gateways for access to information is able to attend meetings both discussing bank data and with banks on occasion. The SNB has no supervisory responsibilities.

[35] The Circular on "Nature-related financial risks" was published in December 2024, after the mission.

[36] Criteria for the small bank regime: Institution must be a Category 4 or 5 bank or account-holding securities firm; Simplified leverage ratio of at least 8%; Average liquidity coverage ratio (LCR 12 months) of at least 110%; Refinancing rate of at least 100%; and No cross-border activities.

EC3	The supervisor assesses banks' compliance with prudential regulations and other legal requirements.
Description and Findings re EC3	FINMA is responsible for monitoring supervised firms' compliance with prudential regulations and other legal requirements. Assessors were able to review supervisory documentation. FINMA monitors compliance via a combination of its own on-site and off-site activities as well as through the regulatory audits. If considered necessary, FINMA can appoint mandated auditors and investigating agents. Only external audit firms which are recognized and supervised by the Federal Audit Oversight (FAO) authority can perform regulatory audits. The duties of the regulatory auditors are set out in the FINMA Audit Ordinance published by the Swiss government and in FINMA Circular 13/3 which was most recently updated in 2022. Every year the regulatory audit firms must submit a risk analysis and audit strategy (a 2-3 year cycle is possible for Small Banks, e.g., Cat. 4 and 5) before beginning their work. The audit depth and frequency is predefined for every audit field on the basis of the risk assessment. The regulatory auditors then provide FINMA with long form reports. FINMA also issues detailed audit programs to instruct the external auditors. The Circular establishes that test confirmations and summary information of the audit procedures must be carried out per audit area or field. Deficiencies must be categorized as notice of reservation or recommendation and rated high, medium or low. Guidance, at a relatively high level, is provided on how to rate the notice of recommendations. For the risk analysis for banks, the audit must assess both the inherent risk (impact vs probability of occurrence) and control risk audit comfort from past interventions or follow-up audits). There are 4 levels of inherent risk and also of net risk (where inherent risk is offset by controls), namely low, medium, high, and very high. There are specific audit requirements in place for the regulatory audit. International and national auditing standards for the financial audit are not applicable to the regulatory audit.. In the case of G-SIBs and D-SIBs, category 1 and 2 banks, FINMA prepares the audit strategy itself on an annual basis. Every audit produces a standardized audit report submitted to FINMA by the regulatory audit firm. Because of this system, contacts between supervisors and regulatory auditors are frequent and at their most intense while defining the audit strategy and after FINMA's examination of the reports (prudential and financial) delivered by the regulatory and the financial auditor. FINMA can assign special auditing tasks to the regular audit firm or directly mandate a third party (mandated auditors) to conduct an audit into a special topic or give a second opinion (Art. 24a FINMASA). FINMA has had the legal power to appoint a third party directly since 2019.
EC4	The supervisor considers the macroeconomic environment, climate-related financial risks and emerging risks in its risk assessment of banks. The supervisor also considers cross-sectoral developments, for example in non-bank financial institutions, through frequent contact with their regulators.

Description and Findings re EC4	FINMA has several methods to take the macro-economic environment (including climate-related financial risks and emerging risks) into account. First is the Risk barometer, also discussed in EC1. Prepared twice a year, the barometer is designed to track macroeconomic and regulatory risks and developments relevant for all supervised firms. Its output is used to identify key risks affecting the banking population and to identify specific supervisory tasks. Both the risk analysis and the impact analysis are then approved by FINMA's executive board shared with the board of directors. The public version of the risk barometer is the Risk Monitor and is published annually sharing an overview of what FINMA believes are the most important risks – including macroeconomic risks – currently facing supervised institutions and describes the focus of supervisory activity. This creates transparency both for supervised institutions and the wider public about how FINMA fulfils its statutory responsibilities. Second, FINMA prepares a semi-annual internal publication with more in-depth analyzes of the real estate market, given its particular risk relevance for supervised firms in Switzerland. Third, FINMA, in consultation with the SNB, develops macro-financial stress scenarios that are used for the supervisory stress-testing of the large banks (G-SIB and D-SIB). The results of stress testing are also shared and discussed with the supervision lines and are part of the capital adequacy assessment. Finally, FINMA regularly meets with the SNB on the Financial Stability Committee. Macro-economic developments are discussed in this forum to the extent that they have an impact on financial stability, e.g., developments and associated risks in the real estate market. FINMA also receives the top 10 risks picked up through the regulatory auditors' risk assessment. FINMA can, and does (the assessors saw evidence) adjust the risk ranking by the auditors to guide the regulatory audit work in the case of each bank. It is, however, unclear that FINMA is making the most of the information from this source (before any regulatory adjustment) as heat maps or peer group comparisons etc. (for example) could be prepared from this data. The FINMA exercise on top ten risks is annual. The assessors, however, were able to run a number of quick calculations on the frequency of key risks across the banking population based on a bespoke report they requested, which, in their view, would be useful standard report for all supervisors to access. In terms of emerging risks, FINMA uses structured ad-hoc data collection. For example, in 2022 on the risk of energy shortages / blackouts and its potential impact on banks and in 2022 and 2023 on banks' exposure to climate-related financial risks. A pilot data collection exercise, intended to become annual, was run in 2024 for category 1-3 banks. FINMA had already consulted on regulatory expectations on banks' management of climate-related financial risks at the time of the mission and the finalized FINMA circular was expected to be published by year-end 2024. [37] FINMA collected data on the use of artificial intelligence from 400 financial institutes in 2024.. A dedicated and cross-divisional unit was created within FINMA which covers the use and supervision of AI in Swiss financial institutions across all sectors (including banks and insurance companies). FINMA published its expectations concerning the use of AI in its Risk

[37] The Circular was published in December 2024.

	Monitor 2023 and its observations from supervisory discussions and onsite reviews in guidance 08/2024.
EC5	The supervisor, in conjunction with other relevant authorities, identifies, monitors and assesses: (a) the build-up and transmission of risks, trends and concentrations within and across the banking system as a whole; (b) any emerging or system-wide risks which could impact banks and the banking system as a whole; and (c) common behaviors by banks (e.g., procyclical actions), interlinkages and interconnections that may adversely affect the stability of the banking system, including implications for financial system stability. The supervisor incorporates this analysis into its assessment of banks and addresses proactively any serious threat to the stability of the banking system. The supervisor communicates any significant trends or emerging risks to other relevant authorities with responsibilities for financial system stability.
Description and Findings re EC5	FINMA adopts several approaches to capture emerging risks and the build-up of risk. • Risk Barometer: As discussed in EC1, the barometer is an instrument designed as a bottom-up qualitative risk-assessment, performed across FINMA-divisions, to identify the main risks to which supervised entities are exposed. This includes identifying emerging risks, transmission channels and common behaviors / exposures of banks. • Quarterly review of on-site findings by Banking division senior management. As many onsite activities are horizontal reviews, common behaviors and systemic risks may be identified (for example: compliance with sanction regimes). • International exchange. Emerging risk identification at the Swiss level is complemented by the information received on globally emerging risks at an international level from FINMA's participation in various international fora such as BCBS groups or others, or interactions with other authorities. FINMA responds to signs of emerging risks with ad-hoc data requests to individual banks that may be particularly threatened based on their business model, or with ad-hoc data requests (e.g., energy shortage threat, or Middle Eastern country risk due to Israel-Palestine conflict). Depending on the risk, FINMA will provide specific guidance or recommendations, for example the multi-year LIBOR withdrawal, where a selection of at-risk banks were required to submit their LIBOR exposures bi- monthly until the risks receded to an acceptable level. FINMA holds regular meetings with the Swiss National Bank, as expected in their bilateral MoU. The Standing Committee for Financial Stability – including representatives from both FINMA and the SNB – meets quarterly. FINMA also holds regular trilateral meetings with the FDF and the SNB to discuss financial stability issues. In particular, as set out in a trilateral MoU, a Committee on Financial Crises

	(CFC) made up of the CEO of FINMA, the State Secretary of the FDF, the Vice Chairman of the Governing Board of the SNB and the Director of the Federal Finance Administration (FFA) is responsible for coordinating preparatory efforts and for crisis management. The CFC commissions preparatory work for decision-making in crisis situations. Its members meet once or twice a year in non-crisis times, and whenever necessary during a crisis. War games, which would enhance awareness of practicalities and possible gaps in plans, have not yet been attempted.
EC6	Drawing on information provided by the bank and other domestic authorities, the supervisor, in conjunction with the resolution authority, assesses the bank's resolvability (where appropriate) having regard to the bank's risk profile and systemic importance. When bank-specific barriers to orderly resolution are identified, the supervisor requires, banks to adopt appropriate measures, where necessary, such as changes to business strategies, managerial, operational and ownership structures, and internal procedures. Any such measures consider their effect on the soundness and stability of the bank's ongoing business.
Description and Findings re EC6	FINMA is an integrated supervisory and resolution authority. FINMA is required to assess the resolvability of systemic banks on an annual basis (see Art 9 para 2 let d BA and Arts 65, 64a and 65b BO). Following a change in the law, the basis of the approach also changed since the start of 2023. Since that date, if there are obstacles to resolvability that the bank is unable to eliminate itself within the deadline set by FINMA, the supervisor may impose surcharges on the gone concern or liquidity requirements (prior to this date the system allowed for rebates). FINMA may consult foreign supervisory and resolution authorities. For G-SIBs, the FSB's Key Attributes requires a resolvability assessment process (RAP) which involves the Crisis Management Groups of the assessed institution. The RAP must also be conducted on a yearly basis. For the G-SIBs, resolution term sheets recorded progress against impediments found under topics including: iTLAC, Operational Continuity in Resolution, Bail-in Execution, Funding in Resolution, Valuation in Resolution, Post Bail-in Restructuring and Business Disposals. Annual resolvability assessments take place for the non- internationally active systemically important banks within the context of assessing its contingency plan (required under Art 60 BO). In this plan the systemically important bank details how it would ensure uninterrupted continuity of its systemically important functions in Switzerland, consisting primarily of access to deposits and payments, if there is a risk of insolvency. FINMA reviews these plans on a risk-oriented basis and assesses whether they are ready to be implemented or not. Resolvability assessments are not undertaken for non-systemic banks. However, where supervisors have concerns triggered by events they will ask a bank to prepare a plan. Capital and liquidity planning meetings include discussions of worst case scenarios and colleagues in the Recovery and Resolution area are informed as soon as possible. FINMA seeks to put the onus on the banks to identify the "plan B." FINMA lacks powers to require structural changes in banks or banking groups to remove impediments to resolution.

EC7	The supervisor has a clear framework or process (e.g., identification of risk and early intervention) for handling banks in the build-up to and during times of stress, such that any decisions to require or undertake recovery or resolution actions are made in a timely manner.
Description and Findings re EC7	FINMA sees the monitoring, which covers the early identification of risks, changes to the risk profile, any refocusing activities or group structure, corporate governance, organization and internal control, or even crisis planning in some cases as conducive to early intervention. Action could include, for example, dedicated case management, intensive supervision, escalation to Resolution and Recovery Division or enforcement proceedings. The rating system is the first line technical tool in the supervision framework which is intended to identify weak banks in an early stage. The rating system has also been designed to incorporate Red Flag Alerts. Whenever the system rating moves more than 1 rating point away from the expert rating, the system automatically generates an email to the responsible supervisor and a rating review workflow is initiated. Other triggers for rating reviews are results of regulatory audits or on-site inspections, or anomalies in comparative analysis of cross-cutting functions (e.g., liquidity, capital, interest rate risks, etc.). The internal supervisory handbook – there are different versions depending on the category of bank – contains clearly structured processes for escalation and de-escalation into and out of intensive supervisory measures and decision making. The handbook describes the internal processes for standard, enhanced and intensive supervision and refers to policies and additional guidelines. The internal FINMA crisis framework supports information exchange and cooperation between the departments responsible for supervision and (GB-B) and for recovery and resolution preparedness (GB-R)(relating to both RRP activities for larger banks as well as escalation procedures for banks at risk of destabilization. For additional discussion of handling of stressed and crisis supervisory situations please see CP 2 EC4. The handbook is currently under revision and a more developed version will be provided to staff containing greater levels of guidance than the existing version.
EC8	Where the supervisor becomes aware of banks restructuring their activities to avoid the regulatory perimeter, the supervisor takes appropriate steps to address this. Where the supervisor becomes aware of bank-like activities being performed fully or partially outside the regulatory perimeter, the supervisor takes appropriate steps to draw the matter to the attention of the responsible authority to address regulatory arbitrage.
Description and Findings re EC8	Should FINMA identify or be notified of an institution performing activities outside the regulatory perimeter, the lead or host regulator is informed about the situation, as is the regulatory audit firm. Further actions are defined to take appropriate steps for resolving the identified issues of concern and to monitor the whole process. FDF, SNB and FINMA monitor bank-like activities by non-banks systematically in line with FSB recommendations relating to Shadow Banking / Market-Based Finance. The responsibility for initiating regulatory changes - as a result of this monitoring - lies with the FDF.
Assessment of Principle 8	LC

Comments	FINMA's analytical approach has strengthened and deepened since 2019. The future system is aligned with best international practices and represents a well-conceived evolution. The new build concept for the rating system incorporates financial resilience, operational resilience, governance and controls and suitability. It will permit FINMA to synthesize and organize all the various sources of information that it obtains, and continue to permit a supervisory override, which is itself subject to a process of explanation/oversight so that there are checks and balances in terms of how the supervisory judgment is applied. FINMA plans to intensify its focus on business model analysis, risk culture and "tone from the top." The plan is for the new rating model, FRB 3.0, to incorporate more data, be more granular, and to allow the supervisors to identify, target and track supervisory activity plans at a more meaningful, accurate level with the banks. FINMA has continued to work on data issues and has established a data lab. The work of the data innovation team which employs data specialists, has benefitted from thoughtful two-way communication with the supervisors and is starting to deliver meaningful additions to the supervisory toolkit, by leveraging large language models and AI for practical supervisory purposes. Ancillary advantages of these initiatives lie in staff motivation and harnessing creativity which typically bears fruit in better quality insight and analysis. FINMA's upgrade to its rating approach will enrich the forward-looking analysis which is systematic but currently a somewhat weak link at present – not least due to weaknesses around stress testing powers which are commented and graded elsewhere. The forward-looking elements draw from the annual risk analysis and the strategy for the regulatory audit, but this source of data is not strongly suited to such analysis. The extent to which FINMA has the resources to conduct capital and liquidity planning meetings becomes an important component of being able to consider forward looking risks for these two risks but cannot be assured across all categories of banks. Based on the reports they saw, which covered both systemic and category 3 banks, the mission was not persuaded by the value or insight of the risk assessment process performed by the regulatory audit process for supervisory purposes. This was not a reflection or a criticism of the skill or professionalism of the auditors—but because of the nature of the tool being ill fitted to the task. The mission does not recommend heavy reliance on these reports in the risk analysis of the supervisors. The present supervisory methodology, even before the new revisions, represents an improvement compared to the last full BCP assessment. The financial risk aspect of the ratings is based on a CAMELS approach that tests Key Performance Indicators (which are confidential). Although these components will be refreshed as part of the new ratings system, it is evident that that the system is more discriminating (e.g., results in more granular and clear-cut ratings) than in the last BCP assessment. The weakest component is business models, as FINMA is already aware and is working on. In review of cases, papers and discussion with staff, the assessors were satisfied that FINMA is fortunate to employ many high quality, skilled staff.

	In order to maximize the benefits of its new approach via the FRB 3.0 and increased resources when they become available, FINMA needs to address the following elements that risk undermining its supervisory approach: • FINMA provides internal policy guidance to its supervisors in only some areas and needs to ensure that detailed guidance is provided comprehensively across all supervisory policy fields. The supervisory handbook is a process-based guide and while a positive contribution to consistent standards does not create an assurance of consistent policy application across the supervisory waterfront. Such a handbook will support junior supervisors in developing their judgment, which is a vital element in their professional skillset. While plans to centralize the risk specialists in FINMA is sensible in the context of FINMA's organization, such specialists cannot reasonably be available for general reference as and when needed. They will be fully occupied with more complex topics. It is recommended that FINMA design a specific project to create a policy handbook for supervisory staff. Such resources do not emerge organically, without planning and sponsorship, though they can and should harness existing internal developments. • FINMA does not have a dedicated training department—understandably given its small size—and provides only light introductory training to new arrivals. While there is a degree of attention paid to knowledge transfer It is recommended that it is further developed and builds on existing internal knowledge transfer and innovation. Only G-SIBs are subject to formal resolvability assessments (Art. 65a BO), while D-SIBs are exempt. Instead, D-SIBs, are subject to the requirement to produce emergency plans (Art 60 BO), FINMA is required to evaluate the "implementability" of the emergency plans (Art 61 BO) and must also prepare a resolution plan for all systemically important banks (Art 64 BO). FINMA has the power to require a SIB to make structural changes on the basis of deficiencies in the emergency plan (Art 62 BO). In the case of the G-SIB it may be noted that the emergency plan only covers the Swiss subsidiary containing systemically important functions, and FINMA lacks the power to make structural changes for the rest of the group. Non-systemic banks are not required to undertake emergency planning and therefore there is no corresponding assessment of the "implementability" of their plans. While the BCP standard does not require the supervisory authority to be the resolution authority, it does require the supervisor to assess resolvability to judge whether or not a bank has the capacity to be orderly if it fails or if there will be obstacles in the way. It is a basic prudential analysis. The work undertaken in assessing emergency plans and resolution planning in respect of the SIBs ensures an awareness of potential hurdles. Providing that any concerns fall within the remit of FINMA's powers (Art 62 BO) the supervisor can respond accordingly. Non-systemic banks are not, however, covered by the current legislation and supervisory practice to require any plan (a "recovery and resolution plan light") is triggered if specific concerns arise. In other words, there is a gap in relation to non-systemic banks such that if issues arise the benefits of any advance resolvability assessment are unlikely to be achievable. This issue is also raised and discussed in more detail in the FSAP Technical Note on Financial Safety Nets and Crisis Management.

	Even if FINMA lacks legal powers, at present, it does not necessarily lack powers of persuasion and rational banks will respond to coherent arguments. FINMA needs to be granted the requisite powers to ensure effective resolvability assessment, which at present cannot take place for the majority of the banking system by number. When the powers are in place they do not need to result in unwieldy resolution plans for minor institutions. This is not what the BCP standard requires. It seeks only that there is a proportionate determination that resolvability is possible and that obstacles are not in place to an orderly outcome. Some of this work may be possible prior to legislation.
Principle 9	**Supervisory techniques and tools.** [38] The supervisor uses an appropriate range of techniques and tools to implement the supervisory approach and deploys supervisory resources on a proportionate basis, considering the risk profile and systemic importance of banks.
Essential Criteria	
EC1	The supervisor employs an appropriate mix of on-site and off-site supervision to evaluate the condition of banks, their risk profile, their internal control environment and the corrective measures necessary to address supervisory concerns. The specific mix between on-site and off-site supervision may be determined by the particular conditions and circumstances of the country and the bank. The supervisor regularly assesses the quality, effectiveness and integration of its on-site and off-site functions and amends its approach, as needed.
Description and Findings re EC1	*FINMA Inspections* FINMA works within undue legal restrictions in respect of its ability to perform on-site inspections in the banking sector. According to Art 23 of the BA, FINMA may itself carry out direct inspections of banks, banking groups and financial conglomerates when such inspections prove necessary due to their economic importance, the complexity of the facts or the inspection of internal models. In practice, FINMA performs on-site inspections at large and medium-sized as well as small banks, with the frequency dependent on the bank's size/category and FINMA's internal risk rating (FRB) of the bank. Over recent years, FINMA has further intensified its own on-site inspections including in the conduct and sanctions area. For the years 2021-2023, there were 304 on-site inspections of which 108 in the conduct area (AML/ Crossborder/ Suitability/ Market conduct) and Sanctions. FINMA plans to further enhance its on-site capacities (including at cat. 4/5 institutions) and increase resources correspondingly. There has been an increase of on-site examinations carried out by FINMA compared to before the 2019 FSAP of approximately 30 percent. It is to FINMA's credit that it has achieved these increases despite constraints. FINMA does not systematically carry out inspections for category 4 and 5 banks, unless there are indications of concerns, especially regarding conduct (e.g., AML/CFT). The approach is, due to resourcing and the drafting of the BA, essentially reactive.

[38] Reference document: BCBS, High-level considerations on proportionality, July 2022.

	Regulatory Audit Inspections A distinctive feature of the Swiss supervisory approach is the use of regulatory audit risk assessments and audits, performed by the regulatory audit firms and funded by the banks upon which they perform the audit. FINMA provides general instructions to the audit firms who are expected to perform comprehensive prudential audits. FINMA can also, if necessary, mandate audit firms ("mandatories") to carry out additional audits with a specific thematic focus. Please also see CP8 EC3. The regulatory auditing process assesses institutions' compliance with supervisory requirements and is intended to be forward looking in terms of whether they can meet the requirements for the foreseeable future. The regulatory auditing process comprises the basic audit and the additional audit. The basic audit covers all the legal and regulatory requirements and all other material sources of risk. It is through this process that FINMA meets most of the supervisory "determination" standards in this assessment. The frequency and depth of the basic audit depends on a risk assessment and is determined directly by FINMA (for category 1 and 2 banks) or submitted to FINMA for approval by the regulatory auditor before the audit begins (for category 3-5 banks). For the small and medium-sized banks, FINMA defines a minimum standard audit strategy for each supervisory area. The Board of directors of banks in supervisory categories 4 and 5 may request a reduced audit frequency and if this approved, based on a low risk profile and lack of significant open negative findings, the regulatory audit cycle will be reduced to two to three years. FINMA examines the quality of the reporting and work delivered by recognized audit firms and communicates at least annually with the management of the audit firm. In the case of significant issues, the audit firms are notified, and information is also provided to the Federal Audit Oversight Authority (FAOA) (see below) which is responsible for the quality control of audit's activities (financial and prudential) performed by private audit firms and for the recognition of audits firms and auditors (persons) active in the prudential field. The FAOA conducts firm reviews (examination of the firm itself) and file reviews (examination of the audit work performed by a selected audit client). FINMA cooperates closely with the FAOA. Although FINMA can and does report concerns to the FAOA there is no formal feedback to FINMA though FINMA notes that it receives verbal feedback if the FAOA does not follow up on a FINMA notification. FINMA does receive the review reports on FAOA reviews. It was evident from the assessors' discussions and review of papers that FINMA has identified extensive findings on core areas that the regulatory auditors did not in calendar year 2024 alone. It is worth observing that the supervisory skillset and the auditor skillset are not the same and may well be contributing to this high level of findings. The concern regarding the different 'mindsets' and skills between external auditors and in-house trained supervisors was in fact highlighted in the 2019 FSAP – e.g., the audit work focused on backward-looking verification and ongoing concerns focused on the short-term outlook. Furthermore, there is a lack of detailed guidance provided to auditors. Although the format of the regulatory audit and risk review is not the same as the documentation commented on in the 2014 BCP assessment, the remarks in the Detailed Assessment Report at CP9 EC1 remain valid. As FINMA does not provide guidance to the regulatory auditor except in a

	couple of fields, the judgements on inherent risks regarding very high/high/medium/low (or combination of high/medium or medium/low) are left to the auditor to determine and there is no way for the supervisor to be assured that there is consistency across firms or across time series. In the past FINMA was at least able to provide an FAQ resource on its website, but this has been withdrawn. For its part, FINMA notes that risk analysis is an independent assessment of the supervised entity's risk situation by the audit firm that FINMA reviews and, where necessary, challenges. *Off-site Work* FINMA's off-site supervision mainly relies on data from various supervisory reports from the banks and from FINMA-internal data-based evaluations (outlier analysis), as well as ad-hoc and other information received from the bank. This information could include specific inquiries at an institute, feedback on topic-specific surveys, information from FINMA's supervisory activities and including, for instance, meetings with the banks' management, attending supervisory colleges and/or discussions with other supervisory authorities. Off-site work includes examination and follow up of issues arising from the reports from the regulatory auditors (delivery of long form reports, financial and prudential as well as follow up of issues arising from FINMA's own off-site work). FINMA has made adjustments to its supervisory approach and organization on a steady basis over the years. Staff consider that the major post-CS review is deeper and has taken place sooner than might otherwise have happened but is in keeping with the direction that FINMA has been seeking to develop, including the enhancement of intensive supervision, challenge audit departments and hold welcome and exit meetings for Board members and senior executives or other key roles. Prior to recent events, changes made include the 2023 reorganization to allocate category 4 banks to the department responsible for the supervision of small banks. FINMA has also increased its interaction with the audit firms not only in the context of risk analysis and the definition of the audit strategy but in general (e.g., preceding meeting between FINMA and the audit firm before the high-level meeting with the bank). *Resources* FINMA has adapted G-SIB supervision due to CS's integration into UBS with only one remaining G-SIB in Switzerland. As of August 2023, the CS and UBS supervisory teams were combined one supervisory team with four distinct sub-teams comprising Capital & Liquidity supervision, Conduct & Compliance, Investment Banking & risk supervision, and On-site supervision. In addition, FINMA increased the headcount within G-SIB supervision by 3 FTE in 2023 and has approved a further increase of 2 FTEs in 2024 and 2025 each. Moreover, FINMA has roughly doubled on-site inspections at UBS to approx. 40 reflecting the increased size of the combined new G-SIB and higher complexity while integration work is ongoing. FINMA also plans to establish another UBS supervisory sub-team covering Operational Resilience. As FINMA can no longer perform benchmarking reviews between G-SIBs, the supervisory dialogue with foreign supervisory authorities has been further enhanced in order to exchange best practices and benchmark analysis available at foreign supervisory authorities and also make stronger use of secondments. FINMA plans to carry out benchmarking reviews with other Swiss Banks where feasible (e.g., Wealth Management or Retail) and will be

	examining its supervisory approach and will consider changes in the areas of: Pillar 2, Business Model Analysis, Stress Testing and Culture Supervision.
EC2	The supervisor has a coherent process for planning and executing on-site and off-site activities. There are policies and processes to ensure that such activities are conducted on a thorough and consistent basis with clear responsibilities, objectives and outputs, and that there is effective coordination and information-sharing between the on-site and off-site functions.
Description and Findings re EC2	As mentioned in CP8 and elsewhere, FINMA has defined work procedures, known as "standard operating procedures" (SOPs), for its off- and on-site supervision. The frequencies and time limits for performing the various tasks listed in the SOPs are set out and depend on the combination of category and rating. Whether high level meeting with Board and CEO, capital and liquidity planning meetings, the regulatory audit work, the regulatory returns and analysis – all of the supervisory functions and activities are captured in the SOPs. Also as mentioned in CP8 the SOPs give the baseline minimum frequency with the institutions. Much of the work for category 3 is marked as ad-hoc in periodicity. The annual planning of on-site inspections incorporates top-down and bottom-up approaches. The top-down approach aims to ensure that FINMA's strategic objectives and the risks identified in the risk barometer and risk monitor are adequately covered by on-site inspections. The bottom-up approach focuses on covering specific risks identified at the institutions. All the elements are taken into account in the planning phase. At the end of the process, a planning meeting is held with all the parties involved and the planning of the on-site inspections is approved by the Head of the Bank Division. FINMA staff indicated that the current rating process does not have the flexibility to give much emphasis to individual aspects of a bank's risk profile because the weight is on the final, overall rating. Additional supervisory instruments are in place to address current limitations in the rating process (e.g., quarterly GoVA-Committee, manual rating interventions if applicable, semi-annual discussion of risks for large banks, etc.). Nevertheless, the ability to hone in on specific weaknesses and vulnerabilities identified at a more granular level and more forward-looking basis is part of what the new system is being designed to deliver and what the new CEO is pushing for. For the category 1 institution there is a bi-annual risk-assessment process. Planning of the on-site inspections is also approved by the Head of the Bank Division and for the cat. 1 bank takes place semi-annually. From 2025, FINMA plans to increase the depth and intensity of on-site inspections through increased attention paid to inherent risks in banks. These risks, which are linked to the bank's business model or to high inherent risks within the Swiss financial market, will factor into the inspection planning. The SOPs also cover the planning, coordination and analysis of the work of the regulatory auditor. One of the listed tasks covers the examination of the long form audit reports as delivered by the regulatory auditor. As noted in CP8 EC3 before prudential audits are performed by recognized audit firms, the regulatory auditor submits their annual risk analysis and, based on this analysis, the planned audit strategy. These documents are standardized. Audit depth and frequency depend on the level of risk identified for each audit field. There

	are two audit levels: audit, which is positive assurance and the lighter test of critical assessment which is negative assurance. FINMA can challenge and, if necessary, adapt the planned audit strategy. Work starts only after FINMA's approval and the result is summarized in a long form audit report, using a template set by FINMA. (See https://www.finma.ch/en/supervision/cross-sector-issues/auditing/auditing-of-banks /).
EC3	The supervisor uses a range of information to regularly review and assess the safety and soundness of banks and the stability of the banking system, the evaluation of material risks, and the identification of necessary corrective and supervisory actions. This includes information such as prudential reports, statistical returns, information on a bank's related entities and publicly available information. The information received on banks is used by supervisors to form a holistic view and understanding of their risk profile. The supervisor determines that information provided by banks is reliable[39] and obtains, as necessary, additional information on banks and their related entities.
Description and Findings re EC3	FINMA collects and analyses a variety of information and data. Banks are required to submit reports on a regular basis depending on a bank's category. Banks in category 3, for example, provide quarterly business/risk management reports. If necessary, additional information on the bank and their related entities is obtained by the Key Account Manager (KAM) such as reports on capital requirements, liquidity coverage, and exposure to the group. Information also includes data collected from the respective bank by the SNB (e.g., balance sheets, and income statements), information provided by the respective bank (see paragraph below), information gathered during on-site inspections (refer to EC1), long form reports (refer to EC8), as well as public disclosures and publicly available information. The Key Account Manager (KAM) together with special matter experts (if required) is responsible for analysing these reports and making sure that the information is reliable. Prudential and financial reports are reviewed annually, and any concerns are discussed with the bank representatives and/or the audit firm. If necessary, FINMA can request an earlier reporting on individual topics from the audit firm, apart from the annual reporting process (e.g., in order to ensure timely implementation of key findings). In addition, FINMA discusses with SNB on a quarterly basis issues related to the financial stability of the banking sector, including the most significant microprudential topics relevant for SIBs and the macroprudential stance of the SNB. A dedicated team as well as the data owners have the responsibility of assuring data quality. Subject matter experts analyze the data and propose further actions taken together with the key account manager – either with regard to the holistic view or specifically with regard to certain outlier banks. Data analysts, special matter experts and key account managers work together in this process. The assessors were able to see the documentation supporting this process for a range of risks. There are designated "data owners" and "data stewards" for each statistic. The data owner is responsible for the content of the statistics and subject-related issues. The data stewards do

[39] Refer to Principle 10 [BCP40.23].

	the operational work of conducting the statistical surveys that includes setting up reports or using AI to process the data. FINMA's Data Innovation Lab has developed methods to forecast the most relevant variables in the FRB as well as techniques to use external data (market data or press / social media) for forward-looking data-based supervision.
EC4	The supervisor uses a variety of tools to regularly review and assess the safety and soundness of banks and the stability of the banking system, including: (a) analysis of financial statements and accounts; (b) business model analysis; (c) horizontal peer reviews; (d) analysis of corporate governance, including risk management and internal control systems; (e) reviews of the outcome of stress tests undertaken by the banks; and (f) assessments of the adequacy of banks' capital and liquidity levels under adverse economic scenarios, which may include conducting supervisory stress tests on individual banks or on a system-wide basis. The supervisor uses its analysis to determine follow-up work required, if any.
Description and Findings re EC4	FINMA's choice of supervisory tools depends upon the category and rating assigned to the bank. *Analysis of Financial Statements and Accounts* All banks are subject to analysis of financial statements and accounts, see EC3 above. *Business Model Analysis* A more comprehensive and cohesive approach to business model analysis is currently under development, but at present FINMA is largely focusing on the earnings perspective. Peer group analysis is also carried out. Key elements of the business model are reviewed within the regular supervisory process (e.g., strategic plan, financial and capital plan, financial reports, regulatory reports, internal reports, recovery and resolution plans). FINMA also uses capital planning dialogues and regulatory stress tests for SIBs, to assess to what extent banks take business model risks into consideration in their financial and capital plans. In terms of ongoing work, FINMA is currently developing a dedicated business model analysis framework as a component of the financial resilience assessment in the new FINMA rating system. This analysis will include earnings stability, profitability, cost, income retention, business strategy, and market positioning. *Horizontal Peer Reviews* FINMA performs a number of on-site benchmark inspections per year in certain areas that are considered high-risk as per its risk assessment process (risk barometer). E.g., in recent years, benchmark on-site inspections were performed in the mortgage area, on anti-money laundering, on cyber risks, on IT and communication technology risks, on greenwashing, etc.

	Also, for specific risks (incl. emerging risks), FINMA launches (ad-hoc) data collections that allow for horizontal reviews. Examples in the past years concerned the Middle East conflict and ensuing possible country risks, the energy shortage crisis, mortgage-portfolio related surveys, climate transition-risk related data collection on energy efficiency of buildings, etc. *Corporate Governance* FINMA supervisors review and challenge bank's risk reports and conduct supervisory meetings with the bank's CRO. External auditors are mandated with examining the adequacy of the internal control system and firm-wide risk management. FINMA is in the process of enhancing its Corporate Governance questionnaire in order to cover aspects due to risk culture, corporate governance and internal control systems. Please also see CPs14, 15 and 26. *Stress Tests* As noted in CP1, FINMA has limited power to impose stress tests due to the high-level and relatively imprecise legal references. This feature restricts FINMA's possibility of asking banks to perform stress tests more widely. Nevertheless, there are expectations that banks should perform their own stress testing for capital planning and a "loss potential analysis" stress test is applied to SIBs and these expectations are expressed in Circular 11/2. Outcomes of banks' stress tests are reviewed and challenged by FINMA as part of supervisory meetings such as the Pillar 2 dialogue for the G-SIB and the capital planning meetings with Cat. 2-5 banks. However, as noted elsewhere, FINMA has a weak legal basis (CAO Art 45) on which to impose Pillar 2 capital add-ons based on the results of stress tests, which undermines the stress test discipline. Please see also CP 15 EC5 and CP16 EC6. *Banks' Capital and Liquidity Under Adverse Scenarios* According to FINMA Circular 2011/2 on Capital buffer and capital planning (Margin no. 36) banks "must show in their capital planning that they are in a position to meet their capital adequacy requirements in future (over a three-year horizon), even in the event of an economic downturn and their revenues falling sharply." FINMA indicated that this requirement was tested for the G-SIB in ICAAP and Pillar 2 dialogue discussions, and in capital planning meetings with Cat. 2-5 banks where FINMA would discuss the bank's choice of stress scenarios. In terms of resilience of liquidity under adverse scenarios, banks are subject to the requirements set out in the Liquidity Ordinance and FINMA Circular 2015/2 Liquidity – banks, which, in particular, include the requirement to maintain sufficient liquidity to withstand a range of stress events (Art. 2, Liquidity Ordinance; margin nos. 10 and 63- 90, FINMA Circular). Banks' stress testing requirements are set out in the Liquidity Ordinance (Art. 9) and FINMA Circular 2015/2 Liquidity (margin nos. 72–90, 102). FINMA's supervisory practice is proportional depending on the bank, with intensive meetings for the systemic banks and for other banks it is assessment by the regulatory audit firm and as part of regular supervision. Please see also CP24, ECs 3 and 7.
EC5	Based on the information provided by banks and its own analysis, the supervisor communicates its findings to banks as appropriate and requires them to take action to mitigate any particular vulnerabilities that have the potential to affect their safety and

	soundness or the stability of the banking system (including implications for and interlinkages with financial system stability).
Description and Findings re EC5	FINMA communicates the findings of its activities (e.g., on-site inspections, special analyzes, peer/ benchmarking reviews) and follow-up work required to the banks. FINMA can monitor the implementation of follow-up work or mandate the audit firms to monitor the implementation of measures that have been adopted to resolve the issues and confirms their resolution status to FINMA (either in the next prudential audit report or at an agreed earlier point in time). At the end of an inspection, FINMA delivers the preliminary findings and potential recommendations orally to the CEO and/or other Executive management (the divisional CEO for cat. 1 bank) and the manager(s) responsible for the areas under review. The final report is sent to the bank, addressed to the Board of Directors and Executive Board of the bank (with a copy to the audit firm), within 6 to 8 weeks after the on-site review was conducted, and without prior review or approval by the bank (for cat. 2-5). Cat. 1 banks are permitted to review the report for factual accuracy before it is issued in final and the report is also sent to the Bank's management and Board of Directors and the Group head of Internal Audit (with a copy to the audit firm).
EC6	The supervisor evaluates the work of the bank's internal audit function (including those that are outsourced or co-sourced) and determines whether, and to what extent, it may rely on the internal auditors' work to identify areas of potential risk.
Description and Findings re EC6	FINMA Circular 2017/01 on corporate governance, risk management and internal control requires that every bank has an appropriate and qualified internal audit unit, reporting directly to the board and separate from operational management. More specifically, regulatory auditors must confirm in their annual reports every year that, at the level of the internal audit: a) the technical and personal resources are appropriate; b) the necessary professional competences are effectively available; c) cooperation between the regulatory audit firms and internal audit units is adequate; and d) the regulatory audit firms have unrestricted access to the reports of the internal audit unit. FINMA has established a process for considering the internal audit function for cat.1 and 2 banks: during on-site inspections, FINMA considers reports issued by internal audit for the relevant area and holds interviews with participants from internal audit to elaborate on findings and action items (this also applies to on-site inspections at cat. 3-5 banks). The off-site supervision approach also includes regular meetings with internal audit function's leadership teams as well as reviewing a selection of internal audit reports based on the requested full internal audit report list (cat. 1 and 2). As part of this process, FINMA considers internal audit function's work and/or information gathered during supervisory meetings to identify areas of potential risk. Finally, FINMA can conduct on-site inspection of the internal audit function. FINMA plans, under its updated supervisory approach, to intensify the exchanges with Internal Audit for cat. 3.

	In terms of planned future improvements, the updated supervisory approach on Corporate Governance and Risk Culture, will include several questions pertaining to the internal audit function in the Corporate Governance and Risk Culture questionnaire. These questions will address the number of FTE of the internal audit function, the attrition rate, how the reporting is set up and an overview of internal audits conducted the previous year. In addition, FINMA will conduct meetings with the internal audit function and review internal audit reports in cases where weaknesses have been identified or where indicators of such weaknesses exist. FINMA has designed an inspection scope based on the revised IIA standards and developed a benchmarking instrument that will be used starting in 2025.
EC7	The supervisor engages sufficiently frequently with the bank's board, non-executive board members and senior and middle management (including heads of individual business units and control functions) to develop an understanding of and assess matters such as strategy, group structure, corporate governance, performance, capital adequacy, liquidity, asset quality, risk management systems and internal controls. Where necessary, the supervisor challenges the bank's board and senior management on the assumptions made in setting strategies and business models.
Description and Findings re EC7	The frequency of FINMA's contacts with the board of directors and senior/middle managers is mostly a function of the bank's categorization and rating. The greatest frequency of meetings are with senior management and Board level of category 1 and 2 banks. The SOPs set out a minimum frequency for meetings with banks in all categories. The bank's strategy, group structure, corporate governance, performance, risk assessments and internal control system etc. are discussed at these meetings. In the specific example of case management– e.g., intensified supervision on a specific issue - working-level meetings are held (applies to all categories 1-5). Strategic assumptions and business models are subject to FINMA's review. The results of supervisory examinations are also discussed with the regulatory auditor. FINMA also meets separately with the bank's independent board members. FINMA has adopted a number of practices designed to ensure that the Board of Directors and senior management are aware of and involved in supervisory issues. When organizing meetings or conference calls with institutions, FINMA may require the participation of at least one representative of the group within the Board of Directors, the Chairman of the Audit and/or Risk Committee, the CEO and, depending on the topics to be discussed, ad hoc experts (e.g., the Risk Manager, the Head of Legal Services or the CFO). Similarly, at least one member of the Executive Board (member of regional Executive Board for G-SIB) is expected to attend the opening and closing meetings of an on-site inspection. All correspondence is addressed to the Board of Directors and Executive Board, unless prevented by confidentiality restraints. or the correspondence only concerns clarifications, queries, etc., which generally take place at a lower management level in the relevant departments. When there are changes to the Board of Directors, or Executive Board, FINMA undertakes entry and exit interviews where appropriate. FINMA noted that they seek to take the opportunity to communicate their views on the institution or on specific topics and also their expectations, particularly during the entry interviews. The assessors saw documentation confirming the practice and the process is also set out in the supervisory handbook.

EC8	The supervisor communicates to the bank the findings of its on- and off-site supervisory analyzes in a timely manner by means of written reports or through discussions or meetings with the bank's management. The supervisor meets with the bank's senior management and the board to discuss the results of supervisory examinations and the external audits, as appropriate. The supervisor also meets separately with the bank's independent board members and external auditor, as necessary.
Description and Findings re EC8	The communication of findings of the off-site inspections carried out by FINMA are described in EC5. Furthermore, banks receive Assessment Letters which re-highlights any deficiencies that have emerged over the course of the last period and set out the supervisory expectations for remediation and as well as communicating the plan for forthcoming supervisory activities. The FINMA KAMs are responsible for monitoring a range of information and contacting the bank to clarify any issue of concern, to conduct a risk assessment or to define supervisory measures which must then be monitored and followed up regardless of timing, however. FINMA issues assessment letters to provide a regular evaluation of a supervised institution. The letter is annual for banks in categories 1 and 2 and at least every two years for banks in category 3, unless the institution is rated amber or red. Banks in the Small Bank Regime do not receive an assessment letter. The letter formally notifies the institution of its risk categorization under the supervisory approach together with any shortcomings identified and the actions required to address them. The institution is required to comment in writing. FINMA and the regulatory auditors hold regular meetings with the bank's independent board members in order to handle audit reports. FINMA and the lead auditor from the audit firm are also in regular contact during the year. In general the lead auditor is also invited to each meeting between FINMA and the bank, and is kept informed at any time (e.g., receives FINMA letters and e-mails in copy). Key findings from the ordinary prudential audit performed by the regulatory auditor are recorded in the long form report which is submitted to the board and executive management for discussion and acknowledgment. FINMA noted that it is in the course of reviewing its approach to communication with banks, both in general and also with respect to specific aspects, such as feedback on horizontal/thematic reviews, to strengthen the communication approach and to communicate more proactively and broader to all institutions concerned. As noted above, FINMA meets with bank's board members, e.g., Chairman of the BoD, Vice-Chairman of the BoD, Chairman of the Audit and Risk Committee, and also with independent BoD members, if necessary.
EC9	The supervisor undertakes appropriate and timely follow-up activities to check that banks have addressed supervisory concerns or implemented requirements communicated to them. This includes early escalation to the appropriate level of the supervisory authority and to the bank's board if action points are not addressed in an adequate or timely manner.
Description and Findings re EC9	When FINMA or the regulatory auditors identify irregularities, deadlines are set for remediation. Remediation checking is either carried out by the regulatory auditors as FINMA's "extended arm" or by mandated investigation agents / mandataries or by FINMA

	itself. Failure to meet deadlines in remediation is one of the criteria for a bank that may lead to intensive supervision. The internal MIS system allows for review, by management, of outstanding items. This system provides information bulletins on a weekly, monthly, bimonthly, quarterly, semi-annual or annual basis. There is internal guidance to staff regarding sign-off protocols, so there is oversight, checks and balances in the sign-off of any remedial actions with a two-signature protocol firmly in place. The assessors saw ample evidence that this policy operated at all levels. FINMA sends its letters in general, to the Executive Board of the bank. Depending on the significance of the issue the letter is also sent to the Board of the bank, but the regulatory auditor is always copied. The assessors saw evidence of this practice.
EC10	The supervisor requires banks to notify it in advance of any substantive changes in their activities, structure and overall condition, or as soon as they become aware of any material adverse developments, including breaches of legal or prudential requirements.
Description and Findings re EC10	As a general rule, banks are required to notify the supervisor immediately and unprompted about any incidents that may be of supervisory relevance (Article 29 para. 2 FINMASA). This includes information about any adverse developments, including any breach of legal or prudential requirements, but also information about potential future M&A transactions, in order for FINMA to intervene if necessary (e.g., accumulation of certain risks, impacts on the financial sector etc.). Any adverse matter must be reported to FINMA by the bank's audit firm ad hoc and in the annual audit report (Article 29 para. 2 FINMASA). In addition, banks must notify FINMA of any changes to the facts on which the license is based. If the changes are of material significance, FINMA's authorisation must be obtained in advance in order to continue the activity (Art. 8a BO). **Prior notification** is explicitly required for: • any changes in qualified participation, regardless at which level (see Art. 3 paras. 5 and 6 BA and CP 6). • planned activities in a foreign country either by establishing a physical presence abroad (in particular, subsidiaries, branch offices, representative offices and business offices) or by acquiring participating interests in foreign companies active in the financial sector. Financial groups subject to FINMA group supervision are to report the acquisition of participating interests by entities shown within the scope of consolidation (see art. 3 para 7 and 3d et seq. BA and CP7). • The members of the bank's administration and management must report to FINMA all facts that indicate foreign control of the bank or a change of foreigners with qualified participations (art. 3ter para 3 BA). **Authorisation** is explicitly required for: • Amendments to the articles of association and to the organizational and business regulations. These documents provide the authorities with an insight into the bank and at the same time define the framework within which the bank operates and may operate. A minimum content is required for regulations including rules on the internal organization, the top management bodies, the balance of power, the appropriate

	allocation of responsibilities, the basic features of the internal control system and the scope of business activities Art. 3. Para 3 BA). • Changes of qualified foreign ownership in banks, or if a bank is taken into foreign ownership (see Art. 3 paras. 5 and 6 and Art. 3ter BA and CP 6). • Changes to the persons responsible for the board and management (see CP 14, EC 4). • Changes to the minimum capital and own funds, in particular if falling below the minimum requirements (Art. 8a BO, Art. 10 lit. c FinIO). • Continuing the activity in the event of facts that are likely to jeopardize the proper business operations and the good reputation of the financial institution or the governing bodies as well as of the holders of qualified participations (Art. 8a BO, Art. 10 lit. d FinIO). • Continuing the activity in the event of facts that question the prudent and sound business activities of the financial institution due to the influence of holders of qualified participations (Art. 8a BO, Art. 10 lit. e FinIO).
EC11	The supervisor may use independent third parties, including external experts, but it cannot outsource its prudential responsibilities to third parties. Where third parties are used, the supervisor: (a) clearly defines and documents their roles and responsibilities, including the scope of work where they are appointed to conduct supervisory tasks; (b) assesses their suitability for the designated task(s), the quality of their work and whether their output can be relied upon to the degree intended; (c) ensures that they are subject to appropriate confidentiality restrictions; (d) considers the biases that may influence them; and (e) requires that they promptly bring to its attention any material shortcomings identified during the course of any work undertaken by them for supervisory purposes.
Description and Findings re EC11	In terms of the Regulatory Audit, the firms (and also the persons performing the audit) must be officially recognized and licensed by FAOA (see AOA Art. 9a). As discussed in CP8 EC3 and also above in CP9 the regulatory audit firm performs risk assessments and a regulatory audit. They are subject to ex-post quality controls made by a special FINMA unit. As observed in EC1 above, FINMA has identified several occasions where regulatory auditors have failed to uncover findings that FINMA itself has made. The regulatory auditor and financial auditor are typically the same firm. The only prohibition is that a firm may not also be engaged in consultancy work. FINMA prefers the regulatory and financial teams to be different, or at least led by different partners but does not have the legal power to insist on this other than in specific cases (margin number 46 FINMA Circ. 13/3). Both FINMA and the supervised institution are therefore exposed to the risk that if there happens to be a blind spot in terms of risk identification and focus in one audit firm/ team/ partner it will be reinforced or replicated in both financial and regulatory work.

	FINMA is aware, as previous FSAPs have already commented, that there is an inherent conflict of interest in engaging a third party to carry out an activity that has a supervisory purpose, but where the supervised institution is directly liable for the cost. This is even more the case where there is the obvious potential for negotiation between audit firms and clients for the overall fee packages for the financial and regulatory audit work. FINMA would like, as indeed the 2019 FSAP recommended, to be able to mandate and fund the regulatory auditors directly and thus remove the conflict of interest. Staff at FINMA considered that reports where FINMA had appointed mandated auditors or investigation agents directly were of notably superior quality than standard regulatory audit work. In these cases, too, the supervised institution pays the invoice for the additional audit work carried out, but the invoice is 'approved' in advance by FINMA. The invoice is then issued by the third-party company to the supervised institution. FINMA may also mandate third parties such as investigation agents or audit mandataries. Audit mandataries are used to analyze specific risk issues or one-off events, or to monitor the implementation of FINMA's supervisory measures. Expert knowledge or forensic capability is often required. Investigating agents are used to conduct an investigation of an issue as part of enforcement proceedings. This work can also include extensive forensic examination. In specific instances, investigating agents can also receive authorization to act instead of an institution's governing bodies. If there is reason to believe that companies or persons are exercising an activity without the authorization required under financial market law, investigating agents can be commissioned to clarify the matter. In this instance, the investigating agent normally also receives authorization to act instead of the governing bodies. This is not to be confused with acting on behalf of FINMA. FINMA maintains a list of authorized third parties, and candidates are selected from this list. As part of the selection process, checks are made to ensure that the third party is capable of carrying out the required work and that there are no conflicts of interest. Once the selection process has been completed, tasks (including scope) and responsibilities are clearly defined in the "appointment order" (Einsetzungsverfügung), and confidentiality provisions (under threat of punishment) are listed. Periodic reporting frequency is defined (e.g., weekly or by-weekly), and if necessary, ad-hoc, to ensure that significant deficiencies are reported to FINMA promptly. FINMA's internal guidelines for supervisors address the mandate, the scope letter / "appointment order" and the handling of an independent third party including: • Each mandate is based on a clear and detailed mandate (Verfügung) defining the role of the third party and the scope for the subject under review. • The candidates for a mandate are thoroughly examined before they are included in the list of approved third parties. When the mandate is awarded, a suitability check is carried out by the supervisory authority (incl. know how, technical skills/ tools, language skills, time available, seniority of staff etc.). The quality assessments of previously completed mandates may also be taken into account.

	• Confidentiality is required both in the application for the list of authorized third parties and is additionally obtained for each mandate. • Independence and conflicts of interest are checked in each case (and for each person involved in the mandate) before the mandate is awarded. • In the mandate (Verfügung), the third party is obliged to notify FINMA immediately of any significant deficiencies, also in order to define whether the scope needs to me amended.
EC12	The supervisor has an adequate information system which facilitates the processing, monitoring and analysis of prudential information. The system aids the identification of areas requiring follow-up action.
Description and Findings re EC12	FINMA uses a rating system (FRB) for banks and banking groups that provides quantitative data and qualitative information on supervised banks and banking groups. The rating system, based on CAMELS methodology, is one of the main tools available to the supervisor and was upgraded in February 2018, when it was complemented by a new scoring model using qualitative data derived from the risk analysis provided by regulatory audit firms. A large range of standardized reports are prepared based on this database. Specific thematic analysis (psU) are also prepared centrally to address topical issues and to detect outliers and critical trends. The rating system is currently in the process of another upgrade. Please see CP8. The current system provides monitoring, alerts and tracking tools. It provides a degree of data manipulation possibilities as discussed in CP8 and the data unit will provide bespoke reports on request at short notice. The only disadvantage to this approach is that FINMA is missing out on the possibility of building a library of reports that could be made available to the wider population when it creates the one-off bespoke reports.
Additional Criterion	
AC1	The supervisor has a framework for periodic independent reviews, for example by an internal audit function, internal risk function or third-party assessor, of the adequacy and effectiveness of the range of its available supervisory tools and the effectiveness of their use, and makes changes as appropriate. The supervisory approach should be reviewed at periodic intervals and improved as necessary to ensure it remains effective and fit for purpose.
Description and Findings re AC1	FINMA has an internal audit function which reports to FINMA's Audit and Risk Committee and which covers all areas of supervision. Internal Audit evaluates the of adequacy and effectiveness of the supervisory instruments available to FINMA as well as how efficiently they are used.
Assessment of Principle 9	MNC
Comments	The first best option for a supervisory system is for a supervisor to be able to go onsite to a bank and to understand the risk management, risk control and risk culture environment. The understanding obtained through direct engagement cannot be replicated through mediated sources. Many FINMA staff fully expressed this understanding. So too did a range of representatives from supervised firms and the audit profession. The mission supports an increase of onsite inspections by FINMA, across all categories of banks. This is essential, overdue, and highly welcome. FINMA must, over time, bring as much work in house as it

	reasonably can. Coupled with the upgrades to the analytical focus discussed under CP8, the mission agrees that FINMA has adopted the appropriate direction of travel. *Regulatory Audit* A key finding of the mission is that the regulatory audit system is not and cannot be seen as the same product as supervisory onsite work. The one is not a substitute for the other: they are different, and the supervisory strategy cannot be blind to the difference without exposing all parties to risk. The regulatory audit is a compliance check. It is based on an understanding of risk, but its perspective is whether the risk and control environment meets the stated requirements. By contrast, the supervisor can and must take a probing and inquisitive attitude of whether the risk environment will be sufficient to withstand possible future headwinds. In an over simplistic form, one set of questions is "did the bank do what it should have done" and the other is "will and can the bank do what it should?" The value of each set of questions is undeniable but they should not be seen as interchangeable even if looking at the same risk area. As more than one commentator pointed out, and the mission saw documented, the regulatory auditor cannot comment on management failings. This is the role of the supervisor and cannot be delegated to the regulatory auditor. FINMA itself may not have communicated this difference clearly, but the mission found it to be well understood by professional market participants. The mission finds that there has been evolution of practice since previous FSAPs. Concerns regarding lack of guidance from FINMA for the regulatory auditors have largely evaporated, though the potential for inconsistency of practice between regulatory audit firms, based on individual guidance obtained from FINMA remains. The mission took note that the regulatory audit is being performed by a cadre of highly professional staff, who are greatly appreciated by their clients and FINMA alike. Likewise, the oversight by the FAOA was spoken of very highly for its diligence and professionalism. That said, as noted above, the mission takes the view that work of the regulatory audit is not fulfilling the function that many participants in the market believes that is fulfilling. But with some adjustments and adaptations the system could be more satisfactory to FINMA, the professional firms and the banks. While the mission also believes that the first best option would be for FINMA to take all of its on-site work in-house, evolution not revolution is almost always the better option, not least for pragmatic reasons. Consistently across the conversations the mission held, FINMA and the professional firms recognized and articulated the distinction that the role, purpose and function of supervision and audit, including regulatory audit are not the same. Both are important but they provide a different output and one does not substitute for the other. In the case of the regulatory audit a source of discussion is whether there are findings that are relevant and valuable for the supervisor and whether the regulatory audit process is missing findings that an audit process, as distinct from a supervisory process, could be expected to have identified. Supervisors indicated reluctance to increase scope of regulatory audits on the basis that there would be more audit work done, more fees paid by the bank, but little added to the supervisory knowledge base. This is one indication that the system is not functioning as intended. Equally it is important to recognize the high value that the banks place, and that FINMA also places,

	on the depth of knowledge and relationship the audit firms have with their clients. This is not to be discarded or discounted. The mission recommends that FINMA is granted the regulatory audit mandate. The work that the auditors should do in the banks should be specified according to clear standards set out by FINMA, but not limited by audit methodology—unless this is warranted. By taking this step, therefore, the professional firms and their skilled staff should be more able to identify relevant findings that supervisors can make use of in their supervisory work than they are at present. This adaptation will make more effective use of the skills embedded in the audit firms, not least their wider pool of cyber risk capabilities, reassure banks that the auditor who knows them remains closely involved and, ultimately, yield most supervisory value for the funds that are spent. Also, and importantly, this adaptation will move the supervisory process away from a backwards looking compliance focused approach to a forward looking, risk-based approach. That said, this recommendation is presented as a steppingstone to FINMA taking a full program of onsite supervision in-house over the course of time. *Other Issues* In terms of off-site work, reforms are underway, as noted in CP8. With respect to this principle and the use of supervisory tools, several topics are dealt with under other CPs, such as CP14 (corporate governance), CP 16 (stress testing). While the assessors recognize that upgrades to the supervisory toolbox are in progress, for example, business model analysis, the current state of development is behind the curve for an advanced authority. Similarly, FINMA, as it knows, needs to make more use of peer group analysis and broader use horizontal reviews in order to be able to provide feedback to the firms. There is currently a risk of siloed information within units, but planned reforms ought to address this concern. FINMA is investing in a major digitalization program, but needs to take care this does not only address data from firms, but its own data and management information issues. If the new ratings system looks as if it might emerge as among best in class, there are other processes and important planning capabilities that need support and would likely benefit from "suptech" investment. The IT system contains much supervisory information in Sirius and reports can be extracted in pdf and Excel and other formats. While supervisors often use the Excel format, as it provides filtering functions and drill-down options overall, FINMA is currently using too many Excel spreadsheets for monitoring and planning purposes for an advanced authority. The plans to enhance IT capabilities further are welcome.
Principle 10	**Supervisory reporting.**[40] The supervisor collects, reviews and analyzes prudential reports and statistical returns[41]from banks on both a solo and a consolidated basis, and independently verifies these reports through either on-site examinations or use of external experts.

[40] Reference documents: BCBS, Principles for the effective management and supervision of climate-related financial risks, June 2022; BCBS, Sound Practices: implications of fintech developments for banks and bank supervisors, February 2018; BCBS, Principles for effective risk data aggregation and risk reporting, January 2013; BCBS, Principles for the supervision of financial conglomerates, September 2012.

[41] In the context of this Principle, "prudential reports and statistical returns" are distinct from and in addition to required accounting reports. The former are addressed by this Principle, and the latter are addressed in Principle 27 [BCP40.61].

Essential Criteria	
EC1	The supervisor has the power to require banks to submit information, on both a solo and a consolidated basis, on their financial condition, performance and risk exposures, on demand and at regular intervals. These reports provide information such as on- and off-balance sheet assets and liabilities, profit and loss, capital adequacy, liquidity, large exposures, risk concentrations (including by economic sector, geography and currency), asset quality, loan loss provisioning, related party transactions, interest rate risk, market risk and information that allows for the assessment of the materiality of climate-related financial risks and emerging risks to banks.
Description and Findings re EC1	As noted in CP1 EC5, FINMASA grants the supervisor powers of information access and gathering to carry out its tasks (Art. 29 para 1). In more detail, banks are required by Banking Ordinance (Arts. 25 – 41) and in FINMA "Circular 08/14 – Supervisory reporting for banks" to report their financial results (on-/off-balance sheet assets and liabilities, profit and loss, asset quality, loan loss provisioning, related party transactions) to FINMA at regular intervals. Other reporting requirements, also at regular intervals – typically quarterly for solo reporting and 6 monthly for consolidated reporting, cover topics including capital adequacy, large exposure and liquidity in the context of Basel III, risk concentrations, and interest rate risk. The reporting duties are set out in regulations (Capital Adequacy Ordinance, Liquidity Ordinance, FINMA Circular 19/2). Data is collected at single entity, and in the case of consolidated supervision, also at group level. For climate-related and emerging risks, FINMA has been making use of surveys on climate-related risks and ad-hoc topics of relevance such as exposures domiciled in the middle east due to geo-political tensions. Supervisors of major banks also have regular access to individual bank information used by the banks for management purposes (including information going to the board and senior management).
EC2	The supervisor provides reporting instructions that clearly describe the standards to be used in preparing supervisory reports. Such standards are based on accounting principles and rules that are widely accepted internationally.
Description and Findings re EC2	Articles 25 - 41 of the Banking Ordinance prescribe the chart of accounts and the structure of accounting disclosure for both banks and banking groups. In addition, FINMA provides guidance on accounting, valuation standards and detailed reporting instructions which are laid down in the FINMA Accounting Ordinance (RelV-FINMA) and the FINMA Circular 20/1 Accounting – Banks. These guidelines are based on accounting principles and rules that are widely accepted internationally. Accounting data forms the basis of supervisory reporting (including capital and liquidity) as stated in the regulation. In additional, detailed reporting instructions are in place for each supervisory return, again referring to the applicable parts of regulations. FINMA provides guidelines on data reporting for some requirements, e.g., for (ad-hoc) data collections on climate risk or on emerging risks where no clear accounting or valuation standards have been established yet.

	Six banking groups use IFRS for consolidation and there is one using U.S. GAAP. At entity level banks must use Swiss GAAP in financial statements (which is generally seen as more conservative than international standard—please see CP 16).
EC3	The supervisor requires banks to have sound governance structures and control processes for methodologies that produce valuations. The measurement of fair values maximizes the use of relevant and reliable inputs which are consistently applied for risk management and reporting purposes. The valuation framework and control procedures are subject to adequate independent validation and verification, either internally or by an external expert. The supervisor assesses whether the valuation used for regulatory purposes is reliable and prudent. Where the supervisor determines that valuations are not sufficiently prudent, the supervisor requires the bank to adjust its reporting for capital adequacy or regulatory reporting purposes.
Description and Findings re EC3	FINMA Circular 2017/1 "Corporate Governance – Banks" provides guidelines on corporate governance, monitoring business activities, internal control processes and monitoring them. The valuation framework and control procedures are subject to independent validation and verification by internal experts and the regulatory audit firm. According to Annex 18 FINMA Circular 2013/03 "Auditing" (and the FAOA Circular 1/2009, Link) the audit firm comments in the comprehensive audit report to the board of directors on the adequacy of the valuation framework and the control procedures of the bank. In addition, consistent with the Swiss supervisory approach, the audit firm must confirm annually if the bank is compliant with the standards regarding valuation according to FINMA Accounting Ordinance (RelV-FINMA) and the FINMA Circular 20/1 Accounting – Banks. Furthermore, there are other requirements regarding prudent valuation adjustments, which are equally in scope of financial or regulatory audit. The accounting standards for positions in the trading book are set out in FINMA Accounting Ordinance and in FINMA Circular 2020/1. They include requirements for the use of valuation models for less liquid positions. According to art. 10 FINMA Accounting Ordinance, the measurement of fair values based on a valuation model must meet the following conditions: a. The internal valuation and risk assessment models must adequately consider all relevant risks. b. The parameters for the internal valuation and risk assessment models must be complete and appropriate. c. The internal valuation and risk assessment models, including the associated parameters, must be scientifically sound and robust and applied consistently. d. The controls must be effective. e. Persons entrusted with the independent controls and risk management must understand the market and must be knowledgeable in this area. The supervisory standards are based on the Basel Framework issued by the Basel Committee on Banking Supervision and where the Consistency of the Swiss standards has been confirmed via the Regulatory Consistency Assessment Program (RCAP) for Switzerland (https://www.bis.org/press/p130625.htm). These standards are implemented in FINMA-Circulars 08/20 "Market Risk – Banks" margin nos. 32-48 and 17/7 "Credit Risk – Banks" margin no. 486; requirements regarding valuation

	adjustments for less liquid positions are set out in FINMA-Circular 08/20 "Market Risk – Banks" margin no 47. The regulatory audit firm comments on weaknesses or non-compliance with supervisory/regulatory requirements, in the standardized regulatory audit report which inputs into FINMA's assessment and rating of the bank. Where weaknesses have been identified, FINMA seeks improvements in the internal organization and procedures of the bank, where senior management is held responsible.
EC4	The supervisor collects and analyzes information from banks at a frequency commensurate with the nature of the information requested and the risk profile and systemic importance of the bank.
Description and Findings re EC4	The scope and periodicity on which FINMA collects standard reports are the same for all banks – e.g., for all banks of the same category. Under the risk-based regulatory approach, banks in categories 1 to 3 (banks with an increased systemic importance) have additional, individual reporting duties, where scope and periodicity vary depending on their specific situation. In 2020 FINMA introduced the so-called *small banks regime*, in which well capitalized banks in category 4 and 5 without supervisory issues are not required to adhere to risk-weighted capital regulation nor are they required to submit risk-weighted data. Instead, FINMA's internal rating system, the FRB uses standard risk indicators for these banks (including a machine-learning based proxy for their RWA). Further enhancements and further data interrogation is planned for these banks.
EC5	To make meaningful comparisons between banks, the supervisor collects data from all banks and all relevant entities covered by consolidated supervision on a comparable basis and for the same dates (stock data) and periods (flow data).
Description and Findings re EC5	FINMA collects quantitative data and qualitative information from all supervised banks and banking groups in a standardized manner. The templates used for some of the data collected are available on the FINMA website and some are on the SNB site which is currently collecting much of the regulatory data, although this function will partially transfer to FINMA in the near future. For some reports, e.g., capital adequacy, large exposures and interest rate risk (Basel III data), solo reports are quarterly and group level reports are semi-annual.
EC6	The supervisor has the power to request and receive any relevant information from banks, as well as any entities in the wider group, irrespective of their activities, where the supervisor believes that it is: (a) material to the condition of the bank; (b) material to the assessment of the risks of the bank; or (c) needed to support resolution planning. This includes, but is not limited to, internal management information, corporate governance information, transactions with the wider group (e.g., any non-bank entities) and related party transactions.
Description and Findings re EC6	As noted above, Article 29 in FINMASA provides FINMA with the legal authority to request and receive all information and documents from supervised persons and entities that FINMA requires to carry out its tasks. The authority covers standard reporting as well as and any ad-

	hoc reports on specific risks and topics as well as internal management information. FINMA conducts ad-hoc surveys for all banks on a specific topic or for single banks in intensive supervision. This information power also extends to information about any entities in the wider group, irrespective of their activities. Nevertheless there is an instance of a bank that resisted providing large exposure information due to confidentiality concerns.
EC7	The supervisor has a means of enforcing compliance with the requirement that the information be submitted on a timely and accurate basis. The supervisor determines the appropriate level of the bank's senior management that is responsible for the accuracy of supervisory returns, imposes sanctions for misreporting and persistent errors, and requires that inaccurate information be amended.
Description and Findings re EC7	FINMA does not have the power to impose fines in the event that information is not submitted on a timely and accurate basis. Failure to meet standards of timeliness and accuracy are reflected in FINMA's assessment and rating of the bank and FINMA will demand improvements in the internal organization of the bank, where senior management is held responsible If a bank fails to deliver required information on a timely and /or accurate basis, FINMA gives an appropriate period to restore compliance. Should there be serious irregularities, FINMA requires improvements in the internal organization of the bank. The prudential audit firms provide an annual check on confirmation whether or not the bank or the banking group has been compliant with applicable regulations and rules, and if deadlines were met.
EC8	The supervisor utilizes policies and procedures to determine the validity and integrity of supervisory information. This includes a program for the periodic verification of supervisory returns either by the supervisor's own staff or by external experts.
Description and Findings re EC8	In the framework of the audit, the external auditor confirms the accuracy of the quantitative data and the qualitative information. Quantitative data is collected partly by the Swiss National Bank (SNB) for FINMA and partly by FINMA itself. As part of risk-oriented supervision, the supervisor verifies and analyzes the supervisory returns. As part of the data-quality management setup, FINMA demands corrected data submissions if automated data quality checks fail or if supervisors spot anomalies in reports.
EC9	The supervisor has a process in place to periodically review the information collected to determine that it satisfies a supervisory need.
Description and Findings re EC9	FINMA reviews its data collection periodically and determines if this information still meets its needs. Modifications in scope and content are made if changed data needs are identified, though complex regulation processes may cause implementation delays.
Assessment of Principle 10	C
Comments	FINMA needs to continue with its program of enhancing its offsite risk analytical capacities and capabilities and this depends on its data. A major digitalization program is planned which is welcome. FINMA has already established a Data Innovation Lab staffed by specialists whose outputs are beginning to come online to support supervisory work. Assessors took note that there was a substantial proportion of staff who had opted for data training of various types. It was encouraging to see this level of interest and it is suggested that staff interest and momentum is harnessed as far as possible.

	Given that FINMA is about to take over the receipt of regulatory reporting from the SNB, it is an appropriate moment for FINMA to conduct a review of all the data that it is receiving and whether it is supporting the greater granularity of analysis and risk focus that FINMA is now aiming for. Equally FINMA will need to ensure the quality of the data it is receiving. The assessors note that FINMA is, appropriately, paying particular attention to the data needs surrounding the G-SIB. Enhanced data collection is one way to strengthen supervisory reach without going onsite. Additionally, ensuring that data is being captured systematically and not purely on an ad hoc basis, valuable though ad hoc capabilities are, is important. Firms reported that data requirements are increasing but from a low level for the smallest institutions. It is recommended that, in keeping with the importance of the "tone from the top" and risk culture that FINMA is now communicating to the banks as well as personal responsibility from senior individuals in banks, that FINMA require a named individual, at least at the level of the executive management to sign off on the regulatory data that is submitted to FINMA and to take responsibility for the timely submission to FINMA.
Principle 11	**Corrective and sanctioning powers of supervisors.**[42] The supervisor acts at an early stage to address unsafe and unsound practices or activities that could pose risks to banks or to the banking system. The supervisor has at its disposal an adequate range of supervisory tools, that it can apply at its discretion, to bring about timely corrective actions. This includes the ability to revoke the banking license or to recommend its revocation.
Essential Criteria	
EC1	The supervisor raises supervisory concerns with the bank's management or, where appropriate, the bank's board, at an early stage, and requires that these concerns be addressed in a timely manner. Where the supervisor requires the bank to take significant corrective actions, these are addressed in a written document to the bank's board. The supervisor requires the bank to submit regular written progress reports, and it checks that corrective actions are completed satisfactorily. The supervisor follows through conclusively and in a timely manner on matters that are identified.
Description and Findings re EC1	When FINMA has identified supervisory concerns, its normal practice is to raise the shortcomings and request corrective action, in person in supervisory meetings and to confirm in writing in supervisory assessment letters (for banks in categories 1-3). Whether the issue is raised in writing (email or letter) or in person depends on the matter in hand. For strategic matters FINMA prefers to hold meetings and major topics will be likely to be subject to multiple meetings. A minor issue might be communicated in a letter. If a small bank is moved into intensive supervision then it will receive a letter explaining why. Direct contact with small banks is, overall, infrequent. Banks are required to provide monthly progress reports, but more frequent reporting can be requested if appropriate until the matter has been resolved. There are a variety of methods by which FINMA can satisfy itself that a bank has completed remediation satisfactorily from

[42] Reference document: BCBS, Parallel-owned banking structures, January 2003.

	an onsite visit by FINMA, a report through the regulatory audit work, or, if very serious, an appointed onsite monitor. If the matter is not resolved in a timely and satisfactory manner, FINMA may escalate it into more invasive procedures or institute formal enforcement proceedings. In fact failure to remediate failings in a timely manner is one of the criteria for escalation processes which the assessors were able to see in evidence.
EC2	The supervisor uses an appropriate range of supervisory tools[43] in a timely manner when, in the supervisor's judgment, a bank is not complying with laws, regulations or supervisory actions, is engaged in unsafe or unsound practices or in activities that could pose risks to the bank or the banking system, or when the interests of depositors are otherwise threatened.
Description and Findings re EC2	FINMA is entitled to request and enforce any measure it deems necessary to remedy an unsatisfactory, and to establish an orderly, regulatory situation (Art. 31 FINMASA). It is also entitled to request any and all information it deems necessary for regulatory purposes (Art. 29 FINMASA). As discussed in CP1 EC6 the enforcement power is high level. It is not a sufficiently well-defined legal basis to order effective and mandatory early intervention measures in supervision at an early stage. An important point is that the use of FINMA's powers is, in practice, effectively predicated upon the violation of laws or regulations. FINMA may not use its powers under Art 31 FINMASA unless there has been a breach of law or regulation or if there are "other irregularities." While, in principle, FINMA should be able to act if there are other irregularities, (Art 31 FINMASA), and not just breach of law or regulation, the provision is articulated at such a high level that it remains unclear if this can provide a solid legal basis for enforcing intrusive supervisory actions (e.g., restrictions of activities) as this was never used by FINMA in relation to banks. Furthermore, the power is not drafted to ensure it is triggered by the supervisors' judgement that the bank is engaged in unsafe or unsound practices or in activities that could pose risks to the bank or the banking system, or when the interests of depositors are otherwise threatened. Therefore, Article 31 FINMASA is not facilitating timely and decisive early intervention by the supervisor. FINMA defines early intervention as the ordering of legally enforceable immediate measures in its supervision of supervised entities in the going concern phase, well before the stabilization phase. Hence, at present, FINMA's early intervention options in this sense are limited and, as discussed below under EC4, FINMA's formal room for maneuvering is limited, unlike many peer supervisors in advanced jurisdictions. This situation leads to the outcome where, de facto, FINMA needs to rely on banks being willing to respond to supervisory advice and direction rather than them resorting to legal challenge procedures in order for supervisory intervention to have a timely impact. When, however, in FINMA's opinion, there are serious reasons for fearing that a bank may be overindebted or suffering major liquidity problems, or if the bank has not restored a situation in compliance with capital requirements within the period set by FINMA, then FINMA may order: protective measures (Art 26 BA), restructuring (Arts 28-32 BA) or bankruptcy (Arts 33-37g BA). The protective measures under Article 26 when the bank has reached the Point of Non Viability (PONV) are not subject to automatic suspension and include:

[43] Refer to Principle 1, essential criterion 1 [BCP40.5].

	a) Give instructions to the bank's Board and Executive Management; b) Appoint an investigator; c) remove or remove the powers of representation of the Board and Executive Management; d) Dismiss the audit firm within the meaning of this law or the audit body; e) Limit the bank's activity; f) Prohibit the bank from making payments, accepting payments, or conducting transactions in securities; g) Close the bank; h) Grant a deferment or extend maturities, except for pledged receivables of central mortgage board issuers.
EC3	The supervisor uses its powers to act where a bank falls below established regulatory threshold requirements, including prescribed regulatory ratios or measurements. The supervisor intervenes at an early stage to require a bank to take action to prevent it from breaching its regulatory threshold requirements. Laws or regulations guard against the supervisor unduly delaying appropriate corrective actions, without limiting the supervisor's discretion to act.
Description and Findings re EC3	If an institution has breached legal or regulatory thresholds, FINMA has the legal authority to intervene (Art 31 FINMASA). FINMA can request capital injections or other appropriate measures to improve capitalization or restoring the legal order. Issues of liquidity, capitalization and capital planning are a core element of FINMA's supervisory dialogue and monitoring. FINMA is authorized to take corrective measures if an institution does not meet capital or liquidity requirements, up to and including revocation of license or institution of insolvency proceedings. As noted in CP1 EC6, however, an institution may go to court to challenge FINMA's formal decisions. Courts may then overrule FINMA's decisions on legal or procedural grounds but are unlikely to challenge the administrative (so-called "technical") discretion of FINMA in interpreting regulatory standards or requirements. There are occasions on which banks, including systemic banks, have taken this option (this is a matter of public record). FINMA estimates that approximately 5 -10 percent of the banking population would be/has been ready to appeal to the courts. FINMA has no specific law, regulation or internal procedure to guard against delay in appropriate corrective actions. In contrast FINMA has an obligation to act ("FINMA shall restore compliance with the law," Art 31 FINMASA) and is accountable if it violates its fundamental duties (Art 19 FINMASA). Where there are indications of violations of supervisory provisions and if FINMA opens formal enforcement proceedings, it notifies the parties about the initiation of formal proceedings (notice of the opening of proceedings; Art. 30 FINMASA). The decision to initiate enforcement proceedings against a license holder, its ultimate management, owners or staff based on investigations is taken by FINMA Executive Board's Enforcement Committee (ENA). Permanent members of the ENA are the CEO (Chair) and the heads of the Support, Policy and Legal Expertise Division and Enforcement Division. The heads of the business divisions of the relevant entities sit on the ENA on a case-by-case basis, with voting rights.

	FINMA has a well-defined internal process for raising, escalating and determining on whether corrective measures should be taken. There are internal guidelines for the FINMA Enforcement Board and these also address which kind of cases go to the Enforcement Committee. Processes include opening preliminary investigations, fact finding and decisions on whether proceedings are to be established. Part of the overall process includes comparing a new case with previous similar cases in order to support consistency of decision making, procedure and outcome. FINMA staff indicated that they have been seeking to escalate cases faster than in the past. While the burden of proof rests on FINMA and needs to be watertight, there may be scope to escalate cases earlier to formal enforcement proceedings.
EC4	The supervisor uses a broad range of possible measures to address, at an early stage, such scenarios as described in essential criterion 2 above [BCP40.26(2)]. These measures include the ability to impose sanctions expeditiously or require a bank to take timely corrective action. In practice, the range of measures is applied in accordance with the gravity of a situation. The supervisor provides clear prudential objectives or sets out the actions to be taken, which may include restricting the current activities of the bank, imposing more stringent prudential limits and requirements, withholding approval of new activities or acquisitions, restricting or suspending payments to shareholders or share repurchases, restricting asset transfers, barring individuals from the banking sector, replacing or restricting the powers of managers, board members or controlling owners, facilitating a takeover by or merger with a healthier institution, providing for the interim management of the bank, and revoking or recommending the revocation of the banking license.

Description and Findings re EC4	While taking into account the limitations noted in EC2 above and elsewhere, FINMA nonetheless seeks to take action.
	
	FINMA distinguishes between normal supervision, where its regulatory powers are extremely weak but it seeks to effect early intervention by supervisory means and enforcement measures.
	
	Normal Supervision
	
	If appropriate, FINMA will address the issue in the context of normal supervision and has the following instruments:
	
	• Moral persuasion in supervisory meetings
	• Issuance of formal letters with expectations with deadlines (e.g., remediation, governance, risk management, etc.). EG:
	  • supervisory letters
	  • reports on supervisory audits
	  • feedback letters on supervisory Stress tests
	  • letters of reprimand or
	  • the annual assessment letter for Cat 1-3 banks.
	
	Supervisors might also mandate additional audits and third party audits that also result in findings and require action.
	
	FINMA cannot require or force a bank to change its strategy per se, so in the absence of clear proof of a violation of law or regulation, such options would be inadvisable for FINMA to pursue.

	The corrective measures can include the following elements: • Requiring and supervising the implementation of remediation plans to address shortcomings in risk management and controls; • Increased reporting requirements and external disclosures; • Measures on contingency planning in case of risk of destabilization (stabilization phase) • Limitation / Business restrictions of type of activities and transactions (e.g., PEP ban, digital assets, limitation in a specific lending segment, etc.) FINMA can also issue measures in the following areas, but note that either banks can challenge the measure or FINMA has a very limited legal basis to act. • Measures to improve the prudential situation of a firm (including Pillar 1 measures such as IRB multipliers, Pillar 2 measures such as surcharges in the areas of capital and liquidity (e.g., derived from increased risks identified through, e.g., supervisory reviews, enforcement proceedings or stress tests) or restrictions on capital distribution (or formal expectation to obtain approval by FINMA for distributions). NB: the legal basis to constrain distributions must be deducted from the option the impose higher capital requirements. Since the legal basis to impose higher capital requirements is generally weak, depending on the situation the basis to impose restrictions on distributions is therefore very limited. Also Pillar 2 capital surcharges have been disputed and challenged in court, leading to a situation where the measure was not effective for several years. • Measures on governance (such as strengthening governance arrangements, independence, avoidance of conflicts, BoD committees, etc.). NB: this is an area where the legal basis for FINMA to act is very limited) • Measures on compensation. NB: this is an area where the legal basis for FINMA to act is very limited Withdrawals of previously granted reliefs (see below on small banks regime) **Enforcement** FINMA will escalate its actions and move to enforcement if: the bank fails to, is unable or unwilling to implement corrective measures as requested; or the situation deteriorates and poses immediate risks to the bank or the banking system or to the interests of depositors. Administrative enforcement proceedings apply when there are violations of supervisory provisions, or irregularities (Art. 31 FINMASA). *Interim measures* FINMA can order interim measures to safeguard the situation. In particular, FINMA can appoint an investigating agent to implement the required corrective measures (Art. 36 FINMASA). Depending on the mandate, the investigating agent has the authority to act for the bank instead of the former management (e.g., interim management). FINMA discussed an example of having appointed an independent investigating agent to oversee the implementation and completion of the corrective measures at a bank's subsidiary outside Switzerland and having found the performance to be satisfactory.

	Regular, or intensified supervision continues during the enforcement proceedings and may be accompanied by supervisory measures. If the bank fails to implement the supervisory measures, they may also be imposed as interim measures in the course of the enforcement proceedings, provided that such measures are necessary to safeguard an orderly regulatory situation for the duration of the proceedings. As noted above in EC2 and CP1 EC6, banks may lodge an appeal against interim measures and the appeal has a suspensive effect and will only be immediately binding on the bank, if FINMA withdraws the appeal's suspensive effect. Even if FINMA does so, the appeal court may reinstate the appeal's suspensive effect if it considers the prerequisites for a withdrawal of the suspensive effect as not met. *Final Measures* FINMA can order the restoration of compliance with supervisory law (Art. 31 FINMASA) and has technical discretion in deciding which corrective measures are required to restore compliance. Examples of measures that FINMA has imposed on institutions include: restricting the cross-border activities of a bank and closing branch offices in order to limit business risks. Under final measures FINMA is able to impose stringent prudential limits and requirements on a bank's business, withhold approval of new activities or acquisitions, restrict or suspend payments to shareholders or share purchases and restrict asset transfers. In terms of measures related to individuals, FINMA may bar a person from acting in a management capacity in the banking sector for a period of up to five years only if he/she is responsible for serious violation of supervisory law (Art. 33 FINMASA). Moreover, FINMA can prevent a bank from engaging a person for a senior executive position who does not provide assurance of proper business conduct (Art. 3 para. let. c BA). FINMA may also replace or restrict the powers of managers or board members. In this regard, FINMA is authorized to appoint an investigating agent with the powers to replace the existing management and act for the bank as interim management (Art. 36 FINMASA). FINMA is also competent to suspend the voting rights of controlling owners if their conduct is detrimental to the institution (Art. 23ter BA). Even if a bank implements the required corrective measures while the enforcement proceedings are still open, FINMA may still issue a declaratory ruling (Art. 32 FINMASA) and make its final ruling public ("name and shaming", Art. 34 FINMASA). In addition, FINMA is authorized to confiscate profits made as a result of a serious violation of supervisory provisions (Art. 35 FINMASA). FINMA has no statutory power to impose fines, but has proposed the introduction of this power following reflection and analysis of the events of the CS-takeover. The Swiss Federal Council is evaluating the proposal at the time of the FSAP. **Resolution**: If a bank no longer meets its conditions of authorization or has seriously violated supervisory provisions, FINMA can revoke the bank's license (Art. 37 Para. 1 FINMASA). However, the courts have set very high conditions for revocation to be applied and revocation would, in practice be threatened prior to formal steps for removal. Where a license is revoked, the bank loses its right to carry out its activities (Art. 37 para. 2 FINMASA) and will be dissolved (Art. 23quinquies BA). In this regard, FINMA may appoint

	one or several liquidators responsible for the interim management of the bank (Art. 33 Para. 2 BA). As part of the restructuring of a bank (Art. 25 f. BA), FINMA may also facilitate a takeover by or merger with a healthier institution. The assessors were able to review a number of cases that FINMA had dealt with and had engaged a range of its potential options with a range of outcomes.
EC5	The supervisor applies sanctions not only to the bank but, when and if necessary, also to management and/or the board, or relevant individuals. The supervisor has the power to apply corrective measures and sanctioning measures simultaneously, including financial penalties.
Description and Findings re EC5	FINMA can open enforcement proceedings against individuals for violations of supervisory law if it finds that a person is responsible for a serious violation of supervisory provisions. For example, FINMA may prohibit this person from acting in a management capacity in the banking sector for a period of up to five years (Art. 33 FINMASA). There are a number of investigations active at the time of the FSAP. FINMA may also prohibit for a limited time or permanently, in case of repeated misbehavior, individuals responsible for trading financial instruments and client advisors from acting in this capacity, if they have infringed supervisory law or internal guidelines in this regard (Art. 33a FINMASA). Fit and proper standards also apply. FINMA may find that an individual's actions or influence has been exercised to the detriment of prudent and sound management of the bank and therefore contravenes the terms of the Banking Act (Art. 3 para. 2 let. c BA) and is unfit to serve as a senior executive officer in the banking sector. Currently, FINMA has no statutory power to impose fines as noted in EC4 above. This limitation also applies to individuals. If FINMA becomes aware of criminal law offences, it is obliged to inform the competent prosecution authorities (Art. 38 para. 3 FINMASA).
EC6	The supervisor exercises its power to take corrective actions, including ring-fencing the bank from the actions of parent companies, subsidiaries, parallel-owned banking structures and other related entities in matters that could impair the safety and soundness of the bank or the banking system.
Description and Findings re EC6	FINMA can carry out measures including financial ring-fencing, additional capital requirements, restrictions on dividend payments or organizational measures (e.g., a management structure that is entirely or substantially independent of related entities), the limitation of intra-group exposure and actions resulting from the consolidated supervision. FINMA may also suspend the voting rights of a shareholder if their conduct is detrimental to the institution (Art. 23ter Banking Act).
EC7	Laws, regulations or the supervisor establish a clear policy on whether imposed sanctions are made a matter of public knowledge and, in that case, what to disclose and when. The decision to publish sanctions or corrective measures applied to banks and individuals (e.g., senior managers, board members, directors, officers and other employees) may be subject to confidentiality considerations and it must not jeopardize other supervisory objectives or prejudice another case pending before the supervisor. While transparency of enforcement measures is encouraged, the decision to disclose sanctions can be made on a case by case

	basis, depending on their seriousness and the frequency of their occurrence, among other considerations.
Description and Findings re EC7	FINMA informs the general public at least once each year about its supervisory activity and supervisory practices (Art. 22 para. 1 FINMASA). FINMA, however, does not provide information on individual proceedings, unless there is a particular need to do so from a supervisory point of view and in particular if the information is necessary: (1) for the protection of market participants or the supervised persons and entities; (2) to correct false or misleading information; or (3) to safeguard the reputation of Switzerland's financial center (Art. 22 para. 2 FINMASA). Based on this provision FINMA publishes media releases on specific enforcement cases if the requirements of the provision are met. In addition, for the years 2014 to 2018, FINMA published anonymized summaries of its enforcement rulings, an overview of court decisions, and statistical information in an annual enforcement report. FINMA now publishes this information on its website, with categories for case reports, court decisions figures and statistics on enforcement. In the wake of the CS-takeover FINMA has considers that more extensive information duties and rights would be useful and proposed the introduction of a broader provision of information. The Swiss Federal Council has supported this proposal and has recommended amending the existing provision of Art. 22 FINMASA to the effect that FINMA shall 'inform the public about finalized enforcement proceedings (duty of information, with exceptions). The legislative process is ongoing.
EC8	The supervisor cooperates and collaborates with relevant authorities in deciding when and how to effect the orderly resolution of a problem bank (which could include closure, assisting in restructuring, or merger with a stronger institution).
Description and Findings re EC8	In Switzerland, the supervisory and resolution function are both carried out by FINMA as an integrated authority. The respective divisions work closely together once a bank's situation has been identified as deteriorating. *Domestic cases* On the one hand, at a domestic level, Section 2 of the Financial Market Supervision Act (Arts. 38-41a) provides a legal basis for FINMA and other domestic authorities to cooperate with each other at any time. FINMA has been legally granted with independent powers to address the resolution of a problem bank situation. FINMA can pronounce and entirely monitor by itself measures aiming at closing or restructuring a bank (Chapter XI Banking Act). *International cases* FINMASA, Section 3 (Arts. 42-43) provides a general legal basis for cooperation between FINMA and foreign authorities. With respect to bank insolvency Art. 37f Banking Act requires FINMA to cooperate as far as possible with the competent foreign bodies when a bank is the object of foreclosure procedures in Switzerland and abroad. The Banking Act Art. 37g requires FINMA to decide on the recognition of bankruptcy decisions and measures applicable in the event of insolvency that is ordered abroad.

	As discussed in CPs 12 and 13, FINMA cooperates with foreign supervisory authorities in the usual course of its supervision of cross border entities. FINMA was the lead supervisory authority for the supervisory college and crisis management group for two G-SIBs over most of the period since the last FSAP. FINMA noted that it seeks to attend all potential groups and colleges on conduct and crisis management. It is not involved in all the EU colleges where it is a non-core host supervisor for complex groups, though would appreciate the opportunity to join, not least in order to maintain a wider benchmarking frame of reference. Cooperation with the core college of UK and US authorities has always been excellent and FINMA commented that the same is true for the APAC college. In the case of the G-SIB merger there has never been any indication or feedback of poor communication or collaboration by FINMA. This overall regime also applies to securities dealers (Art. 67 Financial Institutions Act).
EC9	Where appropriate, when taking formal corrective action in relation to a bank, the supervisor informs the supervisor of related non-bank financial entities of its actions and coordinates its actions with them.
Description and Findings re EC9	FINMA is an integrated supervisory agency, and manages coordination through internal communication. FINMA also shares information and cooperates with federal and cantonal prosecution authorities and other domestic regulators, such as the FAO, the SNB, the Takeover Board, the self-regulatory organizations (SROs), the relevant bodies of the Swiss stock exchanges and the Competition Commission. The legal references are as follows: Anti-Money Laundering Act (AMLA) Article 29; Article 22 Auditor Oversight Act, and Article 10 Cartel Act,; Article 23bis Banking Act; Article 38 f. FINMASA; Article 80 Insurance Act; Article 34a Stock Exchange Act (SESTA); and Article 46 Stock Exchange Ordinance -FINMA Act.
Assessment of Principle 11	MNC
Comments	FINMA's legal powers of intervention require critical improvement to promote and ensure effective action. At present FINMA's powers are not specific enough to allow for timely, decisive, and immediately enforceable early intervention. This should be addressed as a matter of priority. Although the *general* provision of a supervisor's powers—which go beyond corrective measures—is covered in CP1, the focus of CP11 is different. It tests the effective practices and use of corrective and sanctioning powers. Hence, limitations and practices around FINMA's corrective and sanctioning powers are treated and graded in this CP which expects to see evidence of use of these specific powers. At present FINMA's formal powers are effectively triggered only due to breach of law or regulation (Art 31 FINMASA) or at points of non-viability (Art 26 Banking Act). Under FINMASA a number of important powers are expressly predicated on a serious violation of the law (Articles 32 to 37, including such issues as issuance of a declaratory ruling, removal from management, suspension of an activity, and revocation). While FINMASA (Art 31), in principle, also grants FINMA the broad discretion to act if there are "other irregularities," the

	provision is articulated in such high-level terms that concerns have been expressed to the mission that courts may be reluctant to support actions brought on this basis. Were FINMA to base its actions on "other irregularities" it is only bound by the limits of administrative procedural law, in particular the principle of proportionality which requires that FINMA adopts measures that have the least impact on the rights of the persons concerned, but which nevertheless ensure the restoration of the orderly situation.[44] Although FINMA has relied upon the concept of "irregularity" in the context of requiring a self-regulatory organization (SRO) to amend its regulations regarding AML/CFT, which was supported in a ruling of the Federal Supreme court.[45] FINMA has not used this provision in any action against a bank, which implies that the assessors had no evidence of the its effectiveness for the purpose of early intervention. FINMA's own description of its approach to enforcement refers to investigating irregularities but describes taking action only in response to violations of law and restoring compliance with the law.[46] Given the apparent lack of use of Art 31 on the basis of "other irregularities" and the requirement for violations, sometimes serious violations of law, it appears that FINMA's ability to act is pushed to a late stage at which effective solutions for the bank may no longer be achievable. In addition, the bank retains the ability to appeal FINMA's actions and the appeal has a suspensive effect unless FINMA itself revokes the suspensive effect. However, the court may reinstate the suspension, based on the bank's application. These legal possibilities, when used by banks, obstruct FINMA from achieving necessary interventions. Such legal processes can be very lengthy – sometimes taking years – and even systemic banks have made use of them. The Report by the Parliamentary Investigation Committee, issued shortly after the assessment mission, observed that the case of the systemic bank that had challenged its Pillar 2 charge "is a good example of the procedural difficulties faced by FINMA in its supervisory work." For the sake of completeness, it is noted that FINMA may impose capital or liquidity surcharges, (Art 4, para 3 Banking Act for example) but these powers are not typically regarded as early intervention but are seen rather as basic powers a supervisor should have to set standards above the minimum, as expected by the Basel Framework, or to apply Pillar 2 measures, neither of which are regarded as corrective or sanctioning measures. The most effective supervisory practices are when banks are responsive to supervisory concerns and messages and do not resort to legal options to restrict or remove formal supervisory decisions. FINMA is badly placed if banks opt for legal challenge, in part due to the suspensive effect of an appeal.[47] The likelihood and possible outcome of legal challenges

[44] See Investigation Report by Albrecht Langhart and Matthias Hirschle for Parliamentary Commission of Inquiry into the emergency merger of CS and UBS, margin no 57. (Langhart and Hirschle)

[45] Ruling of the Federal Supreme Court of December 13, 2016 (BGE 143 II 162)

[46] https://www.finma.ch/en/enforcement/all-about-enforcement/

[47] As noted above, FINMA can lift the suspensive effect, but the bank can appeal for the suspension to be restored. In this context it may also be noted that a Federal Supreme Court judgement of 2014 in a case brought against FINMA

(continued)

	will necessarily form part of FINMA's decision-making process in issuing formal orders not least because the impact of challenges on the use of limited resources will have to be factored in. The current situation does not facilitate FINMA in issuing formal rulings. There will be occasions when the supervisor will need to act swiftly and not be concerned that the bank may lodge a challenge to disrupt the process. These occasions will not only be in the case of a crisis or when the bank is at the point of non-viability. It is important that amendments are made to ensure that FINMA can act, with legal certainty and full effectiveness, at an early moment. Deterioration in a bank that causes concern and which warrants intervention can, and often does, take place prior to any formal breach of law. Enhancing and clarifying FINMA's powers to intervene at an early stage is critical to strengthening the effectiveness of supervision. The assessors were able to see ample evidence of slow reactions from banks in response to FINMA correspondence citing clear and important concerns, and extreme care on FINMA's part in building its case towards being able to use formal powers. Considering the very different tone of remarks and findings made by the assessors in the 2014 BCP assessment, which cited no difficulties regarding delays, or lack of responsiveness by the banks, it may be concluded that the banking culture has deteriorated in terms of discipline and responsiveness over the past decade. Bearing in mind that any amendments to FINMA's legal powers may take time, it is important for FINMA to be proactive in using its current powers to the full, including issuing formal rulings and notwithstanding the risks that banks may wish to appeal. Building a case history and a track record ought to support FINMA in future. In this context, the assessors note the opinion of the Parliamentary Commission Inquiry that it "does not understand why FINMA has not always used its full potential of its means of action."[48] The assessors fully support FINMA's new focus on the importance of risk culture and governed risk appetite in banks moving forwards—it is clear that more than one major institution has recently failed in this regard. However, FINMA cannot make headway on moral suasion alone. It needs a graduated suite of early intervention powers as stated in the international standards of banking supervision. The sooner an institution can course-correct, the less damage is done and the less risk to depositors, investors and creditors. FINMA has demonstrated a readiness to act on information from other supervisory authorities. This is to FINMA's credit, albeit that progress on making headway with investigation and ultimate action was slow, not least based on factors set out above. • FINMA should be provided with effective and comprehensive powers to achieve early intervention. These powers should be established on a sound legal basis and should, at a minimum include the measures set out in EC4 above and not require

states, "The legislature has designed the withdrawal of the suspensive effect as an exception. It must be based on convincing reasons." (Judgment of 28 July 2014 2C 575/2014).

[48] Parliamentary Investigation Committee, Full Report, pg. 418)

	the breach of law or regulation for these measures to be applicable. The powers should apply to all Swiss banks. • FINMA's powers should not be subject to suspension upon appeal by the bank upon which they have been imposed. The public interest is served by FINMA's measures remaining in place even if an appeal is lodged. Unless set by the judicial practice, the legal framework should define a high threshold for such court decisions, for instance, the claimant demonstrating a clear case for illegality on the face of the decision and irreparable damage if implemented.
Principle 12	**Consolidated supervision.**[49] The supervisor supervises the banking group on a consolidated basis, adequately monitoring and, as appropriate, applying prudential standards to all aspects of the business conducted by the banking group worldwide.
Essential Criteria	
EC1	The supervisor understands the overall structure of the banking group and is familiar with all the material activities (including non-banking activities) conducted by entities in the wider group, whether domestic or cross-border. The supervisor understands and assesses how group-wide risks are managed and takes action when risks arising from the banking group and other entities in the wider group, in particular contagion and reputational risks, may jeopardize the safety and soundness of the bank and the banking system.
Description and Findings re EC1	FINMA has several sources of information to support consolidated supervision and group risks. a) Under Article 3 para. 7 BA and Article 20 BO, banks must notify FINMA if they intend to open a subsidiary, branch, agency or representative office in a foreign country. The information provided must include the business plan, the persons responsible for managing the local entity, the local audit firm and the name of the host supervisor. Banks must also inform FINMA about any closures or changes affecting their business activities abroad, as well as any change of audit firm and/or financial supervisory authority. b) The regulatory auditors responsible for the prudential audit cover the whole banking group. These auditors must submit the annual standardized risk analysis and audit strategy based on this analysis. The risk analysis covers items (a) to (i) in EC2, namely: • organization; • internal control system; • risk management and record keeping; • management and business conduct • segregation of directors and executive management in accordance with Art. 11 BO; • capital adequacy and risk diversification (large exposures) regulations; • liquidity; • accounting; • uses a recognized independent and competent audit firm.

[49] Reference documents: BCBS, Principles for the supervision of financial conglomerates, September 2012; BCBS, Home-host information sharing for effective Basel II implementation, June 2006; BCBS, The supervision of cross-border banking, October 1996; BCBS, Principles for the supervision of banks' foreign establishments, May 1983; BCBS, Consolidated supervision of banks' international activities, March 1979; [SCO10].

	FINMA can require changes to the audit strategy and the performance of supplementary audits as needed. The authorities discussed examples and strategies they used in requiring supplementary audits. The strategy included, for example, requiring seeing a multi-year proposal from the regulatory auditor, to cover the range of consolidated interests in the group. If a heightened risk were identified, FINMA would be likely to undertake the inspection itself – the assessors saw examples. FINMA noted that they were particularly interested in AML-CFT and sanctions. If FINMA received any data or indication that there were deficiencies in these areas, the regulatory audit would be required to cover the area and the location as necessary. The account manager, the KAM, is responsible for approving the audit strategy. c) The long form audit reports delivered by the regulatory auditors are required to follow FINMA's instructions and confirm whether the firm is in compliance with the following standards • adequacy of group corporate governance, • adequacy of measures in place to ensure that requirements relating to capital, risk diversification (large exposures) and liquidity are met at consolidated level, • adequacy of consolidated risk management and efficiency of central functions dedicated to control, mitigation and risk reporting, • adequacy of group internal audit, • adequacy of measures for ensuring compliance with Swiss and local prudential and conduct rules, notably anti-money laundering rules, • confirmation that intra-group exposures and commitments have been approved and are well-supervised, • confirmation that entities abroad are not being used to circumvent Swiss regulations. d) The organization/structure of supervised groups is also an important topic of the discussions that FINMA has regularly with the management of the banks/groups. e) FINMA also cooperation with the host supervisors in Supervisory Colleges and bilateral contacts. Bank holding companies and other ultimate parent companies which predominantly hold qualified participations (10% or more of votes or capital) in companies operating in the financial sector are within the scope of consolidated supervision (Art. 4 para. 1 let. b BO in conjunction with Art. 23 para. 1 BO). FINMA's supervisors are expected to have an appropriate understanding of the structure and risk profile of the group entities (including non-banking activities). If an entity presents a contagion risk, discussions are opened with group management to address the problem and to take appropriate supervisory action. The assessors discussed examples of different strategies that FINMA has adopted at different times. Ring fencing is used, for example, on occasion for foreign owned groups. As noted in CP8 FINMA does not have powers to require structural changes to assist resolvability, but if a bank is part of a financial group or financial conglomerate, FINMA does have powers under the Banking Act (Art 3b) to make is authorization conditional on the existence of appropriate consolidated supervision by a financial market supervisory authority.

EC2	The supervisor imposes prudential standards and collects and analyzes financial and other information on a consolidated basis for the banking group, covering areas such as capital adequacy, liquidity, large exposures, exposures to related parties, lending limits and group structure.
Description and Findings re EC2	FINMA's prudential standards apply on a consolidated basis. Article 3g BA authorizes FINMA to issue provisions on capital adequacy, liquidity, risk diversification (large exposures), intra-group risk positions and accounting for financial groups. Article 24 BO imposes an obligation on FINMA, in the context of consolidated supervision, whether the banking group: • is adequately organized; • has an adequate internal control system; • adequately records, mitigates and monitors risks associated with its business activities; • is managed by persons who can guarantee proper business conduct; • adheres to the segregation of members of the board of directors and executive management in accordance with Art. 11 BO; • adheres to the capital adequacy and risk diversification (large exposures) regulations; • has adequate liquidity; • applies the accounting regulations correctly; and • has a recognized independent and competent audit firm. The financial group itself is under the obligation from Art 3f BA to ensure that it is organized in such a way that it can identify, limit and monitor all material risks. FINMA notes that consolidated supervision consists of both, quantitative (capital adequacy, risk diversification, liquidity and accounting regulations) and qualitative elements (organization, internal control system, proper business conduct, etc.). For quantitative aspects, FINMA collects and analyzes the following financial information on a consolidated basis: • consolidated financial statements; • consolidated supervisory reporting; • consolidated capital adequacy and liquidity reporting; • consolidated large exposure reporting; • reporting of the twenty largest borrowers group-wide, irrespective of whether they constitute large exposures (excluding total exposures to central banks and central governments); • consolidated interest-rate risk reporting; • Consolidated prudential public disclosure (capital adequacy, liquidity, interest rate risk). As a general principle, all prudential regulations and supervisory requirements which apply to single banks also apply to financial groups (and their sub-groups if relevant) on a consolidated level. FINMA's group supervision is carried out in addition to the individual supervision of a bank (Art. 3e para. 1 BA).

	These requirements noted above apply to financial groups as a whole, including possible sub-groups. However, in accordance with Art. 11 para. 2 of the Capital Adequacy Ordinance (CAO), FINMA may exempt a financial sub-group from the above-mentioned consolidation requirements, in particular, if: a. their group companies operate exclusively within Switzerland; and b. the financial parent group or financial conglomerate is subject to adequate consolidated supervision by a financial market supervisory authority. FINMA may exempt a sub-group from consolidation requirements for capital adequacy, large exposure and/or liquidity, if the sub-group entities are immaterial to the consolidated supervision. It should be noted that an exemption of this kind is complemented by solo supervision of each licensed financial entity. However, FINMA may request that a sub-group prepare and publish a consolidated financial statement (Art. 35 para. 4 BO). There are limited differences between requirements on a consolidated level compared to the requirements on a solo level. These relate to balance sheet items that are eliminated as part of the consolidation (Participations and intragroup exposures): Dedicated capital requirements are applied at parent banks. While intragroup exposures can be treated under the standardized approach, participations in consolidated subsidiaries must be risk weighted at a rate of 250% for domestic and 400% for foreign subsidiaries. The same risk weights apply to regulatory capital instruments of the subsidiaries held by the parent bank (e.g., internal AT1-Bonds). Parent banks are also required to disclose financial statements and capital adequacy statements. FINMA has granted a transitional arrangement regarding the risk weights for domestic and foreign subsidiaries for the UBS parent bank: the final risk weights of 250% for domestic subsidiaries and 400% for foreign subsidiaries respectively according to appendix 4 CAO must only be reached by 1 January 2028. Until then risk weights of domestic subsidiaries will increase by 5 percentage points annually and by 20 percentage points annually in the case of foreign subsidiaries. In other words, and not with FINMA's support, the current risk weighting requirement in the Ordinance (CAO) leads to only a partial backing of regulatory capital. In case of impairments on the book value of participation there are contagion effects on the regulatory capital of the parent bank. Moreover, the current regulation incentivizes structures with large subsidiaries, as their capitalization can be partially refinanced by debt rather than capital. FINMA noted that they are committed to ensuring that investments in consolidated foreign subsidiaries in the financial sector are fully backed by regulatory capital in the parent bank's capital requirements going forward. This would reduce leverage and strengthen the financial resilience of the parent bank. Please see also CP16.
EC3	The supervisor reviews whether the oversight of a bank's foreign operations by management (of the parent bank or head office and, where relevant, the holding company) is adequate

	having regard to their risk profile and systemic importance. The supervisor determines that parent banks have unimpeded access to all material information from their foreign branches and subsidiaries. The supervisor also determines that banks' policies and processes require the local management of any cross-border operations to have the necessary expertise to manage those operations in a safe and sound manner, and in compliance with supervisory and regulatory requirements. The home supervisor considers the effectiveness of supervision conducted in the host countries in which its banks have material operations.
Description and Findings re EC3	As discussed in EC1 and EC2, the risk information obtained and consolidation supervision obligations imposed on FINMA cover the consolidated group, therefore including the foreign operations of a Swiss domiciled group. FINMA is expected to determine, among other aspects, the adequacy of internal controls, risk management and group internal audit. With the exception of AMLO requirements, FINMA has not issued specific guidance to banks for the oversight of foreign operations. There are, however, the general requirements for an adequate organization (Art. 12 BO, FINMA Circular 17/1 "Corporate Governance - banks"). Consolidated supervision is supported, as noted above, by the risk reports FINMA receives on the entire group from the regulatory audit firm, which conducts audits abroad and not just in Switzerland. FINMA is able to tailor its supervisory approach to determine whether a bank has adequate oversight of its foreign operations. Regular meetings with senior management to discuss topics such as capital planning or stress testing provide the opportunity to discuss and assess management's understanding of group needs. FINMA will also take the opportunity to meet with significant representatives of foreign operations (e.g., heads of business lines or control functions). These contacts might lead to decisions to undertake an onsite review, a number of which have been made in the US and UK, for example. Joint reviews have not taken place where FINMA is not the home state supervisor, other than with one bank in 2023 as FINMA has not received invitation. However, FINMA noted that it makes a point of inviting the host state supervisors to opening and closing meetings at the very least when conducting inspections in their territories and these invitations are usually accepted. An important source of information comes from supervisory cooperation and collaboration through home-host relationships both in supervisory colleges and bilateral arrangements. Please see also CP13. In particular joint onsite work with host supervisory authorities has been enabled through these relationships. FINMA underwent a consultation ahead of releasing a circular on Consolidated Supervision, which is intended to enter into force in mid-2025.
EC4	The home supervisor visits the foreign offices of the bank periodically. The location and frequency of these visits are determined by the risk profile and systemic importance of the bank's foreign operations. The supervisor meets the host supervisors during these visits. The supervisor has a policy for assessing whether it needs to conduct on-site examinations of a bank's foreign operations or require additional reporting, and it has the power and resources to take those actions as and when appropriate.
Description and Findings re EC4	As noted also in CP13 FINMA can perform and has performed onsite reviews in cross border jurisdictions based on its risk analysis. FINMA is authorized to carry out direct audits of

	supervised persons and entities abroad or have such audits carried out by audit agents (Art 43 para. 1 FINMASA). The frequency of on-site inspections of a bank's foreign operations depends on how substantial the foreign operations are for the banking group and on the risk assessment for those foreign operations. As home authority to G-SIB entities, FINMA has prioritized visits to foreign operations and meetings with the relevant host supervisors. FINMA notes that in respect of category 2 to 5 banks, it is mainly category 3 banks that are subject to on-site inspections abroad, with an average of one per year. The main objective is to assess the consolidated supervisory system. Given that most of the operations of category 3 banks abroad are related to wealth management services, a particular focus is given to the AML area. The regulatory audit firms also perform periodic on-site inspections of the foreign group entities, branches or representative office in foreign countries of non-large banks. The audit firm informs FINMA and the relevant host supervisors about the planned audits, in addition to providing the required reports to FINMA. The foreign supervisor is informed of the audit which might be conducted by a Swiss firm, or by a combined team of local and Swiss personnel. When FINMA requests something highly specific in an audit there is a preference for the audit to be conducted by a Swiss firm.
EC5	The supervisor reviews the main activities of parent companies and of companies affiliated with the parent companies that have a material impact on the safety and soundness of the bank and takes appropriate supervisory action.
Description and Findings re EC5	FINMA's supervisors examine the banks' and groups' situation as part of the regular reporting regime, including intra-group reporting. Work on group risks is likely to expand with the launch of the new FRB model and new work on business model analysis. If the parent company and/or the companies affiliated with the parent company are included in the scope of regulatory consolidation their impact on the bank or the banking group is addressed in the prudential audits. This task is carried out by means of direct interventions and also by collaborating with the local audit firm, which must belong to the same audit group. The audit firm responsible for consolidated supervision must submit an annual risk analysis (covering also criteria a) – i) as set out in the Description and Findings re EC2) and a proposal for the audit strategy. Following its intervention, it must deliver long form reports (see answer to EC1). As discussed under licensing, a condition of authorization in the Banking Act (Art. 3 para. 2 let. cbis) determines that the natural and legal persons who directly or indirectly hold at least 10 percent of the capital or votes in the Bank or who can otherwise significantly influence its business activities (qualified participation) guarantee that their influence will not have a negative impact on the safety and soundness of the bank or the banking group. Due to this article, FINMA has the powers to, in particular, suspend the voting rights connected to shares or stock held by shareholders or partners with qualified interests. FINMA may also implement ring fencing measures.

EC6	The supervisor limits the range of activities the consolidated group may conduct and the locations in which activities can be conducted (including the closing of foreign offices) if it determines that: (a) the safety and soundness of the bank is compromised because the activities expose it to excessive risk and/or are not properly managed; (b) the supervision by other domestic authorities is not adequate relative to the risks the activities present; and/or (c) the exercise of effective supervision on a consolidated basis is hindered.
Description and Findings re EC6	Banks are required to inform FINMA if they intend to establish entities abroad (see EC1), FINMA can examine the potential impact at an early stage. This provides FINMA with the opportunity to discourage plans if it deems the group not able to manage the risks. Conditions for authorization under the Banking Act (Art. 3f para.2) include the requirement that financial groups must be organized in such a way that material risks are identified, controlled and limited. Failure to meet these conditions would permit FINMA to take enforcement measures. Banking groups are also required to comply with criteria a) – i) from Art 24 BO as enumerated in EC2. FINMA does not, however, have the legal power to directly require the closure of group entities, branches or representative office in foreign countries nor to require structural changes within a group. FINMA's main instrument and strategy is its discretionary ability to require more capital (e.g., in the case of a subsidiary with excessive risks) or to make a public statement that the bank/group is not complying with general requirements (e.g., if there is no appropriate control of the group over one of its subsidiaries). In response to weak oversight and controls, FINMA has imposed restrictions on new business activities group-wide or for specific business divisions as part of supervisory ad hoc measures. These restrictions, which have applied to banks from a number of categories, also prohibited the relevant firms from opening new entities abroad or the enlarge the business activities of foreign entities. On a domestic basis, FINMA is the integrated supervisory regulator. On a cross border basis, FINMA has not so far encountered any instance where it deemed the supervision by other domestic authorities was not adequate relative to the risks the activities of a group entity. FINMA indicated it would be likely to impose more capital (on bank or group level) or make a statement that the group is not complying with general requirements (e.g., the group lacks to adequately record, mitigate and monitor risks in connection with its business activities) and requires the group to restore the proper condition. The same approach would apply where there is no authority responsible for supervision. In cases where the exercise of effective supervision on a consolidated bases is hindered, FINMA may implement ring fencing measures to protect the bank from those group entities not effectively included in the consolidated supervision.

EC7	In addition to supervising on a consolidated basis, the responsible supervisor supervises individual banks in the group. The responsible supervisor supervises each bank on a solo basis and understands its relationship with other members of the group.[50]
Description and Findings re EC7	Under Article 3e BA, FINMA's group supervision (supervising on a consolidated basis) must be carried out in addition to the supervision of an individual bank. As a general principle, the same supervision regulations apply to a banking or securities firm group on a consolidated basis as to a bank or securities firm at single entity level. Therefore, criteria a) – i) as noted in EC2 are also supervised on a stand-alone basis. Capital adequacy and large exposure requirements must be complied with on a stand-alone basis. Therefore, the requirement that all entities in a banking group must be supplied with adequate capital according to the allocation of risks should also be met at consolidated bank level (sub-consolidation) and banking group level (see also principle 16, AC2).
Additional Criterion	
AC1	For countries which allow corporate ownership of banks, the supervisor has the power to establish and enforce fit and proper standards for senior management of parent companies.
Description and Findings re AC1	Corporate ownership of banks is permissible in Switzerland. The Banking Act (Art 3 para. 2 let. cbis) which defines qualified shareholders does not require the shareholder to be a bank or a financial entity. However, any qualified shareholder or person who directly or indirectly can exercise a significant influence on the bank must provide a guarantee that their influence will not endanger the prudent and sound management of the bank. Recognized banks must submit an updated list of direct and indirect qualified shareholders to FINMA every year. Fit-and-proper requirements are to be met at all times. Compared to directors and managers, the fit-and-proper requirement with qualified shareholders focuses more on financial soundness and reputational aspects and less on banking experience and technical know-how. If the parent company is subject to consolidated supervision, the board of directors on the one hand and the executive board on the other must have a good reputation and offer a guarantee of irreproachable business conduct (Art. 3f para. 1 BA). The regulatory auditors must comment periodically in their long form reports on the relations between banks and their qualified shareholders and confirm that the latter do not exercise any negative influence, and also confirm that any economic transactions are "at arm's length."
Assessment of Principle 12	C
Comments	Attention to the solo entities within the group and the ability to restrict activities based on the business regulations of an entity, during its expansion phase is a positive feature of the Swiss system.

[50] Refer to Principle 16, Additional Criterion 2 [BCP40.38].

	It should be noted that, as with many other areas, FINMA is heavily reliant on the regulatory audit work to satisfy the elements of this CP where a supervisor is expected to "determine" whether a bank has met an appropriate standard. The regulatory audit tool is not suited to this purpose as it is not designed to assess management failure as the professionals themselves confirmed. A determination of whether or not a bank's management understands and is appropriately managing group risks is an important test of this CP. The compliant grade is awarded because the weaknesses commented on here are graded elsewhere in the assessment, not because, in practice the CP can be met at present without onsite engagement by FINMA with the banking groups. Regulatory Audit is treated in CP9. At the time of the FSAP mission FINMA was consulting on a Circular that was expected to enter into force in mid-2025. The new Circular covers FINMA's existing established practice on consolidated supervision of financial groups under the BA and the Financial Institutions Act (FinIA). This circular therefore spelled out the scope of regulatory consolidation (scope of consolidated supervision) and the requirements applicable at group level (content of consolidated supervision to ensure full transparency and equivalent treatment. The circular does not create new regulation or indicate any new practice on behalf of FINMA. It is addressed to financial groups and conglomerates according to the BA and to banks that are part of a financial group or a financial conglomerate. While not introducing any new elements, the Circular is a valuable step in confirming good practices and ensuring there is clarity for entities subject to consolidation. FINMA's powers to intervene at group or individual entity level, while seemingly positive on paper, suffer from the weaknesses discussed in CP1. Equally, there are very limited powers with respect to the holding company of a consolidated group, even though the powers are augmented compared with the 2014 FSAP. Since 2016, FINMA's jurisdiction in respect of recovery and bankruptcy has been extended to group holding companies and group companies which perform significant functions for activities requiring authorization (Art 2 bis BA). However, enforcement powers for ongoing activities when insolvency is not envisaged are limited to enforcement at group level . FINMA actively monitors and restricts exposures to holding companies, as the assessors witnessed, but enhanced powers are recommended. The issues discussed in the paragraph are not reflected in the grade for this CP as they relate to the powers of the supervisor and are therefore reflected in the grade for CP1. The treatment of capital consolidation, which departs from the Basel Framework due to the decision of the Federal Council to amend the Capital Adequacy Ordinance is considered in the grading of CP 16.
Principle 13	**Home-host relationships**.[51] Home and host supervisors of cross-border banking groups share information and cooperate for effective supervision of the group and group entities,

[51] Reference documents: Financial Stability Board (FSB), Key attributes of effective resolution regimes for financial institutions, October 2014; BCBS, Principles for effective supervisory colleges, June 2014; BCBS, Home-host information sharing for effective Basel II implementation, June 2006; BCBS, High-level principles for the cross-border implementation of the New Accord, August 2003; BCBS, Shell banks and booking offices, January 2003; BCBS, The supervision of cross-border banking, October 1996; BCBS, Information flows between banking supervisory authorities, April 1990; BCBS, Principles for the supervision of banks' foreign establishments, May 1983.

	and effective handling of crisis situations. Supervisors require the local operations of foreign banks to be conducted to the same standards as those required of domestic banks.
Essential Criteria	
EC1	The home supervisor establishes bank-specific supervisory colleges for banking groups with material cross-border operations to enhance its effective oversight, considering the risk profile and systemic importance of the banking group and the corresponding needs of its supervisors. In its broadest sense, the host supervisor which has a relevant subsidiary or a significant branch in its jurisdiction and a shared interest in the effective supervisory oversight of the banking group is included in the college. The structure of the college reflects: (i) the nature of the banking group, including its scale, structure and complexity, and its significance in host jurisdictions; and (ii) the opportunity to enhance mutual trust and meet the needs and responsibilities of both home and host supervisors.
Description and Findings re EC1	FINMA organizes supervisory colleges and crisis management groups for banking groups based in Switzerland as well as participating in colleges run by foreign supervisory authorities for internationally active groups with presences in Switzerland. With respect to the G-SIB(s), FINMA has organized the Core Supervisory Colleges and Crisis Management Groups semi-annually, and the General Supervisory College, and Asia-Pacific (APAC) Supervisory College and Crisis Management Group semi-annually. FINMA's bilateral exchanges and communication with the authorities in the core colleges are more frequent and fluid, reflecting increased integration, maturing supervisory relationships and practical cooperation and collaboration. The G-SIB core college have been long standing and pre-date the accepted expectations for such structures. FINMA has continued to find the core college very successful in terms of supervisory cooperation and collaboration where the host supervisors are intensely involved in planning processes. FINMA remarked on the utility of prioritization, inputs and outcomes from the process. Both core and general G-SIB colleges increased contact over the period since the last FSAP. FINMA noted that it is adapting the structure of the general college to provide a better platform for host authorities. FINMA does not organize colleges for domestically established banks in categories 2-5. FINMA holds annual bilateral meetings with the host authorities. More generally, FINMA noted that bilateral meetings in the margins of core colleges, where FINMA is a host, are welcome and highly productive. In terms of enhancing cross border contact FINMA is also seeking to increase staff exchanges and secondments. Among the authorities Switzerland has fostered cross border relationships are BaFIN (Germany), European Central Bank and Single Resolution Board, HMKA (Hong Kong SAR), FMA (Liechtenstein), CSSF, (Luxembourg), MAS (Singapore), and FCA and PRA (UK) as well as the US Authorities (FDIC, Federal Reserve Board of Governors, FRBNY, and OCC,) for the Cat. 1 Bank(s). Relationships have been built on a more ad hoc basis with Guernsey and Monaco. As a host supervisor FINMA participates in the supervisory colleges of a number of G-SIBS, but does distinguish between entities that have a significant presence in Switzerland or not. If a cross border branch or subsidiary is in category 4 or 5, FINMA will not typically participate in the supervisory college if one has been organized by the home country authority. In such

	instances, though, FINMA provides input such as risk assessments, or other information that might be requested. AML concerns are separate and FINMA will participate in an AML college depending on the institution-specific AML risk assessment. In recent years FINMA participated in the General College for BNP Paribas and in the AML Colleges for Mirabaud and Intesa/Reyl. FINMA also has a record of supervisory relationships and exchanges with regulators outside of college structures, for example with the Austrian, French and UK prudential, market and conduct authorities.
EC2	Home and host supervisors share appropriate information on a timely basis in line with their respective roles and responsibilities, both bilaterally and through colleges. This includes information on: (a) the material risks (including those arising from the respective macroeconomic environments) and risk management practices of the banking group; and (b) the supervisors' assessments of the safety and soundness of the relevant entity under their jurisdiction. Informal or formal arrangements (such as memoranda of understanding and confidentiality agreements) are in place to set the scope and extent of supervisory cooperation with a view to enabling the timely exchange of confidential information.
Description and Findings re EC2	As noted in CP3 EC3 the legal framework supports FINMA's exchange of information and cooperation with other supervisory authorities (Arts. 42, 42a, 42b, 42c and 43 FINMASA). In practical terms, FINMA has prepared a common template for meetings to support focused and consistent exchange of information with supervisory authorities, highlighting key risks, weaknesses and relevant matters in relation to the supervised institution that the authorities ought to be aware of. *International Agreements* As a financial center, FINMA has concluded international bilateral agreements with various foreign authorities. The list of FINMA's current formal cooperation agreements with foreign supervisory authorities is published on its website and at the time of the FSAP included 47 foreign authorities for banks alone. FINMA has noted that in some cases agreements can be a prerequisite for the admission of Swiss-supervised institutions to a foreign market, or vice versa. FINMA has the legal power to cooperate with a foreign supervisory authority even without a specific agreement between the two. Where confidential information is exchanged, FINMA's practice is to require an ad-hoc declaration from the requesting supervisory authority stipulating that the information may only be used for the direct supervision of the regulated institutions, that the supervisory authority is bound by official or professional confidentiality provisions, and that the information may not be published or passed on to other authorities and bodies, including other supervisory or criminal prosecution authorities, without the prior consent of FINMA.

EC3	Home and host supervisors coordinate and plan supervisory activities or undertake collaborative work if common areas of interest are identified to improve the effectiveness and efficiency of supervision of cross-border banking groups.
Description and Findings re EC3	FINMA seeks to foster cooperation on the international stage, as stated on its website. Supervisory cooperation and coordination is a key aspect of this objective. In the context of G-SIB supervision of G-SIBs, FINMA has shared its on-site inspection planning with core college member authorities, but also engages with foreign regulators whenever on-site inspections are to be planned. In 2024, half (20 out of 40) of the on-site inspections were/will be carried out abroad, e.g., in one of UBS's host jurisdictions outside Switzerland. On-site inspections regarding investment banking activities are usually performed jointly with the Federal Reserve Bank New York (FRBNY), the Office of the Comptroller of the Currency (OCC) and the UK Prudential Regulatory Authority (PRA). Although no joint reviews have been conducted for category 3 banks in recent years, FINMA has carried out several on-site inspections abroad and informs the relevant supervisor, requesting permission and inviting them to participate. Frequently the domestic authority will participate during the opening and closing of the inspection.
EC4	The home supervisor develops an agreed communication strategy with the relevant host supervisors. The scope and nature of the strategy reflects the risk profile and systemic importance of the cross-border operations of the banking group. Home and host supervisors also agree on the communication of views and outcomes of joint activities and college meetings to banks, where appropriate, to ensure the consistency of messages on group-wide issues.
Description and Findings re EC4	For the core supervisory colleges, FINMA provides written feedback to the bank on the issues discussed and expectations raised by the member-authorities. With respect to joint audits-on-site inspections, the letter presenting the findings is communicated to the bank having been initially discussed between the relevant authorities. Where there are projects involving several authorities, common update meetings are held in which all relevant authorities participate. The ongoing merger of operations of the Swiss G-SIBs represents an example of this. The Swiss authorities shared examples of how cooperation between the authorities had led to common messages being communicated to the banks and follow up action being required from banks. Supervisory communication to the bank (e.g., assessment letters, review reports, etc.) are generally shared among home and host regulators.
EC5	Where appropriate, given the banking group's risk profile and systemic importance, the home supervisor, working with its national resolution authorities, develops a framework for cross-border crisis cooperation and coordination among the relevant home and host authorities. The relevant authorities share information on crisis preparations from an early stage, subject to rules on confidentiality, in a way that does not materially compromise the prospect of a successful resolution.
Description and Findings re EC5	FINMA established a CMG for its G-SIBs (now single G-SIB), which include host authorities from the U.S., UK and EU. The SNB participates in the CMG as lender of last resort. Consistent with the Key Attributes, the CMG is supported by an institution-specific cooperation

	agreement (CoAg). FINMA has expanded CMG membership in recent years to reflect changes to the G-SIBs' business model (e.g., on-boarding of competent authorities in host jurisdictions of entities that have become material in resolution). The CMG meets at least semi-annually to discuss various resolution-related topics as well as the FSB Resolvability Assessment Process (RAP) submission. FINMA also holds technical CMG workshops focusing on specific topics such as valuation in resolution or funding in resolution. FINMA also exchanges information with authorities in other host jurisdictions (e.g., Asia-Pacific region) where the G-SIB has a local presence that is not systemic. This includes the establishment of an Asia-Pacific crisis college. The value of the G-SIB core colleges was noted as the members of CMG could be invited to the college activities even ahead of the formal activation of the CMG. In retrospect war gaming crisis modes would also have been valuable.
EC6	Where appropriate, given the banking group's risk profile and systemic importance, the home supervisor, working with its national resolution authorities and relevant host authorities, develops a group resolution plan. The relevant authorities share any information necessary for the development and maintenance of a credible resolution plan. Supervisors also notify and consult relevant authorities and supervisors (both home and host) promptly when taking any recovery and resolution measures.
Description and Findings re EC6	Since the previous FSAP, FINMA has been responsible for developing the group resolution plan for two G-SIBs, now one. In the context of resolution planning, FINMA shares recovery and resolution planning information with the CMG through an IT-platform (the "Trust Room"). Dedicated workshops within the CMG have focused on topics including resolution Funding (firms' resources and public liquidity provision) and coordination aspects of the recapitalization of the Group under the preferred single point of entry (SPOE) Bail-in resolution strategy (e.g., iTLAC triggers embedded in the instruments, potential obstacles for down streaming of capital). FINMA either in its role as supervisor or as competent resolution authority notifies relevant authorities on either recovery or resolution measures. The assessors discussed a number of cases which FINMA had experienced and the issues that had arisen and how pre-notification had facilitated orderly management in the host jurisdiction.
EC7	The host supervisor's national laws or regulations require that the cross-border operations of foreign banks are subject to prudential, inspection and regulatory reporting requirements similar to those for domestic banks.
Description and Findings re EC7	The Swiss Banking Act imposes the same standards for all banking participants in the Swiss market and does not differentiate between domestically owned and foreign-owned subsidiaries. There is one exception, concerning intra-group exposures which was drafted specifically for foreign-owned subsidiaries, as set out in the FINMA Circular on intra-group exposures (FINMA-RS 13/7). The circular explains that where consolidated supervision is deemed to be appropriate, then intragroup exposures can be exempted from the limits in the capital adequacy ordinance (CAO). However, if FINMA does not consider the consolidated supervision of the group to which the institution or the subordinate Swiss group belongs to be appropriate, it can restrict or even prohibit intra-group exposures.
EC8	The home supervisor is given on-site access to local offices and subsidiaries of a banking group to facilitate its assessment of the group's safety and soundness and compliance with

	customer due diligence requirements. The home supervisor informs host supervisors of intended visits to local offices and subsidiaries of banking groups.
Description and Findings re EC8	FINMA has discretion as to whether it permits an on-site inspection of entities established in Switzerland by their home supervisory authorities. However, permission is likely to be granted provided to permit an on-site inspection, under Article 43 para. 2 FINMASA, provided: a) The authority is the home country supervisor or is home state supervisor for the activity; and; b) the conditions for administrative assistance set out in Article 42 para 2 FINMASA are fulfilled. With regard to the information that can be inspected and the manner in which this must be done, see Art. 43 para. 3 et seq. FINMASA as well as the guidelines on meetings between Swiss supervised institutions and foreign financial supervisory authorities in Switzerland. Sometimes FINMA conducts on-site inspections outside of Switzerland, focused on a particular business line or aspect of a foreign subsidiaries of large or medium banks principally active in the wealth management business (Art. 43 para. 1 FINMASA). FINMA informs both the host supervisors and subsidiaries of the banking groups ahead of the on-site visits and, if required, asks the host supervisory authorities for approval. As discussed above, the home authorities will generally participate in opening and closing meetings.
EC9	The host supervisor supervises booking offices in a manner consistent with internationally agreed standards. The supervisor does not permit shell banks or the continued operation of shell banks.
Description and Findings re EC9	There are no shell banks in Switzerland.
EC10	A supervisor that takes action based on information received from, or that is consequential for the work of, another supervisor consults that supervisor, to the extent possible, before taking such action.
Description and Findings re EC10	FINMA's policy is to consult with respective supervisory authority, prior to taking supervisory action based on information received from another supervisor. Where this approach appears to be appropriate, FINMA noted that it proactively informs host jurisdictions' authorities as well as gets informed proactively by them. Such information can trigger targeted onsite interventions in host locations by both home and host regulators as also discussed in CP12. From the backdrop of the Credit Suisse crisis as well as subsequent integration into UBS, there was, and still is, an intense exchange and cooperation with host jurisdictions' authorities. The approval of the merger of the two parent banks CS AG and UBS AG, involved information exchange with authorities in 42 jurisdictions.
Assessment of Principle 13	C
Comments	The core college relationships for the G-SIBs stood FINMA in good stead in the March turmoil of 2023 and the subsequent restructuring of the major banks. While other colleges are less developed, FINMA has been responsive in the context of building bilateral relationships which may be more relevant for the authorities involved in respect of a number of the group structures in place.

B. Prudential Regulations and Requirements

Principle 14	**Corporate governance**.[52] The supervisor determines that banks have robust corporate governance policies and processes covering, for example, corporate culture and values, strategic direction and oversight, group and organizational structure, the control environment, the suitability assessment process, the responsibilities of the banks' boards and senior management, and compensation practices. These policies and processes are commensurate with the risk profile and systemic importance of the bank.
Essential Criteria	
EC1	Laws, regulations or the supervisor establish the responsibilities of a bank's board and senior management with respect to corporate governance to ensure there is effective control over the bank's entire business. The supervisor provides guidance to banks on expectations for sound corporate governance.
Description and Findings re EC1	Legal, regulatory and practice sources General obligations apply to all Swiss companies such as requirements in the Swiss Code of Obligations (CO) regarding the duties of the board of directors and the requirement for regulatory auditors to check the existence of an internal control system in each company. With respect to banking, the key legal references for corporate governance are found in: • Articles 3 and 3f Banking Act. • Articles 8 - 12 and Article 24 para 1 let. a - e Banking Ordinance (BO) FINMA has further elaborated its expectations in three circulars: • FINMA Circular 2017/1, Corporate governance – banks • FINMA Circular 2010/1, Remuneration schemes • FINMA Circular 2016/1, Disclosure - banks, Annex 4 The Swiss Stock Exchange's additional governance obligations apply to banks which are listed publicly. FINMA regards prudent and sound management, as required in the Banking Act, as a foundation for the approach to governance. "The persons entrusted with the administration or management of a bank shall be of good character and offer every assurance of irreproachable business conduct" (Art. 3 para. 2 lit. c and c bis of the Banking Act). The key document for banks is FINMA circular 2017/1 "Corporate governance – banks" is based on the principle of proportionality and in keeping with a risk-based approach, a greater burden is placed on the large and more complex institutions. The provisions in the Corporate Governance circular reflect findings from the financial market crisis (it developed from an

[52] Reference documents: BCBS, High-level considerations on proportionality, July 2022; FSB, Strengthening governance frameworks to mitigate misconduct risk: a toolkit for firms and supervisors, April 2018; FSB, Supplementary Guidance to the FSB Principles and Standards on Sound Compensation Practices, March 2018; BCBS, Corporate governance principles for banks, July 2015; FSB, Guidance on supervisory interaction with financial institutions on risk culture: a framework for assessing risk culture, April 2014; FSB, Principles for Sound Compensation Practices, April 2009.

	earlier circular dated shortly after the financial crisis) and as well as revised international standards. The circular defines minimum requirements not only for the composition of the boards and the qualification and independence of their members but also for the organization of internal control systems of banks. For example, the supreme governing bodies of larger banks (supervisory categories 1 to 3) are required to appoint an audit committee and risk committee and create the role of independent chief risk officer. For category 1 and 2 banks the CRO has to be a member of the management board. All banks must meet certain corporate governance disclosure requirements. As discussed below in CP15, the separation of the risk management function and compliance function is not consistent throughout the system, and this is not wholly due to issues of proportionality and also the CRO is not always assured of a place on the executive board/committee in the dual camera Swiss system. *Senior Managers Regime* In order to strengthen corporate governance at banks and ensure a clear allocation of responsibilities, FINMA is in favor of introducing a senior manager regime in Switzerland and made a public announcement in April 2023. FINMA has stated its concern that it must be ensured that the business-generating departments are also responsible for the risks taken, that the greatest risks and riskiest clients are known at the top of the bank and that the members of the Executive Board, especially those responsible for the front divisions, are responsible for the control environment in their divisions. However, the responsibility for sound risk management practices should not lie solely with the Executive Board but also with the individuals who drive key risks, especially in larger organizations. The clear allocation of responsibilities must also be reflected in the performance assessment and the determination of variable remuneration. In addition, it must be possible to attribute any breaches to the responsible individuals and update them in the event of successive staff changes. This should have a preventative effect and enable the supervisory authority to address issues of personal responsibility quickly and directly. In addition, the initial situation should be improved so that misconduct can be identified and penalized in a more targeted manner. FINMA has observed that in the wake of a number of the individual high-profile events in the Swiss banking system, the decision making process in banks meant that it has not always been possible to determine individual responsibility. Although there are cases against individuals underway the outcome is uncertain. As in the aftermath of the global crisis, a tightening of the scope of responsibility is warranted.
EC2	The supervisor regularly conducts comprehensive evaluations of a bank's corporate governance policies and practices, and their implementation, and determines that the bank has robust corporate governance policies and processes commensurate with its risk profile and systemic importance. The supervisor requires banks to correct deficiencies in a timely manner.
Description and Findings re EC2	FINMA's supervision in the corporate governance area takes several forms. It includes: • reviews conducted by FINMA in the context of licensing • specific and thematic reviews and supervisory meetings (on and offsite) conducted by FINMA as part of ongoing supervision

	• assessments by regulatory auditors which include governance-related areas • self-assessments by Boards of Directors • questionnaire based supervisory tool for larger institutions (see below) FINMA's supervisory practice includes regular high-level meetings with the Chairman of Board of Directors (BoD) and other BoD members as well as periodic meetings with the BoD Risk Committee and other relevant risk committees. This meeting is at least annual for the main banks. FINMA also analyzes BoD reports and regulatory audit reports and includes the Board in its supervisory reviews (horizontal reviews). It also periodically reviews the policies, processes, and controls of banks. If changes are made to the Board/Executive then there will be an interaction. There are also dedicated meetings – which are also mapped out in the SOPs – FINMA meets with the Chairs of the Risk and Audit Committees and with the independent board members on a one to one basis, which FINMA has been finding valuable. The higher category the bank, the more frequent the meeting, though meetings with the Compensation Committee is only annual. For cat 2 banks FINMA will meet board members twice a year, and once for category 3. Access is not generally remarked upon as an issue and some banks were noted particularly favorably. Minutes of board meetings are not reviewed as a matter of course, but can be and are requested for some banks. FINMA is increasing its reviews of corporate governance, working from the basis that corporate governance affects everything within the bank. Corporate governance is also included in the scope of regulatory audit work. The corporate governance specialists are working with the supervisory departments across all categories. Aspects included are the independence of the board, dominant members, decision making, communication (open), and tone at the top. In 2025 a new corporate governance questionnaire to banks will be launched, first to all categories of banks. While it is felt that categories 1-3 banks have some solidity there is more needed on risk culture and remuneration. Extending these concepts to category 4 and 5 banks is also seen as important. Engagement with banks has generally been positive – where learning what good looks like is appreciated. FINMA is consciously attempting to increase its communication and increase its external presence. Its objective is to create clear expectations. FINMA systematically collects and assess the structure/policies/processes of the banks as part of its static archive of information. It is currently working on benchmarking practices within it. FINMA provided a range of examples to the assessors where it had intervened with institutions, including examples that demonstrated FINMA's assessment of the composition of the Board and of the appropriateness of a bank's governance system and practices. *CG Supervisory Tool for Larger Institutions* In 2019 FINMA developed an additional supervisory tool which applies to larger banks (Cat. 1 - 3) as well as insurance companies. It is composed of three elements: questionnaire (which is being revised), heat map and follow-up measures or action plan.

	The questionnaire addresses the topics of sound corporate governance in accordance with FINMA Circular 17/1 'Corporate Governance – Banks.' It is intended to identify the current strengths and weaknesses of an institution as well as gaps in FINMA's knowledge base and any need for action. The questionnaire responses are updated annually and can take additional data from the supervisory sources. The questionnaire responses are mapped into the CG heatmap and enable cross-comparisons within peer groups and the identification of outliers. The approach is intended to reveal which aspects of CG are generally well implemented, where the weaknesses lie and which institutions show anomalies in a particular area. Clarification and individual action plans must be drawn up for outlier institutions. Regular supervisory dialogue, on-site visits, meetings with selected bodies (e.g., committees) or in-depth inspections of internal company documents are potential follow up actions and the action plan itself sets out the supervisory measures that will be used. A user manual has been developed to support a consistent approach. FINMA considers that the first four years of the CG tool have been instrumental in improving banks' CG. For example, FINMA has worked systematically on addressing board members holding multiple mandates and on the balanced composition of the Executive Board. *Future Developments* Enhancements to the tool will be launched in 2025. It will be supplemented with new questions, and recalibrated. Dimensions of risk culture will be included in recognition of the fact the risk culture is one driver of CG and risk management practices. Remuneration questions will be also embedded in the questionnaire. As of 2025, the questionnaire will be renamed the Corporate Governance and Risk Culture Questionnaire (CGR_Questionnaire). The results of the CGR questionnaire will be incorporated into a dashboard which can be used for benchmarking purposes and improve the possibilities for comparing and contrasting organizations from similar categories. It will also be used as a basis for the new CG and risk culture sub-rating for banks. Supervisors will then be able to take a number of measures based on this rating. These sub-ratings will, in turn, feed the global "governance and controls" rating for banks, which contributes to the overall risk assessment of the banks. The assessors were able to review the current and pilot questionnaire which is comprehensive and covers not just a solid factual foundation but also policies and how policies are put into action. While there are limitations in terms of what can be gathered via questionnaire, as FINMA understands, on topics such as risk culture, tone from the top and accountability etc., and certainly not without in person follow up, FINMA has created a good instrument to obtain a broad base of information and also communicate its own expectations.
EC3	The supervisor determines that board membership comprises individuals with a balance of skills, diversity and expertise, who collectively possess the necessary qualifications commensurate with the size, complexity and risk profile of the bank. Board membership

	includes a sufficient number of experienced independent directors.[53] Board members are qualified (individually and collectively) for their positions, effective and exercise their "duty of care" and "duty of loyalty".[54]
Description and Findings re EC3	*Strict Separation of Powers* Banking legislation (Art 11, para 2 BO) requires separation of the board of directors and executive management. For banks, this means that members of the board of directors cannot also be members of the executive board at the same legal entity. This prohibition also means that the CEO cannot be chairman of the board or otherwise be a member of the board of directors. Moreover, an immediate switch from the CEO role to the role of chairman can jeopardize the balance between the board and the top management and is therefore discouraged by FINMA in its supervisory practice. FINMA provided and discussed examples with the assessors where it had needed to make supervisory intervention. *Skills and Diversity* Further to Circular 2017/01 (Section IV, B, (a)) All members of the board of directors, individually and as a whole, must be fit and proper, possess the necessary skills and know-how, and have sufficient experience to carry out their oversight duties. The board in its totality is diversified to the extent that all key aspects of the business, including finance, accounting and risk management, are adequately represented. FINMA does not interpret this requirement to mean that every member must have several years of banking experience. However, each individual member has at least one in-depth core competence that can contribute to a balanced mix of expertise on the Board as a whole. Again, FINMA provided and discussed examples with the assessors where it had needed to make supervisory intervention. It was acknowledged that in Switzerland, as in other jurisdictions, it is more challenging for the smaller institutions to attract the necessary range of skills and diversity – and particularly so if they set conditions such as the requirement to live within a small radius of the bank. *Board Committees* Boards of directors are expected to establish appropriate board committees, again as set out in Circular 2017/01 (Section IV, D, (b)). Larger banks (in supervisory categories 1 to 3) must establish an audit committee and a risk committee. Institutions in supervisory category 3 may combine these into a single committee. Systemically important institutions must establish, at least at group level, a compensation committee and a nominations committee.

[53] Independent director refers to a non-executive member of the board who does not have any management responsibilities within the bank and is not under any other undue influence, internal or external, political or ownership, that would impede the board member's exercise of objective judgment.

[54] The Committee defines: (i) "duty of care" as the duty of board members to decide and act on an informed and prudent basis with respect to the bank. This is often interpreted as requiring board members to approach the affairs of the company the same way that a "prudent person" would approach his or her own affairs; and (ii) "duty of loyalty" as the duty of board members to act in good faith in the interest of the company. The duty of loyalty should prevent individual board members from acting in their own interest, or the interest of another individual or group, at the expense of the company and shareholders.

	The personnel composition of the audit committee must differ sufficiently from that of other committees. A majority of the members of the audit committee and the risk committee must be substantially independent. As a matter of principle, the Chairman of the Board of Directors be neither a member of the Audit Committee nor the Chairman of the Risk Committee. The committees as a whole have sufficient knowledge and experience in the respective the area of responsibility of the respective committee. FINMA's supervision may focus on specific committees, for example, in terms of remuneration (see EC 7 below for comments). *Duty of Care and Loyalty* The members of the Board of Directors must fulfil their duties with all due care and safeguard the interests of the company in good faith (Art. 717 para. 1 CO). The Board of Directors must refrain from doing anything that is detrimental to the company. A breach of the duty of loyalty under civil law may be relevant to the guarantee. In the event of a conflict, the Board of Directors must prioritize the interests of the company, otherwise its guarantee of irreproachable business conduct may be called into question. The senior management body Is responsible for handling conflicts of interest. Any existing and previous conflicts of interest must be disclosed. If a conflict of interest cannot be avoided, the institution shall take appropriate measures to effectively limit or eliminate it. Each member of the Board of Directors is required to devote sufficient time to their mandate and actively participates in the strategic management of the company. They must fulfil their mandate personally and be available at all times beyond the regular meeting frequency for crisis situations or emergencies. The assessors discussed examples of occasions where FINMA had identified Directors or Chairs who had not had sufficient time they were able to devote to their duties and FINMA had acted.
EC4	The supervisor determines that governance structures and processes for nominating and appointing board members are appropriate for the bank. Boards regularly assess the performance of the board as a whole, its committees and individual board members (including their ongoing suitability). Board membership is regularly renewed to refresh skills and independence. Commensurate with the bank's risk profile and systemic importance, board structures include audit, risk, compensation and other board committees with experienced, independent directors.
Description and Findings re EC 4	Banks are expected to select board members who meet FINMA's expectations in the above regard and in respect of experience and other suitability factors, as further set out under the comments on EC 3. The board defines the requirements profile for its members, its chair, members of committees and the chair of the executive board. It approves and periodically assesses the requirements profile for the other members of the executive board and for other key functions. FINMA has published Guidelines on Changes in Management Bodies on the procedure for changes to the governing bodies of banks, which it has drawn up in consultation with the Swiss Bankers Association. The guidance sets out FINMA's current practice for assessing changes to governing bodies. The two elements of professional suitability ('fitness') and

	personal integrity ('properness') form the assessment of the "guarantee" (e.g., The persons entrusted with the administration or management of a bank must enjoy a good reputation and offer a guarantee of flawless business activity (cf. Art. 3 para. 2 lit. c and d of the Banking Act [SR 952.0] and Art. 8 and 8a of the Banking Ordinance [SR 952.02]). Institutions are now required to submit the requirements profile as well as explanations of the selection process and the assessment of the candidate's suitability. At least once a year, and if necessary with the assistance of a third party, the senior management body assesses its own performance (achievement of objectives and working methods) and records the results in writing (FINMA Circular 2017/1, Corporate Governance – banks, margin no. 28). This annual assessment will need to be submitted to FINMA via the new CGR questionnaire which will be rolled out in 2025. During the on and off-site supervision, for example during high level meetings with the bank, or during an authorization process for a new BoD member, points that FINMA pays attention to include BoD composition, total number of BoD members and the number of independent members, the knowledge and experience, specialist expertise depending on the business model of the bank (e.g., mortgage risk, cross border/ AML, Conduct risks, Compliance) also including emerging risks (e.g., Cyber risk, artificial intelligence, Climate-related Risks etc.). FINMA explained that their assessment is of an overall view on whether the bank had necessary skills and overall governance. FINMA noted that they are paying attention to diversity of composition of board in terms of skills and how often boards are renewing themselves, wholly or partially. As noted above, the smaller banks find it harder to get the right individuals. All banks are finding good risk and compliance officers hard to find and emerging tech is similarly creating a scarcity in the market.
EC5	The supervisor determines that the bank's board approves and oversees implementation of the bank's strategic direction, risk appetite and strategy, and related policies, establishes and communicates corporate culture and values (e.g. through a code of conduct)[55] and establishes conflicts of interest policies and a strong control environment.
Description and Findings re EC5	*Strategic Direction, Risk Appetite and Risk Policy* Determining and overseeing the implementation of overall company strategy is the responsibility of the board of directors. FINMA also expects the board to approve a risk policy, define the risk appetite and key risk limits, and periodically review the adequacy of the company's risk approach, including managing and mitigating risks. In this context, the board signs off the institution-wide risk management framework and is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks (s. FINMA Circular 2017/1, Corporate Governance – banks, margin nos. 10, 14, 40 et seq., 52 et seq.). FINMA discussed examples of having challenged Boards in terms of who was responsible for the risk appetite including occasions where FINMA has insisted on the appointment of a new Board member responsible for risk culture and crisis management with primary responsibility for risk programs and who has a proven track record. FINMA expects actions to be tracked at Board level by a dedicated individual. Experience so far, in FINMA's view has been positive, though, FINMA recognizes that a bank's

[55] This includes whistleblowing policies and procedures that protect employees from reprisals or other detrimental treatment.

	culture cannot be changed overnight, but FINMA's signaling has denoted a clear shift from the supervisor. *Culture, Code of Conduct and Controls* The board of directors is expected to set the risk culture of the institution. It is also expected to put in place and oversee specific internal controls at the bank, including compliance, taking into account the size, complexity and risk profile of the institution. It is expected to regularly assess the adequacy and effectiveness of such controls. As part of FINMA's work on risk culture, discussed above, supervisors will be able to document findings regarding tone at the top, accountability, and culture of challenge for every firm in the annual Corporate Governance and Risk Culture-Dossier. These findings will be taken into account for the risk culture sub-rating and will be documented in the risk culture dashboard. The dashboard can then be used to identify weaknesses within an institution or a category of institutions by filtering for elements such as tone at the top, organizational weaknesses or independence. The findings can then also be used as a basis for mitigating actions or increased supervisory activities. It is intended that every supervisory review will be given a culture rating. This rating in turn will give the supervisor an indication as to the state of risk culture in the organization and which corrective measures should be implemented to address shortcomings. In multiple meetings FINMA staff commented on their view that culture carriers are really important and make the difference in terms of how well an institution is governed. From the perspective that FINMA intends to communicate the importance of risk culture to firms, a consistent message appears to be embedded in FINMA's own staff. In practical terms there is a focus on how well banks staff and manage their 2nd and 3rd lines of defense. Decision making is an area that FINMA looks at, and intends to look at with increasing intensity a fact borne out by the current and revised questionnaire. FINMA agreed that there is no one right culture and that it is also hard to track indicators systematically, but that they are trying to identify meaningful identifiers and carry out benchmarking. In the context of risk culture FINMA is also seeking to identify the presence of dominant chairs or presidents of banks or CEOs. In a further attempt to gauge risk culture, FINMA has increased the frequency of exit interviews with senior personnel to get an overview of the bank. So far the purpose is to get an overview and understanding of the bank. The interviews are in confidence, in keeping with professional standards, and are not reported back to the bank. *Conflicts of Interest* FINMA expects the board of directors to regulate how conflicts of interest are dealt with and sets out when members are obliged to withdraw from deliberations on certain matters. Existing and prior interests are to be disclosed, and conflicts of interest must be effectively resolved. Mandates and business relationships that may lead to conflicts of interest or damage the institution's reputation are to be avoided (s. FINMA Circular 2017/01, Corporate Governance -banks, margin no. 29, also Art 717a para 1, CO). *Regulation*

	Under the Swiss regime, the articles of association and organizational regulations play a central role in defining the duties of the Board of Directors. They are the definitive regulatory framework for corporate governance issues. The authorities consider the regulations provide an insight into the inner workings of a bank and at the same time define the framework within which the bank may operate. The bank must be assessed against its regulatory requirements. The organization of corporate governance and the tasks of the executive body, the management body and the committees of the Board of Directors are part of the minimum content of the regulations that must be approved. *Whistleblowing* FINMA regards an effective whistleblowing policy as part of a solid corporate culture and one which is deficient from a number of angles. At present, and as established by Supreme Court rulings, Whistleblowers have no legal protection from criminal liability if they were to report an issue directly to the supervisor and FINMA lacks an explicit legal basis to examine how banks deal with the issue. FINMA is therefore exploring the issue through the new questionnaire: how many incidents of whistleblowing took place, how was the individual protected, who receives the report (HR, Compliance, other). If FINMA receives a report it is obliged to investigate but at the same time FINMA can only interact with the whistleblower if they can prove they reported the issue within the company and no action has been taken. FINMA addresses the issue in the context of on-site inspections or when there are visible signs of shortcomings in the handling of employee misconduct. It uses a standardized questionnaire that deals with the organization, governance, procedures and controls for whistleblowing. FINMA intends to improve its focus on whistleblowing in future as part of its work on risk culture supervision.
EC6	The supervisor determines that the bank's board, except where required otherwise by laws or regulations: (a) has established fit and proper standards in selecting senior management and heads of the control functions; (b) has developed effective processes to allocate authority, responsibility and accountability within the bank; (c) maintains plans for succession; and (d) actively and critically oversees senior management's execution of board strategies, including monitoring the performance of senior management and heads of the control functions against the standards established for them.
Description and Findings re EC6	*Suitability of Senior Managers* Further to FINMA Circular 2017/01, the Board of Directors is responsible for ensuring that the institution has an appropriate number of staff and for the personnel and remuneration policy. It decides on the election and dismissal of its committee members, the members of the Executive Board, including the CEO, the Chief Risk Officer (CRO) and the Head of Internal Audit. The Board of Directors defines the requirements profile for its members, its Chair and any committee members as well as the Chief Executive Officer. It periodically approves and

	assesses the requirements profile of the other members of the Executive Board, the CRO and the Head of Internal Audit. It ensures succession planning. When appointing new board members, the senior management body or the Nomination Committee adapts the requirements profile for the position to be filled and the entire board: it encloses explanations of the selection process, including an assessment of the considerations on the basis of which the institution considers the candidate to be suitable for the position to be filled, with the application for a change of board. With respect to fit and proper checks FINMA is trying to increase the number of interviews it takes for appointments in in the non-SIBs. The effort is not yet systematic but it is increasing and there is a matrix of issues to guide when interviews should take place. When interviews are not possible there is a written exchange to determine how the bank satisfied itself that the person in question was fit and proper. *Allocation of Responsibilities* As part of its push for an accountability regime, FINMA also supports the implementation of a responsibility framework to ensure that banks correctly and comprehensively document responsibilities and duties (see also discussion in EC1 on Senior Managers Regime). *Succession Planning* Succession planning is addressed during the authorization process of new managers as well as in the CGR questionnaire – more fully in the new version. *Supervision of Management* Part of the duty of oversight of the board of directors is to supervise management, including their execution of board-approved strategies and quality of performance. The board is responsible for ensuring that there is both an appropriate risk and control environment within the institution and an effective internal control system. The non-transferable tasks also include monitoring the implementation of the risk strategies, in particular with regard to their compliance with the specified risk tolerance and risk limits in accordance with the risk policy and the principles of institution-wide risk management. FINMA uses its on-site and off-site supervision, to determine whether the Board is exercising its function effectively through challenging the senior management of a bank with regard to their business model and business strategy, to the related risks, the internal control framework in place and the mitigation of these risks.
EC7	The supervisor determines that the bank's board actively oversees the design and operation of the bank's compensation system and that it has appropriate incentives, which are aligned with prudent risk-taking and effective in addressing misconduct that potentially results in losses. The compensation system and related performance standards, policies and procedures are non-discriminatory and consistent with long-term objectives and financial soundness of the bank and are rectified if there are deficiencies.
Description and Findings re EC7	FINMA Circular 2010/1 "Minimum standards for remuneration schemes of financial institutions", (Remuneration schemes) issued in 2009 and amended in 2016, requires board of director's oversight of the design and operation of an institution's compensation system.

	FINMA reviews the extent and quality of the board of directors' oversight of the remuneration system of the significant financial institutions, as required by the FINMA Remuneration Circular in the course of its supervisory process. Engagement includes meeting the Chair of the Remuneration Committee of the board of directors and any remediation work is expected to be carried out under the oversight of the board of directors of the institution, with FINMA monitoring progress. *Alignment with Risk, Financial Soundness and Long-term Orientation* Circular 2010/01 is consistent with the FSB Remuneration Principles and also specifies that a) the appropriateness of incentives, b) alignment with risk (market, credit and liquidity risk, underwriting risk, operational risk (including legal and compliance risk) and reputational risk), c) long-term orientation, and d) alignment with capital, liquidity and other financial soundness considerations are taken into account. *FINMA Supervision and Future Developments* CG supervision is conducted by the institution's supervisory team. FINMA's evolving policy and practice is informed by its participation, among other things, in the FSB Compensation Monitoring Contact Group (CMCG). Based on the lessons learned from the banking turmoil in 2023 FINMA and the Federal Council have issued reports reflecting on the need to further enhance the supervisor's toolbox and possible intervention in financial institutions' remuneration systems. At the time of the FSAP detailed discussions were underway in terms of anchoring the requirements for remuneration systems in federal law. This could be achieved by transferring the principles contained in the FINMA circular into law or ordinance and potentially also introducing claw back provisions into in the remuneration systems.
EC8	The supervisor determines that the bank's board and senior management know and understand the bank's operational structure and its risks, including those arising from the use of structures that impede transparency (e.g. special-purpose or related structures). The supervisor determines that risks are effectively managed and mitigated, where appropriate.
Description and Findings re EC8	FINMA's expectations of board of directors' oversight include their understanding of the corporate and operational structure, as well as the institution's specific risks. As set out in FINMA 2017/01, the board decides on significant changes to the corporate and Group structure, significant changes at major subsidiaries and other projects of strategic importance (margin no. 15) FINMA therefore expects the board of directors to approve an institution-wide risk management framework developed by the executive board. The framework should comprise the risk policy, risk tolerance and risk limits. The adequacy of the company's risk approach, including managing and mitigating risks, should also be reviewed periodically. This risk governance concept also applies to financial groups and conglomerates. While giving due consideration to the business activities and material risks at group and individual institution level, the internally group defined standards are expected to ensure efficient and consistent management of the group, permit necessary information exchange, take account of legal and organizational structures and define the duties, responsibilities and necessary independence of the respective management levels. Particular attention is expected be paid

	to risks which arise from combining a number of companies into a single business unit (FINMA Circular 2017/01, Corporate Governance-banks, margin no. 99). FINMA periodically what frequency receives updates on the legal entity structure of a bank that can be used as basis for discussions with a firm's board. Over complexity in organizational arrangements are viewed critically by FINMA and will be challenged. Those findings are shared with the BoD. FINMA indicated that it would not approve changes in legal setup or structure that might increase complexity if effectiveness of supervision were to reduced. Increased complexity in business processes (e.g., complex matrix decision making) was also seen as a negative marker that might reduce accountability and ownership.
EC9	Laws, regulations or the supervisor require banks to notify the supervisor or publicly disclose as soon as they become aware of any material and bona fide information that may negatively affect the fitness and propriety of a bank's board member or a member of the senior management.
Description and Findings re EC9	Banks are required under Art. 29 para 2 FINMASA to inform FINMA without delay of any matter which may be of material significance for the supervision of the bank. This provision would include any circumstances that materially adversely affect the suitability of persons on the board of directors or senior management. Anyone who fails to submit the required reports to FINMA is liable to prosecution (Art. 47 para. 1 lit. b and para. 2 FINMASA).
EC10	The supervisor has the power to require changes in the composition of the bank's board if it believes that any individuals are not fulfilling their duties related to the satisfaction of these criteria.
Description and Findings re EC10	As discussed above, for example in CP11, FINMA can take action against an individual on the basis of the Banking Act, Article 3 which requires that the persons in charge of the bank's administration and management enjoy a good reputation and thereby guarantee proper business conduct ("Gewähr für eine einwandfreie Geschäftstätigkeit"). If these conditions are not met FINMA may remove such a person from the bank's board and take administrative enforcement proceedings to ban the person from serving in a management position with a supervised entity. Therefore, to use the powers under Art. 3 of the Banking Act, FINMA must equate the fitness standards with failure to fulfil their duties as a member of a bank's board. FINMA notes that its powers would cover examples such as lack of professional expertise, violation of their duties, or failure to abide to laws or regulations. The threshold for the test is high.
Assessment of Principle 14	LC
Comments	The current limitations on FINMA's resources mean that CP14 is currently not met with consistency beyond the systemic banks despite FINMA's clear understanding of the importance of corporate governance. While the regulatory audit process can cover some aspects of this CP, as noted elsewhere, such as the comments for CPs 9 and 12, it is not and cannot be designed to capture management failure. EC8 in particular regarding determinations on the banks' boards and executive management is not suited to review under the regulatory audit process. It is this aspect of the CP that is graded here. The other

	issues that are noted in the comments are features that are also relevant in other parts of the assessment and are graded elsewhere. Despite FINMA's formal powers to take actions against an individual on the basis of the Banking Act, the practicalities in meeting legal test for such an enforcement action to be successful are so challenging that it must be queried whether the power can be enforced in any but the most egregious of cases. Although the legal threshold appears to be straightforward, namely that if a member of the board no longer meets the fitness and properness requirements, the individual can be removed from their position, in practice it is difficult to attribute violations of supervisory law within the bank to such individuals. Given this hurdle, , then FINMA's power is largely theoretical and does not satisfy the international standard for effective banking supervision which regards banks as special interest institutions. For this reason, the mission welcomes proposals for a Senior Manager's Regime so that personal responsibility can be determined and acted upon. It is an important step forward that should be supported. Under EC2 the supervisor is expected to require banks to correct deficiencies in a timely manner. As discussed at numerous places in this assessment, FINMA's formal power to make such a requirement is on a very weak legal basis. Corporate Governance is a difficult field but one where detection of early signs of problems can prevent considerable difficulty further down the road. There are clearly different schools of thought and some very strong voices within the Swiss banking sector that consider that a requirement to—for example—cease carrying out a risky practice, modify a risk appetite, realign a risk reporting control etc. would amount to the supervisor running a business and even being expected to assume liability for such decisions. Although a strong spirit of self-responsibility for business mistakes is worthy of respect, it is a point on which a balance needs to be achieved. The international consensus represented in the BCP standards regard the power to prevent or curtail a deficiency in governance in a bank and to restore good governance as beneficial as opposed to diminishing a bank's responsibility. If there is a disagreement on whether a deficiency exists, the international standard defers to the view of the supervisor. The onus should be upon the bank to demonstrate to the supervisor that it understands, governs and controls its banks appropriately according to the scale and complexity of its business. It can be agreed that unless and until the bank understands its own business and is not just following rules the supervisor sets it is neither governing or controlling its own business and that, for the safety and soundness of the Swiss banking system, its depositors and investors, such governance is necessary. In terms of supervisory practices and tools the mission welcomes the further evolution of the corporate governance questionnaire. FINMA is developing an excellent program and cannot afford to lose momentum. Once resources are available, of course, the survey work also needs to be augmented by onsite work, interviews and meetings and as broad scope of coverage across the banks as possible. As commented elsewhere in the BCP, due to the high level nature of Circular 2017/01 is unlikely that firms outside of the top tier—including representatives of the G-SIBG-SIBs who have established small category 3-5 banks in Switzerland—would understand the quality and comprehensiveness required in corporate governance in banking. As also discussed in the

	comments to CP1, the value of high-level principles are so that banks may make meaningful and legitimate different interpretations of important risk areas, not that they can make any interpretation. Guidance on how such key risk areas can be approached in a proportionate manner by the less complex and advanced institutions is exactly what the international standards expect FINMA to do and it is disappointing that there appears to be pressure objecting to FINMA issuing such guidance. The mission strongly advocates that FINMA follows the BCP standard and articulates its supervisory expectations, by providing clear guidance to the range of diverse banks.
Principle 15	**Risk management process**.[56] The supervisor determines that banks have a comprehensive risk management process (including effective board and senior management oversight) to identify, measure, evaluate, monitor, report and control or mitigate all material risks[57] (which can include risks related to digitalization, climate-related financial risks and emerging risks) on a timely basis and to assess the adequacy of their capital, their liquidity and the sustainability of their business models in relation to their risk profile and market and macroeconomic conditions. This extends to the development and review of contingency arrangements (including robust and credible recovery plans where warranted) that consider the specific circumstances of the bank. The risk management process is commensurate with the risk profile and systemic importance of the bank.[58]
Essential Criteria	
EC1	The supervisor determines that banks have appropriate risk management strategies that have been approved by the bank's board, and that the board establishes an effective risk appetite statement and framework to define the level of risk the bank is willing to assume or tolerate. The supervisor also determines that the board ensures that: (a) a sound risk culture is established throughout the bank, to promote the development and execution of its strategy; (b) policies and processes are developed for risk-taking that are consistent with the risk management strategy and the established risk appetite; (c) uncertainties attached to risk measurement are recognized;

[56] Reference documents: BCBS, High-level considerations on proportionality, July 2022; BCBS, Principles for the effective management and supervision of climate-related financial risks, June 2022; BCBS, Stress testing principles, October 2018; BCBS, Sound Practices: implications of fintech developments for banks and bank supervisors, February 2018; BCBS, Identification and management of step-in risk, October 2017; BCBS, Corporate governance principles for banks, July 2015; BCBS, Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions, February 2013; BCBS, Principles for effective risk data aggregation and risk reporting, January 2013; BCBS, Principles for the supervision of financial conglomerates, September 2012; FSB, Guidance on supervisory interaction with financial institutions on risk culture: a framework for assessing risk culture, April 2014.

[57] To some extent, the precise requirements may vary from risk type to risk type (Principles 15 to 25) as reflected by the underlying reference documents.

[58] While in this and other principles the supervisor is required to determine that banks' risk management policies and processes are being adhered to, the responsibility for ensuring adherence remains with a bank's board and senior management.

	(d) appropriate limits are established that are consistent with the bank's risk appetite, risk profile, capital strength and liquidity needs. These limits are understood by, and regularly communicated to, relevant staff; and (e) senior managers take the steps necessary to monitor and control all material risks consistent with the approved strategies and risk appetite.
Description and Findings re EC1	Requirements for sound risk management are a combination of high level, generally-worded principles in formal banking laws and ordinances (e.g., Art. 12 of the BO) coupled with more detailed guidance in selective areas. Circular 2017/1 'Corporate governance – banks' sets out more detailed requirements for risk management and internal controls. Risk management comprises the methods, processes and organizational structures used to define risk strategies and risk management measures in addition to the identification. Risk tolerance comprises the quantitative and qualitative considerations regarding the key risks which an institution is prepared to take to achieve its strategic business objectives in the context of its capital and liquidity planning. Where relevant, risk tolerance is defined per risk category as well as per institution. The risk profile provides an overall picture of the risk positions entered into by an institution at institution level and per risk category at a particular point in time (Margin Nos.4-6). The BoD sets out the business strategy and defines guiding principles for the institution's corporate culture. It signs off the institution-wide risk management framework and is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks. The institution-wide risk management comprises the risk policy; risk tolerance and risk limits in all key risk categories (Margin Nos.52-53). As set out in Margin Nos.40-46, the Board risk committee is responsible for: • discussing the institution-wide risk management framework and presenting relevant recommendations to the board of directors; • assessing the institution's capital and liquidity planning and reporting to the board of directors; • assessing, at least annually, the institution-wide risk management framework and ensuring that necessary changes are made; • controlling whether the institution has adequate risk management with effective processes which are appropriate to the institution's particular risk situation; • monitoring the implementation of risk strategies, ensuring in particular that they are in line with the defined risk tolerance and risk limits defined in the institution-wide risk management framework. • The risk committee receives regular reports from the CRO and other relevant office holders on the respective aspects of the institution-wide risk management framework. Additional risk management requirements are set out in topic-specific circulars including Circular 2023/1 'Operational risks and resilience'; Circular 2019/02 'Interest rate risks'; Circular 2018/03 'Outsourcing'; Circular 2015/02 'Liquidity risks'; Circular 2008/20 Market Risks; Circular 2017/7 'Credit risks'; Circular 2011/02 'Capital buffer and capital planning.' Compliance with laws and circulars is assessed by recognized audit firms as part of the

	regulatory audit. The general elements of corporate governance, and the internal control system must be audited annually (as set out in Circular 2013/3 'Auditing'). However, the audit standard required is 'critical assessment' where the auditor indicates whether anything in the course of its audit work leads to conclude non-compliance with prudential requirements. This is a lower standard than 'audit level,' requiring the auditor to provide 'positive assurance' of compliance with the prudential requirements. If net risk is increased or significant deficiencies are identified or if FINMA considers it appropriate, then the audit depth can be raised to 'audit level.' For the risk control function and risk management for specific topics, including key controls/processes, (e.g., credit risk, capital adequacy, liquidity, suitability) there are separate audit areas/fields. They are audited according to the standard audit strategy. FINMA has commenced a process to convert Circular 2013/3 'Auditing' to a new Regulatory Auditing Ordinance. This process will convert the current annexes to templates which should allow for faster and more flexible updates to the audit strategy and risk analysis provisions. Although FINMA Circulars are in place for different risk categories, (credit, market, operational liquidity, etc.) there is only a relatively high-level requirement for an enterprise-wide risk management and measurement framework. FINMA advises that this is because it does not have the legal power to set such a requirement. As a consequence, there are limitations on the extent to which this can be assessed as part of the regulatory audit. FINMA defines the audit strategy by setting out the areas to be audited for Category 1 and 2 banks. Standard audit strategies are applied for Category 3 -5 banks although FINMA can change the audit strategy as it sees fit. However Circular 2013/3 'Auditing' and the related audit programs viewed by assessors tend to be high level in nature. There are many references to bank policies, procedures and methods being 'appropriate' without further guidance as to what 'appropriate' means in practice. Regulatory audit firms therefore develop their own methodologies, which may lead to inconsistency in the way in which these prudential risks are assessed. The extent and nature of work performed may also differ between firms and may not be visible to FINMA without further investigation. FINMA also advises that when it carries out onsite inspections in areas that have already been subject to a regulatory audit, it is not uncommon for FINMA to identify issues that were not (and could reasonably be expected to be) identified by the regulatory auditors. The assessors reviewed a list of these issues that FINMA had identified which the auditors had not and it covers core supervisory areas. These issues are always followed up, but prudential risks may nonetheless remain.
EC2	The supervisor requires banks to have comprehensive risk management policies and processes to identify, measure, evaluate, monitor, report and control or mitigate all material risks.[59] The supervisor determines that these processes are adequate: (a) to provide a comprehensive bank-wide view of risk across all material risk types; (b) for the risk profile and systemic importance of the bank;

[59] This includes, where relevant, risks not directly addressed in the subsequent principles, such as reputational, step-in and strategic risks.

	(c) to assess risks arising from the macroeconomic environment affecting the markets in which the bank operates and to incorporate such assessments into the bank's risk management process; and (d) to assess risks that could materialize over longer time horizons (including risks related to digitalization, climate-related financial risks and emerging risks). Where appropriate, banks use scenario analysis as a tool.
Description and Findings re EC2	See EC1. The requirements in Circular 2017/1 'Corporate governance – banks' are to be implemented on a case-by-case basis, giving due consideration to the size, complexity, structure and risk profile of each institution (Margin No.8). The control function should ensure the comprehensive and systematic monitoring of and reporting on individual and aggregated risk positions. This includes conducting stress tests and scenario analysis under unfavorable operating conditions as part of the quantitative and qualitative analysis (Margin No.69). Although Circular 2017/1'Corporate governance – banks' makes reference to stress tests, FINMA advises that it does not have the general legal requirement to require banks to undertake stress tests. [See Principle 16 Capital Adequacy]. The institution-wide risk management framework comprises the risk policy, risk tolerance and the risk limits based on them in all key risk categories (Margin no.53). Digitalization risks are addressed in Circular 2023/1 'Operational risks and resilience.' Following a public consultation in 2024, FINMA was finalizing a circular on 'Nature-related financial risks' which will implement the Basel 'Principles for the effective management and supervision of climate-related financial risks.'[60] The provisions in this circular will be implemented in a phased way from 2026 with an initial focus on climate risks. In 2024, FINMA undertook dedicated supervisory meetings focused on the governance of climate-related financial risks at Category 1 and 2 banks. A review of this work suggests that there are still areas for improvement at some of the banks. Further meetings were planned in late 2024 to discuss banks' materiality analyzes in more depth. No substantive work has been done to date on assessing the strategy, risk management and reporting of climate-related financial risks. Discussions with the different risk specialists within FINMA also indicated that nature and climate-related risks had not yet been integrated into supervisory skills and practices. As noted in EC1, compliance with laws and circulars is assessed by recognized audit firms as part of the regulatory audit.
EC3	The supervisor determines that risk management strategies, policies, processes and limits are properly documented and aligned with the bank's risk appetite statement and framework; regularly reviewed and appropriately adjusted to reflect changing risk appetites, risk profiles and market and macroeconomic conditions; and communicated within the bank. The supervisor determines that adequate procedures are in place for breaches of risk limits and significant deviations from established policies, ensuring they receive prompt attention and

[60] FINMA published the circular on 'Nature-related financial risks' in December 2024. The circular will enter into force in stages from 1 January 2026.

	authorization from the appropriate level of management and the bank's board (where necessary) and are adequately followed up with proportionate and timely remedial action.
Description and Findings re EC3	See EC1 and EC2. FINMA advise that the link between a bank's risk management strategies, policies, processes and limits and its risk appetite are not always well articulated and in certain cases they have had to provide very practical feedback to banks. The bank's risk appetite is discussed when FINMA meets with the risk functions and BoD. Discussions on risk appetites are also held with the relevant first line of defence areas within banks.
EC4	The supervisor determines that the bank's board and senior management obtain sufficient information on and understand the nature and level of risk being taken by the bank and how this risk relates to adequate levels of capital and liquidity. The supervisor also determines that the board and senior management regularly review and understand the implications and limitations (including the risk measurement uncertainties) of the risk management information that they receive.
Description and Findings re EC4	As set out in Circular 2017/1 the BoD is responsible for ensuring that there is both an appropriate risk and control environment within the institution and an effective internal control system. It appoints and monitors the internal audit, commissions the regulatory audit firm and assesses its reports (Margin No.14). The Board risk committee is responsible for: • assessing the institution's capital and liquidity planning and reporting to the board of directors; • assessing, at least annually, the institution-wide risk management framework and ensuring that necessary changes are made; • ensuring that the bank has adequate risk management with effective processes which are appropriate to the bank's particular risk situation; and • monitoring the implementation of risk strategies and ensuring that they are in line with the defined risk tolerance and risk limits defined in the institution-wide risk management framework (Margin Nos.43-45). In addition, forward-looking capital adequacy is covered in FINMA Circular 2011/12 'Capital buffer and capital planning'. Margin No.34 stipulates that FINMA expects supervised institutions and groups to operate adequate capital planning, which is to be documented in writing, at both consolidated and individual institution levels in line with their individual circumstances. The BoD must approve the capital planning at least once a year (Margin No.43). As set out in Circular 2015/2 'Liquidity Risks' the executive board must be closely involved in the stress-testing process and the BoD must be regularly informed of the liquidity stress test results. An assessment of compliance with these requirements is part of the regulatory audit.
EC5	The supervisor determines that banks have an appropriate internal process for assessing their overall capital and liquidity adequacy and the sustainability of their business models in relation to their risk appetite, risk profile[61] and forward-looking business strategies. The

[61] Banks should include climate-related financial risks assessed as material over relevant time horizons, including in their stress testing programs where appropriate.

	supervisor reviews and evaluates banks' internal capital and liquidity adequacy assessments and strategies.
Description and Findings re EC5	Circular 2011/2 'Capital buffer and capital planning' sets out the requirements for capital planning. FINMA expects supervised institutions and groups to operate adequate capital planning, which is to be documented in writing, at both consolidated and individual institution levels in line with their individual circumstances. In assessing whether their capital is adequate, institutions must take into account the economic cycle. Banks must demonstrate through their capital planning that they are in a position to meet their capital adequacy requirements in future (over a three-year horizon), even in the event of an economic downturn and their revenues falling sharply. The underlying assumptions for the capital planning must be clearly documented. Capital planning must take into account the business model and risk profile of the bank and be appropriate to the bank's size, nature and complexity. In the future, FINMA aims to assess more systemically and broadly the business risks of banks by a structured business model analysis. While for category 4 and 5 banks, the analysis will mostly be automated based on standardized structured data, dedicated reports and interactions with banks in category 1-3 are planned to get a better assessment of the business model situation and its management by the bank. Once developed, the business model assessment will be incorporated into the new rating system [See CP8 EC1]. Circular 2017/1 Margin No.69 requires that the bank's control function ensures comprehensive and systematic monitoring of and reporting on individual and aggregated risk positions. This includes conducting stress tests and scenario analysis under unfavorable operating conditions as part of the quantitative and qualitative analysis. FINMA conducts an extended capital planning dialogue with certain institutions on a case by-case basis, particularly those that pose a systemic risk. In the course of this dialogue institutions must present plans on how they would mitigate adverse developments under stressed conditions. FINMA may lay down particular requirements for these institutions. (Margin Nos 34-37). Swiss law and FINMA regulations do not set specific requirements for the internal capital adequacy assessment process (ICAAP) that banks must undertake. Notwithstanding, FINMA intends to develop a benchmarking process for bank ICAAPs. Separately, FINMA performs a bottom-up regulatory stress test (loss potential analysis; LPA) with the SIBs based on margin no. 37.1 of FINMA-Circ. 11/2. For the G-SIB, it is done on a semi-annual basis with two stress scenarios over a 3-year horizon; for the D-SIBs it is done once a year with one stress scenario. On a quarterly basis, FINMA has a Pillar 2 dialogue with the G-SIB. The dialogue covers technical discussions on the methodologies underpinning the internal capital adequacy assessment process (both economic capital and stress-testing models) to review their soundness and appropriateness in relation to the risk appetite and profile. FINMA provides a range of stressed macroeconomic parameters over three years to the SIBs. The banks calculate and submit, inter alia, their stressed CET1 ratios and leverage ratios for each of the three years.

	For other banks, FINMA performs supervisory meetings on capital planning on a recurring basis, depending on their overall rating. The subject of these meetings is banks' adherence to margin no. 34-43 of FINMA Circular 11/2 covering general capital planning. The meetings discuss the governance and processes surrounding banks' financial and capital planning, baseline assumptions and plans over a 3-year-horizon, the type of stress tests and stress scenarios employed by the bank and surrounding processes, the risk profile of the banks, its risk identification, risk inventory, risk measurement and assessment. FINMA does not currently have supervisory manuals or procedures for all relevant risk topics as is the case in other jurisdictions. However, the development of a banking supervisory manual is planned by FINMA as part of future work. The integration of climate-related financial risks in stress tests is being discussed by FINMA with Category 1 and 2 banks as part of supervisory meetings on climate-related financial risks. It will be included in capital planning discussions with all banks as the Circular on Nature-related financial risks is published and in force.[62] The nature-related Circular will include a requirement for banks to perform at a minimum qualitative scenario analyzes to determine the materiality of climate and nature risk impacts for them. Category 1 and 2 banks will also be required to use quantitative methods and incorporate nature-related financial risks into their stress testing exercises. The Swiss Ordinance on mandatory Climate disclosures entered into force on 1 January 2024 and requires large financial institutions to publicly disclose information on climate-related matters, with the first reports expected to be published in the first half of 2025. In 2021, FINMA also introduced requirements for Category 1 and 2 banks to make climate-related financial disclosures in line with the Task Force on Climate Related Financial Disclosures (TCFD) disclosure framework. Currently only the G-SIB is required to incorporate climate scenario analysis in line with the Network for Greening the Financial System (NGFS) scenarios. The specific scenarios to be used by the G-SIB are all currently available NGFS scenarios until 2050. In addition, there are stress testing requirements for specific risk types: On liquidity Article 7(1) of the LO requires banks to implement appropriate processes to identify, measure, manage and monitor liquidity risks. As set out in Circular 2015/02 'Liquidity Risks' banks must ensure that their liquidity buffer is sufficient and takes into consideration the bank's business model, risks of on- and off-balance sheet transactions, the liquidity of their assets and liability, the extent of existing financing gaps and financing strategies. The liquidity buffer should also be aligned to the bank's liquidity needs as identified in the stress tests and should take into account market-specific considerations (Margin Nos.63-67). Further liquidity stress testing requirements are set out in Article 9 of the LO and Mn.72-90 of Circular 2015/2 Liquidity Risks – Banks.

[62] FINMA published the circular on 'Nature-related financial risks' in December 2024. The circular will enter into force in stages from 1 January 2026.

	For the G-SIB, FINMA engages in ongoing dialogue on their liquidity stress-testing practices, funding concentrations, funding vulnerabilities, their risk appetite and the adequacy of their liquidity buffer. Semi-annual meetings are held on the qualitative aspects of liquidity and funding. For Category 2 banks, there are annual meetings that cover all aspects of liquidity and funding although liquidity reports are monitored regularly. For Cat. 3 banks such assessments take place through on-site inspections (once in approximately 5-6 years) or through liquidity and funding plan meetings (which also take place all 5-6 years), or on an ad-hoc basis when needed. For IRRBB, Circular 2019/2 'Interest rate risks' Margin No.18 stipulates that the BoD must define how to measure, monitor and manage interest rate risk including interest rate shock and stress scenarios so that they comply with approved strategies and policies. Margin Nos 20-32 set out further requirements for the stress scenarios. For market risk, Circular 2008/20 'Market Risks' Margin No.308 requires the control function of banks with VaR-model approval to carry out regular stress testing. Further requirements are set out in Margin Nos. 336-351. For credit risk, Circular 2017/7 'Credit risk' requires banks with IRB approval to conduct stress tests in line with Basel requirements as set out in Margin Nos. 384-389. Banks with an EPE model must conduct stress tests in line with Basel requirements (Margin No.123). Banks that are clearing members must conduct stress tests to assess the adequacy of capital for exposures to CCPs (Margin no. 536).
EC6	Where banks use models to measure components of risk, the supervisor determines that the following conditions are met: (a) banks comply with supervisory standards on the use of models; (b) the banks' boards and senior management understand the limitations and uncertainties relating to the output of the models and the risk inherent in their use; and (c) banks perform regular and independent validation and testing of the models. In addition, the supervisor assesses whether the model outputs appear reasonable as a reflection of the risks assumed.
Description and Findings re EC6	As set out in Margin No.72 of Circular 2017/1 the control function is responsible for developing and operating adequate risk monitoring systems, defining and applying principles and methods for risk analysis and assessment (e.g., assessment and aggregation methods, validation of models), and monitoring systems to ensure compliance with supervisory regulations (especially regulations relating to capital adequacy, risk diversification and liquidity). For models that require FINMA approval, FINMA assesses the design and parameters of models used for capital or liquidity purposes including any model changes through its Model Approval Committee (MAC). The regulatory audit firm typically assesses the implementation of the models. Assessors viewed model change applications and assessments which were thorough in their analysis and included conditional approvals where appropriate. The

	requirements for the use of models for market, credit and operational risk are set out in the related Circulars (see Circular 2023/1 'Operational risks and resilience'; Circular 2017/7 'Credit risks'; Circular 2008/20 Market Risks).
EC7	The supervisor determines that banks have information systems that are adequate (both under normal circumstances and in periods of stress) for measuring, assessing and reporting on the size, composition and quality of exposures on a bank-wide basis across all risk types, products and counterparties. The supervisor also determines that these reports reflect the bank's risk profile and capital and liquidity needs, and that they are provided on a timely basis to the bank's board and senior management in a form suitable for their use.
Description and Findings re EC7	See EC1. Margin Nos. 52-59 of Circular 2017/1 set out the requirements for banks to have an appropriate institution-wide risk management framework. The control functions ensures comprehensive and systematic monitoring of and reporting on individual and aggregated risk positions (Margin No.69). The control function also reports to the executive board at least every six months and to the BoD at least annually on the institution's risk profile and its activities. On liquidity Article 7(1) of the LO requires banks to implement appropriate processes to identify, measure, manage and monitor liquidity risks. As set out in Circular 2015/2 'Liquidity Risks' the risk management control function must include IT systems and qualified employees to ensure the timely measurement, monitoring and reporting of liquidity positions against limits. As set out in Circular 2013/3 'Auditing' risk control and risk mitigation must be audited annually as part of the regulatory audit. The data aggregation capabilities are largely assessed through the regulatory audit although discussions on risk topics with FINMA have indicated issues with reporting that have not been identified by the regulatory auditor. There is also regular quarterly risk reporting by Category 1-3 banks. Beyond the G-SIB, data aggregation has not been a supervisory focus since 2017 when FINMA performed a deep dive to assess compliance with the Basel 'Principles for effective risk data aggregation and risk reporting'(BCBS239) at the Category 2 banks.
EC8	The supervisor determines that banks develop and maintain appropriate risk data aggregation and reporting capabilities commensurate with the risk profile and systemic importance of the bank. The supervisor also determines that the board and senior management review and approve the bank's risk data aggregation and risk reporting framework, and that they ensure that adequate resources are deployed to support these efforts.
Description and Findings re EC8	See EC7.
EC9	The supervisor determines that banks have adequate policies and processes to ensure that the banks' boards and senior management understand the risks inherent in new products,[63] material modifications to existing products, and major management initiatives (such as changes in systems, processes, business models and major acquisitions). The supervisor determines that the bank's board and senior management monitor and manage these risks on an ongoing basis. The supervisor also determines that the bank's policies and processes

[63] New products include those developed by the bank or by a third party and purchased or distributed by the bank.

	require the undertaking of any major activities of this nature to be approved by the board or a specific committee of the board.
Description and Findings re EC9	As stipulated in Margin No.15 of Circular 2017/1, the BoD takes decisions on major changes to the company and group structure, major changes in significant subsidiaries, and other strategically important projects. Margin No.73 states that the control function must be appropriately consulted during the development of new or expanded product categories, services or business/market areas and for major or complex transactions. As set out in Margin No.32 of Circular 2023/1 'Operational risks' ad hoc risk and control assessments must be conducted prior to major changes in products, activities, processes and systems. These must take into account the operational risks associated with the change process and the operational risks of the target state. If necessary, the risk tolerance should be adjusted and control and mitigation measures implemented. Margin No. 49 stipulates that the executive board must ensure that procedures, processes; controls; tasks; competencies and responsibilities are implemented and documented both for change management and for Information and communication technology operations. In other risk areas there is no explicit requirement for a new product or new initiative approval process. Mn.73 of Circular 2017/1 requires risk management to be appropriately consulted during the development of new or expanded product categories, services or business/market areas and for major or complex transactions. FINMA advises that it considers this to imply an approval process, but this is not clearly stated as a requirement. FINMA expects appropriate approval of major new initiatives by senior management and/or the board and is able to view this process directly as many of these also require explicit approval under the ongoing licensing process. However, outside of this, no explicit requirement is set out in FINMA circulars.
EC10	The supervisor determines that banks have risk management functions covering all material risks with sufficient resources, independence, authority and access to the banks' boards to perform their duties effectively. The supervisor determines that their duties are clearly segregated from risk-taking functions in the bank and that they report on risk exposures directly to the board and senior management. The supervisor also determines that the risk management function is subject to regular review by the internal audit function.
Description and Findings re EC10	The supervisor determines that banks have risk management functions covering all material risks with sufficient resources, independence, authority and access to the banks' boards to perform their duties effectively. The supervisor determines that their duties are clearly segregated from risk-taking functions in the bank and that they report on risk exposures directly to the board and senior management. The supervisor also determines that the risk management function is subject to regular review by the internal audit function. As set out in Margin No.13 of 2017/1 the BoD is responsible for ensuring that an institution has appropriate levels of personnel and other resources (e.g., infrastructure, IT) and for the personnel and remuneration policies. Per Margin No.6 an effective ICS includes an independent risk control and compliance function – which adequately reflect the size, complexity and risk profile of an institution. Further details are set out in Margin Nos. 60-81. Margin No.91 stipulates that internal audit must deliver independent audits and assessments of the appropriateness and effectiveness of the company's organization and business

	processes, particularly as regards the institution's internal control system and risk management. In relation to ensuing sufficient resources, FINMA acknowledges that it is difficult to articulate their expectations in this area. This is in part because banks may organize their resourcing across risk lines of defense in different ways, making benchmarking challenging. [Auditors have also identified this as a challenging area to assess]. These requirements are assessed as part of the regulatory audit.
EC11	The supervisor requires larger and more complex banks to have a dedicated risk management unit overseen by a chief risk officer (CRO) or equivalent function. If the CRO of a bank is removed from their position for any reason, this should be done with the prior approval of the board and generally should be disclosed publicly. The bank should also discuss the reasons for such removal with its supervisor.
Description and Findings re EC11	Margin Nos.67-68 of Circular 2017/1 require banks in supervisory Categories 1 to 3 have dedicated risk and compliance function headed by a CRO. The CRO may be responsible for other independent control bodies in addition to the risk management function. SIBs must appoint a CRO who is a member of the executive board. Assessors saw examples of major mid-size banks where the CRO is not on the executive board. Similarly, there were examples of major mid-size banks where the CRO role was not a standalone role. FINMA acknowledged that this was a concern but that they do not have the power to make these provisions a requirement as there is no legal basis to do so. As set out in Margin No.27 the BoD approves and periodically assesses the requirements profile for members of the executive board, as well as for the CRO and the head of internal audit. It is responsible for succession planning.
EC12	The supervisor issues standards related to, in particular, credit risk, market risk, liquidity risk, interest rate risk in the banking book, operational risk and large exposures.
Description and Findings re EC12	The relevant standards are: 2017/07 FINMA Circular 'Credit risks – banks' 2008/20 FINMA Circular 'Market risks banks' 2015/02 FINMA Circular 'Liquidity risks – banks' 2019/02 FINMA Circular 'Interest rate risks – banks' 2023/01 FINMA Circular 'Operational risks and resilience – banks' 2019/01 FINMA Circular 'Risk Diversification – Banks'
EC13	The supervisor requires banks to have appropriate contingency arrangements, as an integral part of their risk management process, to address risks that may materialize and actions to be taken in stress conditions (including those that will pose a serious risk to their viability). If warranted by its risk profile and systemic importance, the contingency arrangements include robust and credible recovery plans that consider the specific circumstances of the bank. The supervisor, working with resolution authorities as appropriate, assesses the adequacy of banks' contingency arrangements given their risk profile and systemic importance (including reviewing any recovery plans) and their likely feasibility during periods of stress. The supervisor seeks improvements if deficiencies are identified.

Description and Findings re EC13	Section E of Circular 2023/1 'Operational risks and resilience' addresses business continuity managements (BCM) which refers to the institution-wide approach for recovering the operation of critical processes in the event of a significant disruption going beyond incident management. It defines the response to significant disruptions. Effective BCM reduces the residual risks in connection with significant disruptions. The requirements are to be implemented on a case-by-case basis, depending on the size, complexity, structure and risk profile of each institution (Margin No.19). Per Margin No.23 of 2023/1 the BoD approves the basic principles for the management of operational risks relevant for the institution and monitors their application which includes IT risks, cyber risks, risks relating to critical data and risks resulting from the design and implementation of BCM. The BoD also regularly approves strategies for dealing with IT, cyber risks, critical data and BCM, and monitors their application (Margin No.24). As set out in Margin No.89 in crisis situations, a crisis unit must take on the task of crisis management until order is restored. The conditions triggering a crisis and the tasks, competencies and responsibilities of the crisis unit must be regulated in advance and the crisis organization aligned to the business activities and geographical structure of the institution. The availability of responsible persons in crisis situations must be ensured. The implementation of the BCP and disaster recovery plan (DRP) as well as the functioning of the crisis organization must be regularly evaluated through tests. Margin Nos.101- 111 set out the requirements for operational resilience including that the bank must identify its critical functions and their tolerances for disruption which must be approved by the BoD. The BoD must also regularly approve and monitor the approach for ensuring operational resilience. Art. 9 BA sets out that systemically important banks must be organized in such a way that, in the event of impending insolvency, the continuation of the banks' systemically important functions is assured with regard to structure, infrastructure, management and control, intragroup liquidity and capital flows. As set out in Article 4 of the BO a systemically important bank must prepare a recovery plan. In this plan, it must set out the measures it intends to take to stabilize itself in the event of a crisis so that it can continue its business activities without government intervention. The recovery plan requires approval by FINMA. Under Article 10 of the Liquidity Ordinance (LO) banks must establish a contingency funding plan which contains effective strategies to address liquidity shortages. The contingency funding plan must clearly define responsibilities, a communication plan, the related procedures measures which should be documented in internal policies and procedures. The contingency funding plan must take into account the results of stress tests. Circular 2015/02 'Liquidity Risks' specifies what must be included in a contingency plan which include: • early warning indicators; • emergency triggers and a structured, multi-tiered escalation procedure; • liquidity-generating and liquidity-saving measures and their priorities;

	• operational procedures to manage liquidity and assets between jurisdictions, legal entities and systems, that take into account restrictions on the transferability of liquidity and assets; • a clear definition of roles and responsibilities; • procedures, decision-making processes and reporting obligations to ensure timely and continuous flow of information to senior management, clearly defining which incidents are to be escalated to senior management; • clearly developed and defined communication channels and strategies that ensure a clear, consistent and regular flow of information to internal. FINMA cannot require Category 3-5 banks to prepare recovery plans. They may request banks to prepare likely scenarios if they find themselves in a crisis situation but this usually has been requested when the bank is facing specific challenges. In terms of general planning the requirements relate to operational resilience considerations.
EC14	The supervisor requires banks to have forward-looking stress testing programs covering all material risks commensurate with their risk profile and systemic importance as an integral part of their risk management process. At a minimum, banks' stress testing programs cover credit risk, market risk, interest rate risk in the banking book, liquidity risk, country and transfer risk, operational risk and significant risk concentrations. The supervisor regularly assesses a bank's stress testing program and determines that it captures all material sources of risk and adopts plausible adverse scenarios. The supervisor also determines that the bank integrates the results into its decision-making, risk management processes (including contingency arrangements) and the assessment of its capital and liquidity levels. The supervisor requires corrective action if material deficiencies are identified in a bank's stress testing program or if the results of stress tests are not adequately considered in the bank's decision-making process. Where appropriate, the scope of the supervisor's assessment includes the extent to which the stress testing program: (a) promotes risk identification and control on a bank-wide basis; (b) adopts suitably severe assumptions and seeks to address feedback effects and system-wide interaction between risks; (c) benefits from the active involvement of the board and senior management; and (d) is appropriately documented and regularly maintained and updated.
Description and Findings re EC14	FINMA does not have an explicit regulatory requirement for general stress testing as the legislation does not support the setting of a requirement in this area. Instead, as set out in Circular 2011/2 'Capital buffer and capital planning' Margin Nos.34-37, FINMA expects supervised institutions and groups to operate adequate capital planning, which is to be documented in writing, at both consolidated and individual institution levels in line with their individual circumstances. In assessing whether their capital is adequate, institutions must take into account the economic cycle. They must show in their capital planning that they are in a position to meet their capital adequacy requirements in future (over a three-year horizon), even in the event of an economic downturn and their revenues falling sharply. The underlying assumptions for the capital planning must be documented in a transparent and comprehensible manner.

	Based on this, FINMA discusses banks' use of stress tests and scenarios in capital planning discussions. FINMA comments on and makes recommendations where it identifies gaps in risk coverage in banks' stress testing. Recommendations from FINMA have included a need for banks to stress against more severe and/or appropriate scenarios; and to consider all material risks as part of their stress testing. However, as there is no explicit requirement for general stress testing FINMA must rely on banks' agreeing to implement any FINMA recommendations made. On liquidity, Article 2 of the LO requires banks to have sufficient liquidity at all times to be able to meet its payment obligations even in stress situations. Article 9 of the LO, states that each bank must prepare various stress scenarios for liquidity risk and when selecting stress scenarios, a bank must take into account: • institution-specific, market-wide and combined causes and factors; • different time horizons; and • different severity levels for stress events, including the scenario of a loss of unsecured funding as well as the restriction of secured funding. In addition, Circular 2015/2 stipulates that liquidity risk management must pursue the objective of ensuring the current and ever-time solvency, especially in times of bank-specific and/or market-wide periods of stress in which collateralized and unsecured financing options are severely affected. (Margin no.10).
EC15	The supervisor assesses whether banks appropriately account for risks (including liquidity impacts) in their internal pricing, performance measurement and new product approval process for all significant business activities.
Description and Findings re EC15	As set out in Margin.No.73 of 2017/1 the bank's control function must be appropriately consulted during the development of new or expanded product categories, services or business/market areas and for major or complex transactions. The bank's control function must report to the Executive Board at least every six months and to the Board of Directors at least once a year on the development of the institution's risk profile and its activities in accordance with margin nos. 69-78. A copy of these reports shall be made available to the internal auditors and the audit firm. The assessment by the regulatory audit firm as to whether risk control has been appropriately included in the development of new or expanded product categories, services, business or market areas and in significant or complex transactions is mandatory and forms part of the audit field "Central functions for risk control and risk mitigation: Risk control functions" (in accordance with the audit points specified by FINMA). This is assessed every 6 years (for banks with medium net risk; every 3 years (for banks with high net risk high); and annually (for banks with very high net risk. FINMA may request information ad-hoc on whether banks appropriately account for risks (including liquidity impacts) in their internal pricing, performance measurement and new product approval process for all significant business activities. Article 6(3) of the LO stipulates that banks must take into account the liquidity-related costs and risks for all significant on- and off-balance sheet activities, specifically when setting prices, introducing new products and measuring the generated earnings. They must ensure a

	balanced relationship between risk taking incentives and existing liquidity risks, taking the defined liquidity risk tolerance into consideration. Margin No.27 of Circular 2015/2 requires banks to establish an appropriate liquidity transfer pricing system. There are no requirements for appropriate transfer pricing to be established as part of other transactions.
Assessment of Principle 15	MNC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP15 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. FINMA understands the importance of Risk Management but the combination of the legislative weaknesses that render FINMA unable to set detailed standards for risk management, require stress tests, ICAAPs or require banks, of any size, to ensure the CRO is a standalone position that is elevated to executive board level means that the signal to the industry and auditors is muted at best. These weaknesses were highlighted in 2014. The costs of failed risk management for a bank are high and the supervisory standards for risk management must finally be brought up to the international level. In part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in certain risk management areas is high-level. There is also no comprehensive supervisory manual for all relevant risk topics. These areas should be improved to raise the standards, quality and consistency of FINMA supervision and the work of the regulatory auditor. The assessors note that work on a new supervisory manual and more detailed risk requirements is already part of a planned internal FINMA project. It is recommended that guidance for the regulatory auditor also be included as part of this work. In the area of climate-related financial risk supervisory skills should be strengthened and these considerations should be integrated into supervisory policies and processes. Consideration should be given to undertaking a thematic review on risk appetites as this is an area where weaknesses have been identified. Furthermore: • FINMA should ensure that banks have a new product or new initiative approval process. • FINMA should have a more regular process to assess whether banks appropriately account for risks in their internal pricing, performance measurement and new product approval process for all significant business activities. • FINMA should ensure that banks establish appropriate transfer pricing for all relevant transactions.
Principle 16	**Capital adequacy.**[64] The supervisor sets prudent and appropriate capital adequacy requirements for banks that reflect the risks undertaken and presented by a bank in the

[64] Reference documents: BCBS, High-level considerations on proportionality, July 2022; BCBS, Guiding principles for the operationalization of a sectoral countercyclical capital buffer, November 2019; [SCO10], [SCO30], [CAP10], [CAP30], [CAP50], [CAP99], [RBC20], [RBC30], [RBC40], [LEV10], [LEV20], [LEV30], [SRP10], [SRP20].

	context of the markets and macroeconomic conditions in which it operates.[65] The supervisor defines the components of capital, bearing in mind their ability to absorb losses. At least for internationally active banks, capital requirements are not less stringent than the applicable Basel standards.
Essential Criteria	
EC 1	Laws, regulations or the supervisor require banks to calculate and consistently observe prescribed capital requirements, including thresholds with reference to which a bank might be subject to supervisory action. Laws, regulations or the supervisor define the qualifying components of capital, ensuring that emphasis is given to those elements of capital permanently available to absorb losses on a going concern basis.
Description and Findings re EC1	Article 4 of the Banking Act sets out the requirement for banks to maintain adequate capital, individually and on a consolidated basis. Article 4 also provides the Federal Council the power to determine the constituents of capital and to set minimum requirements in accordance with the bank's activities and risks. The Capital Adequacy Ordinance (CAO) sets out the detailed regulatory capital framework. Article 42 of the CAO sets out the Pillar 1 capital requirements and are aligned with the Basel III framework. After deductions, banks must hold minimum capital in the amount of 8 percent of the risk weighted positions. A minimum of 4.5 percent of the risk-weighted positions must be held in common equity tier 1 capital and a minimum of 6 percent must be held in tier 1 capital. In accordance with Article 46 of the CAO all banks must hold, after deductions, sufficient Tier 1 capital to maintain a leverage ratio of 3 per cent of unweighted exposures (total exposures). In compliance with the Basel requirement to maintain a 2.5 percent capital conservation buffer comprising CET1, Article 43 of the CAO sets out the requirement for banks to permanently maintain a capital buffer as follows: Category 1 and 2 Category 3 Category 4 Category 5 Capital buffer 4.8% 4.0% 3.2% 2.5% -of which CET1 3.7% 3.3% 2.9% 2.5% -of which AT1 or higher 0.5% 0.3% 0.1% - -of which T2 or higher 0.6% 0.4% 0.2% - Article 47 of the CAO sets out the capital requirements for the 'small banks regime' which Category 4 and 5 banks are eligible to apply for. If eligible, the capital requirements for small banks corresponds to a simplified leverage ratio of at least 8 per cent; being the quotient of Tier 1 capital; and the sum of all balance sheet assets, less goodwill and financial interests, plus all off-balance sheet items. Approximately 55-60% of eligible Category 4 and 5 banks are part of the 'small banks regime.'

[65] Implementation of the Basel Framework is not a prerequisite for compliance with the Core Principles. Compliance with the Basel Framework capital adequacy regimes is only required of those jurisdictions that have declared that they have voluntarily implemented it.

	Article 44 of the CAO states that upon the Swiss National Bank's request, the Federal Council can require banks to hold a countercyclical capital buffer (CCyB) in the form of CET1 capital of a maximum of 2.5 percent of their risk-weighted exposures in Switzerland if this is necessary to (a) strengthen the banking sector's resilience to the risks of excessive credit growth; or (b) counteract excessive credit growth. A sectoral CCyB targeting residential real estate located in Switzerland was activated between February 2013 and March 2020. It was initially set at a level of 1 percent of relevant RWA and subsequently increased to 2 percent in January 2014. In March 2020, against the backdrop of the outbreak of the coronavirus pandemic, the sectoral CCyB was reduced to 0. In January 2022, the sectoral CCyB was reactivated and increased to 2.5 percent, effective from end September 2022 onwards, due to an increase in vulnerabilities on the mortgage and residential real estate markets. Systemically important banks (SIBs) must hold more regulatory capital than other banks through additional going concern and 'gone concern' capital which together represent the bank's total loss-absorbing capacity (TLAC). Going concern requirements for SIBs are set out in Article 129-131 of the CAO. SIBs must meet: • A base requirement of a RWA ratio of 12.86 percent and leverage ratio of 4.5 percent; • Add-ons for market share in the domestic lending and deposit business and for the size of the bank as measured by total exposures; • Countercyclical capital buffers (applicable to all banks). Gone concern capital requirements (Articles 132 and 133 of the CAO) amount to a minimum of 40 percent of the total going concern capital for domestic SIBs. D-SIBs therefore only require between 18.13 percent and 20.72 percent (12.86 percent of minimum CET 1 capital and between 5.27 percent and 7.86 percent of gone concern capital), much lower than their closest EU peers. G-SIBs (internationally active) are required to hold more. The Swiss entity of UBS is required to hold gone concern funds equal to 62 percent of its going concern requirements, while the gone concern requirements at group level are 75 percent of going concern capital less rebates granted by FINMA for improvements in its resolvability beyond the statutory requirements. The gone concern requirements are normally fulfilled with bail-in bonds that must meet certain criteria. The bank may alternatively opt to meet all or a portion of their gone concern requirements with CET1 or AT1 instruments.
EC2	At least for internationally active banks,[66] the definition of capital, the risk coverage, the method of calculation and thresholds for the prescribed requirements are not lower than those established in the applicable Basel standards.

[66] Capital adequacy requirements for internationally active banks should be applied on a fully consolidated basis, including any holding company that is the parent entity within a banking group. The framework will apply to all internationally active banks at every tier within a banking group, on a fully consolidated basis. As an alternative to full sub-consolidation, the application of this framework to the standalone bank (i.e. on a basis that does not consolidate assets and liabilities of subsidiaries) would achieve the same objective, providing the full book value of any investments in subsidiaries and significant minority-owned stakes is deducted from the bank's capital. Supervisors must also test that individual banks are adequately capitalized on a standalone basis.

Description and Findings re EC2	The CAO and FINMA circulars apply to all banks. The RCAP Assessment of the Basel III regulations in June 2013 rated the implementation of the definition of capital largely compliant; the deviations identified were largely rectified subsequently. The implementation of capital buffers was rated compliant. The RCAP Assessment of Basel III G-SIB framework and review of D-SIB frameworks in June 2016 was assessed as compliant with the Basel G-SIB framework. The two subcomponents of the G-SIB framework, higher loss absorbency and disclosure requirements, were assessed as largely compliant and compliant respectively. All but one of the deviations were subsequently addressed. The deviation which identified that the absence of a formal Swiss regulation mandating restrictions on dividend payouts when a bank's CET1 level falls below 10 percent, (the higher loss absorbency requirement implemented for Swiss G-SIBs) has not been rectified as Swiss authorities deemed the implemented, necessary steps to ensure immediate recreation on the buffers as more conservative than the Basel rules. The RCAP identified this point as potentially material. No changes have been made by the Swiss authorities to address these points. *Treatment of Participations and Double Leverage* This issue is relevant for EC4 (prescribed capital requirements reflect the risk profile and systemic importance of banks in the context of the markets and macroeconomic conditions in which they operate, constrain the build-up of leverage in banks and the banking sector) but is discussed here as it also refers to methods of calculation. In 2012, Article 32 of the CAO introduced a requirement for banks to deduct participations in financial entities held and consolidated at group level from CET1 capital in the standalone calculations. However, FINMA was obliged to immediately grant capital reliefs (under Article 125) to the G-SIBs in order to avoid the higher group capital requirements that would have been required if the full deduction approach was applied. These capital reliefs resulted in a 'mixed system' with a part deduction and part risk-weighting approach which was complex, non-transparent and difficult to compare in an international context. In June 2017, a Federal Council report[67] on SIBs observed that because a strict application of the deductions system for the Swiss GSIBs would severely affect the capital base in individual institutions, FINMA was obliged to grant relief to the GSIBs. The Federal Council instructed a review of the regulations on the deduction of shareholdings (Article 32 CAO) and the granting of relief (Article 125 CAO). The capital reliefs approach was subsequently revised for the G-SIBs in 2017, with the introduction of a risk-weighted only approach, with higher risk weightings applicable to participations through phased-in implementation until December 2027. In the CAO revision that came into effect on 1 January 2019, the move away from deducting participations (which require consolidation) at the standalone level was extended to all banks and replaced with a risk-weighting approach. The partial risk-weighting of participations applied to G-SIBs since 2013 and the full risk-weighting approach applied through phased-in implementation since 2017, lead to much lower capital requirements than would have been required by the deduction approach.

[67] https://www.newsd.admin.ch/newsd/message/attachments/48924.pdf

	Since 2019 therefore, instead of deduction, a risk weighting of 250 percent for Swiss participations and 400 percent for foreign-based holdings has been in place for all banks (with a phase-in until December 2027 for Category 1 banks). Under the current regime, a parent bank's participations in its subsidiaries are only partially backed by capital. The current requirements also allow what is known as double leveraging, where the parent may partially finance capital at its subsidiary through debt. During the Credit Suisse crisis, the effects of this capital treatment amplified the problems of the bank. The parent bank's limited capital levels significantly restricted its room for maneuver. The authorities have put forward initiatives, which FINMA supports and the assessors welcome, to strengthen the parent bank capitalization by replacing the current risk weighting approach with a full deduction approach. *Accounting and Booking Practices* Article 15 of the CAO prescribes that when calculating the eligible and required capital for capital adequacy reporting, the bank shall rely on the financial statements prepared in accordance with the accounting standards prescribed by FINMA. FINMA permits the application of IFRS and US GAAP for consolidated financial statements and Swiss GAAP for other reporting. This can lead to inconsistencies in the calculation of capital adequacy. Swiss GAAP permits the identification of 'booked hidden reserves' which are essentially general provisions adjusted for tax. Such reserves are not permitted in the calculation of regulatory capital under the Basel III rules but in Switzerland unlisted banks may include hidden reserves in Tier 2 capital on a solo level (Margin No.99 Circular 2013/1). FINMA advises that only one Category 3 bank and no internationally active banks make use of this provision. Furthermore, because of the flexibility within the accounting standards, even banks using the same accounting framework may apply different treatments to similar items. For example, the Basel rules state that intangible assets should be deducted from CET1; certain assets on the other hand should be risk weighted. However, software may in some cases be treated as an intangible asset and in other cases a tangible asset and the valuations may differ depending on the assumptions made. These differences can make a material difference to the capital calculations. As noted in the 'Federal Council report on banking stability', UBS reduced the value of software by USD 2 billion when it acquired Credit Suisse. FINMA are in favor of a deduction of software costs irrespective of the accounting treatment. Swiss GAAP permits the identification which are essentially general provisions adjusted for tax.
EC3	The supervisor has the power to impose a specific capital charge and/or limits on all material risk exposures, if warranted, including in respect of risks that the supervisor considers not to have been adequately transferred or mitigated through transactions (e.g. securitization transactions) entered into by the bank. Both on-balance sheet and off-balance sheet risks are included in the calculation of prescribed capital requirements.
Description and Findings re EC3	Article 3 of the BA which sets out the general authorization rules gives FINMA extensive power to limit material risk exposures. BA Art. 4 also permits FINMA to stricter requirements in special cases. Specifically, CAO Art. 45 provides that FINMA may in special circumstances,

	require certain banks to hold additional capital if the prescribed minimum capital and capital buffer do not provide sufficient security, particularly in relation to the bank's business activities; risk exposures; business strategy; quality of risk management; or risk management implementation. Margin nos. 30-33 of Circular 11/02 sets out how the supervisor may impose stricter requirements if it deems that the capital buffers do not adequately cover an institution's risk profile or that the institution's risk management is insufficient in view of its risk profile. FINMA's ability to impose a Pillar 2 add-on is weakened by legislative provisions underpinning this power. Recent cases indicate that banks can, and do, mount legal challenges against the use of this supervisory tool by FINMA. Article 50 of the CAO states that FINMA shall issue technical implementing provisions on credit risks and securitizations. Switzerland implemented the Basel revised securitization framework from January 2019. Further details are set out in Circular 2017/7 'Credit Risks – Banks.'
EC4	The prescribed capital requirements reflect the risk profile and systemic importance of banks in the context of the markets and macroeconomic conditions in which they operate, constrain the build-up of leverage in banks and the banking sector, and reduce the risk of contagion. In assessing the adequacy of a bank's capital levels given its risk profile, the supervisor focuses, among other things, on: (a) the potential loss absorbency of the instruments included in the bank's capital base; (b) the appropriateness of risk weights as a proxy for the risk profile of its exposures; (c) the adequacy of provisions and reserves to cover expected losses; and (d) the quality of its risk management and controls. Consequently, capital requirements may vary from bank to bank to ensure that each bank is operating with the appropriate level of capital to support its risk profile. Laws, regulations or the supervisor in a particular jurisdiction may set higher overall capital adequacy standards than the applicable Basel requirements.
Description and Findings re EC4	The CAO prescribes specific capital requirements which ensure a higher loss absorbency of the systemically important banks. (See EC1) A leverage ratio has also been introduced for these banks. As noted in EC1, a sectoral CCyB of 2.5 percent is currently in place on residential mortgage lending in Switzerland. As set out in EC3, the supervisor may set higher overall capital adequacy standards than the applicable Basel requirements including for deficiencies in risk management. Please see EC3 for a discussion of double leverage in banks and the application of risk weights instead of deduction as a proxy for the risk profile of the balance sheet. On the adequacy the adequacy of provisions and reserves to cover expected losses please see CP 18 Problem assets, provisions and reserves.

<table>
<tr><td></td><td>As set out in Margin No.23 of 2011/2 FINMA has defined a target capital requirement and an intervention threshold for each category, expressed as total capital ratios:
<table>
<tr><th>Category</th><th>Intervention triggered if overall capital ratio/CET1 capital ratio falls below capital adequacy target/CET1 target by more than</th></tr>
<tr><td>1 and 2 (non-systemically important)</td><td>1.2 percentage points</td></tr>
<tr><td>3</td><td>1 percentage point</td></tr>
<tr><td>4</td><td>0.7 percentage points</td></tr>
<tr><td>5</td><td>0 percentage points</td></tr>
</table></td></tr>
<tr><td>EC5</td><td>The use of banks' internal assessments of risk as inputs to the calculation of regulatory capital is approved by the supervisor. If the supervisor approves such use:
(a) such assessments adhere to rigorous qualifying standards;
(b) any cessation of such use or any material modification of the bank's processes and models for producing such internal assessments are subject to the approval of the supervisor;
(c) the supervisor has the capacity to evaluate a bank's internal assessment process to determine that the relevant qualifying standards are met and that the bank's internal assessments can be relied upon as a reasonable reflection of the risks undertaken;
(d) the supervisor has the power to impose conditions on its approvals if the supervisor considers it prudent to do so; and
(e) if a bank does not continue to meet the qualifying standards or the conditions imposed by the supervisor on an ongoing basis, the supervisor has the power to revoke its approval.</td></tr>
<tr><td>Description and Findings re EC5</td><td>On advanced approaches, in Switzerland, one bank is currently using (A-IRB) (and five (F-IRB)); five are using advanced approaches for market risk; and one for operational risk.

As set out in Article 50 of the CAO, use of the IRB approach for the calculation of credit risk requires approval from FINMA, which shall define the approval criteria. Circular 2017/7 'Credit Risk – Banks' sets out the requirements. Margin No.269 notes that FINMA will only approve the use of IRB if the requirements are complied with at all times. Margin Nos. 285-287 states that FINMA must be notified if any material changes are made to the rating systems or to the risk management practices. Proposed changes to models are categorized according to their materiality. All change requests reviewed and approved by FINMA's model approval committee (MAC).

Article 3 of the BA which sets out the general authorization rules gives FINMA extensive power to limit material risk exposures. BA Art. 4 also permits FINMA to stricter requirements in special cases. Specifically, CAO Art. 45 provides that FINMA may in special circumstances, require certain banks to hold additional capital if the prescribed minimum capital and capital</td></tr>
</table>

	buffer do not provide sufficient security, particularly in relation to the bank's business activities; risk exposures; business strategy; quality of risk management; or risk management implementation. The framework for licensing allows FINMA considerable flexibility: it can set the licensing benchmark appropriately in certain cases, thereby shaping specific aspects which need to be addressed before a license can be issued. BA Art. 4 also permits FINMA to stricter requirements in special cases. If a bank no longer fulfills the requirements for its activities or seriously violates the supervisory provisions, FINMA can revoke the bank's license (Art. 37 Para. 1 FINMASA). As set out in Article 88 of the CAO, use of a model approach for the calculation of market risk requires approval from FINMA, which shall define the approval criteria. Circular 2008/20 Part V sets out the detailed requirements. This includes but is clearly not limited to back testing (Margin Nos. 320–335). It includes also stress testing (Margin Nos. 336–351) As set out in Article 90 of the CAO, use of an institution-specific approach for the calculation of operational risk requires approval by FINMA. Circular 2008/21 sets out the detailed requirements. These requirements include that internal and external auditors regularly review the operational risk processes and the implementation of the approach. FINMA assesses the design and parameters of models used for capital or liquidity purposes including any model changes through its Model Approval Committee (MAC). The regulatory audit firm typically assesses the implementation of the models. Assessors viewed model change applications and assessments which were thorough in their analysis and included conditional approvals where appropriate. The requirements for the use of models for market, credit and operational risk are set out in the related Circulars (see Circular 2023/1 'Operational risks and resilience'; Circular 2017/7 'Credit risks'; Circular 2008/20 Market Risks).
EC6	The supervisor has the power to require banks to adopt a forward-looking approach to capital management (including the conduct of appropriate stress testing). The supervisor has the power to require banks: (a) to set capital levels and manage available capital and planned capital expenditures in anticipation of possible business cycle effects, market conditions and changes in factors specific to the bank that could have an adverse effect; and (b) to have in place feasible contingency arrangements to maintain or strengthen capital positions in times of stress, as appropriate given the risk profile and systemic importance of the bank.
Description and Findings re EC6	Circular 2011/02 states that FINMA will conduct an extended capital planning dialogue with certain institutions on a case by case basis, particularly those that pose a systemic risk. In the course of this dialogue institutions must present plans on how they would mitigate adverse developments under stressed conditions. FINMA may lay down particular requirements for these institutions. (Margin No.37.1). The capital plan is challenged on the basis of the results from regulatory stress testing (see also principle 15).

	Margin nos. 35 and 36 set out how, in assessing whether their capital is adequate, institutions must take into account the economic cycle. They must show in their capital planning that they are in a position to meet their capital adequacy requirements in future (over a three-year horizon), even in the event of an economic downturn and their revenues falling sharply. The underlying assumptions for the capital planning must be documented in a transparent and comprehensible manner. Section E of Circular 2011/02 sets out the steps that will be taken in relation to a bank's failure to comply with the capital adequacy requirements. FINMA will intensify its supervision and require banks to restore their capital positions. Should FINMA deem the measures taken by a bank to be inadequate, it may order the bank to reduce or refrain entirely from dividend payments, share buybacks and discretionary remuneration components; to carry out a capital increase; or order the institution to reduce its risk-weighted assets, sell specific assets or withdraw from specific areas of business (Margin Nos. 27-29). However, the legislative underpinning in the area of stress testing is weak. There is no general requirement to allow FINMA to require a stress test. As such, should banks wish not to implement recommendations or to challenge any findings, they may do so. FINMA also have very limited stress testing resources which limits its ability to full leverage this supervisory tool. As set out in Art 45 of the CAO, in special circumstances, FINMA may require certain banks to hold additional capital if the minimum capital under Article 42 and the capital buffer under Article 43 do not provide sufficient security, particularly in relation to: their business activities; their risk exposures; their business strategy; the quality of risk management; the state of the art of the techniques used. This is the Pillar 2 charge. However, this may also be legally challenged by banks so is not always as effective a supervisory tool as it should be.
EC7	Laws or regulations require, or the supervisor has the power to impose a simple, transparent, non-risk-based measure that captures all on- and off-balance sheet exposures to supplement risk-based capital requirements to constrain the build-up of leverage in banks and in the banking sector.
Description and Findings re EC7	See EC1. All banks must meet a leverage ratio requirement of 3 percent (CAO Art.46). SIBs must meet a leverage ratio requirement of at least 4.5 percent plus surcharges for their size and market share (CAO Article 129). Banks eligible for the small banks regime must meet a simplified leverage ratio of at least 8 percent (CAO Art.47b).
Additional criteria	Article 124a of the CAO defines internationally active systemically important banks as those designated as global systemically important banks (G-SIBs) by the Financial Stability Board. Where a systemically important bank no longer qualifies as internationally active under paragraph 1, FINMA may continue to designate it as such if this is necessary owing to the scale of its activities abroad. Other systemically important banks shall not be deemed to be internationally active.

	The CAO does not further distinguish between internationally active and non-internationally active banks. As set out in EC1, a small banks regime also applies to certain eligible banks in Categories 4 and 5 which applies simplified capital requirements.
AC1	For non-internationally active banks, capital requirements, including the definition of capital, the risk coverage, the method of calculation, the scope of application and the capital required, are broadly consistent with the principles of the applicable Basel standards relevant to internationally active banks.
Description and Findings re AC1	Article 124a of the CAO defines internationally active systemically important banks as those designated as global systemically important banks (G-SIBs) by the Financial Stability Board. Where a systemically important bank no longer qualifies as internationally active under paragraph 1, FINMA may continue to designate it as such if this is necessary owing to the scale of its activities abroad. Other systemically important banks shall not be deemed to be internationally active. The CAO does not further distinguish between internationally active and non-internationally active banks. As set out in EC1, a small banks regime also applies to certain eligible banks in Categories 4 and 5 which applies simplified capital requirements.
AC2	The supervisor requires adequate distribution of capital within different entities of a banking group according to the allocation of risks.[68]
Description and Findings re AC2	As set out in Article 7 of the CAO, the capital adequacy and risk diversification requirements must be met not only at the level of the individual entity, but also at the level of the financial group and financial conglomerate (consolidation requirement). Article 11 of the CAO states that the consolidation requirement shall apply to every financial group, even if a superordinate financial group or such a financial conglomerate is already supervised by FINMA. This ensures that own funds are distributed adequately within in the group. For all levels capital reporting is in place. (See also Principle 12 Consolidated supervision).
AC3	Laws or regulations permit the supervisor or relevant authorities to require banks to maintain additional capital (which may include sectoral capital requirements) in a form that can be released when system-wide risk crystallizes or dissipates.
Description and Findings re AC3	See EC1. Article 44 of the CAO states that upon the Swiss National Bank's request, the Federal Council can require banks to hold a countercyclical capital buffer (CCyB) in the form of CET1 capital of a maximum of 2.5 per cent of their risk-weighted exposures in Switzerland if this is necessary to (a) strengthen the banking sector's resilience to the risks of excessive credit growth; or (b) counteract excessive credit growth. The Basel III countercyclical capital buffer (CCyB) in Switzerland is at 0 percent as of the date of the FSAP. The Swiss sectoral CCyB targeted at mortgage loans financing residential property located in Switzerland is at 2.5 percent as decided and communicated by the Federal Council in January 2022. Mandatory reciprocity as foreseen in Basel III does not apply to the Swiss sectoral CCyB requirements.
Assessment of Principle 16	MNC

[68] Refer to Principle 12, essential criterion 7 [BCP40.28].

Comments	It should be noted that an assessment of capital adequacy under the BCP is not the same as the Basel Regulatory Consistency Assessment Programme (RCAP) which examines fidelity to the Basel Capital Framework. The BCP is broader and considers whether prudent and appropriate capital adequacy requirements have been set for banks that reflect the risks undertaken by a bank in the context of the markets and macroeconomic conditions in which it operates. Because the BCPs look at prudent and appropriate capital adequacy, it may criticize features in a jurisdiction that are not covered by the international minimum standards. In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP16 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. The current capital framework has serious weaknesses and deficiencies. The risk weighting of participations rather than the application of a deduction means that a parent bank's participations in its subsidiaries only have to be partially backed by capital and that the parent may partially finance capital at its subsidiary through debt. The consequential limited capital at the parent bank level has had very real financial stability consequences by amplifying the problems of Credit Suisse during the crisis. The prudential treatment of participations should revert to the previous prudent deduction method. The mission welcomes the authorities' steps towards addressing the issues identified in this CP.[69] FINMA's Pillar 2 powers are not clearly articulated, making them weak and open to legal challenge. While FINMA can and does impose Pillar 2 charges, on the basis of art. 45 CAO and many Pillar 2 charges are in place, they are difficult to enforce should a bank wish to challenge them. In the lengthy recent case, noted above, involving a D-SIB, the courts upheld FINMA's decision to impose a capital surcharge. It was welcome to note that although the courts upheld the suspensive effect of the Pillar 2 measure, and that the procedure was very lengthy, the courts also ordered, as provisional measures, that the bank maintained sufficient equity to ensure that FINMA's objective remains fulfilled throughout the procedure. It would be valuable, however, if Art. 45 CAO were strengthened, and the suspensive effect removed, to enable FINMA to use it more effectively. The legal framework also means that there are no general requirements for banks to undertake stress testing or an Internal Capital Adequacy Assessment Process (ICAAP). It is crucial that FINMA's powers in this area are strengthened and put on a solid legal footing. Furthermore, given that the capital calculations are made on the basis of the accounting standards and that FINMA also permits banks to use different accounting frameworks (IFRS, US GAAP, Swiss GAAP), there is scope for inconsistent treatments in the capital calculations of banks for similar activities. This is clearly undesirable and should as much as possible be addressed through consistent rules for the prudential calculations of capital, irrespective of the accounting framework used e.g., the deduction of software costs.

[69] Federal Council June 6, 2025.

	FINMA should enhance its resources and capacity to run supervisory stress tests. Wider and more extensive use of stress tests would also provide useful insights into banks risk management frameworks, allowing FINMA to more effectively leverage this supervisory tool. Finally, D-SIBs should not have a gone concern capital requirement so much lower than a G-SIB and also lower than their EU peers.
Principle 17	**Credit risk.**[70] The supervisor determines that banks have an adequate credit risk management process that considers their risk appetite, risk profile, market conditions, macroeconomic factors and forward-looking information. This includes prudent policies and processes to identify, measure, evaluate, monitor, report and control or mitigate credit risk[71] (including counterparty credit risk)[72] on a timely basis. The full credit life cycle is covered, including credit underwriting, credit evaluation and the ongoing management of the bank's loan and investment portfolios.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to have sound credit risk management processes that provide a comprehensive bank-wide view of all credit risk exposures, including a robust methodology for the early identification and appropriate measurement of credit losses. The supervisor determines that the processes are consistent with the risk appetite, risk profile, systemic importance and capital strength of the bank, that they consider current and forward-looking market and macroeconomic factors, and that they result in prudent standards of underwriting, evaluation, administration, monitoring, measurement and control of credit risk.
Description and Findings re EC1	Article 12(2) of the Banking Ordinance states that a bank must provide a risk management framework as well as regulations or internal directives describing the processes and responsibilities for risks including the detection, mitigation and monitoring of credit, default and settlement risks. FINMA Circular 2017/1 'Corporate governance – banks' sets out the corporate governance, general risk management and internal control requirements for banks. Risk management is defined as the methods, processes and organizational structures used to define risk strategies and risk management measures in addition to the identification, analysis, assessment, management, monitoring and reporting of risks. Per 2017/1, an effective internal control system consists of control activities which are integrated into work processes, appropriate risk management and compliance processes, and monitoring bodies – particularly an independent risk control and compliance function – which adequately reflect the size, complexity and risk profile of an institution. The BoD signs off the institution-wide

[70] Reference documents: BCBS, High-level considerations on proportionality, July 2022; BCBS, Guidance on credit risk and accounting for expected credit losses, December 2015; FSB, Principles for sound residential mortgage underwriting practices, April 2012; [CRE20], [CRE40], [CRE45], [CRE50], [CRE51], [CRE54], [MGN10], [MGN20].

[71] Credit risk may result from: on-balance sheet and off-balance sheet exposures, including loans and advances; investments; interbank lending; derivative transactions; securities financing transactions; and trading activities.

[72] Transactions that give rise to counterparty credit risk include: OTC derivatives, exchange-traded derivatives, long settlement transactions and securities financing transactions that are bilaterally or centrally cleared. Counterparty credit risk may result from (but is not limited to) transactions with banks, non-financial corporates and non-bank financial institutions.

	risk management framework and is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks. The bank's institution-wide risk management framework comprises the risk policy, risk tolerance and risk limits for all key risk categories. The main credit risk provisions are set out in Circular 2017/07 'Credit Risk – Banks.' Circular 2017/1 applies to all banks although the principle of proportionality applies, namely that the requirements should be implemented on a case-by-case basis, depending on the size, complexity, structure and risk profile of each institution. FINMA can relax or tighten the rules in individual cases. Circular 2017/1 doesn't explicitly reference credit risk; Circular 2017/07 sets out the detailed capital requirements for credit risk. Article 95 of the CAO requires banks to identify and monitor risk concentrations and other large credit risk exposures to an individual counterparty or group of affiliated counterparties, and comply with associated reporting obligations. Under Article 100 of the CAO, banks must report all outstanding risk concentrations and other large credit exposures to its BoD quarterly on an individual entity basis; and semi-annually on a consolidated basis. The reports must be submitted to the statutory banking audit firm and the SNB within six weeks of the end of the quarter or half-year, using the form prescribed by FINMA. FINMA then receives the data from the SNB. As is the case in other risk areas, the credit risk requirements are mainly assessed through the regulatory audit. Typically, a selection of controls testing procedures are performed, depending on the individual risk assessment of the inherent and control risks in the credit risk area and the nature and size of the credit portfolio. In general, adequacy of Credit Organization/Policies, Credit Risk Management Methodologies, Credit Processes, Data and Systems related to Credit Risk Management is assessed. Separately, the onsite credit file reviews are based on different internal control questionnaires depending on the type of credit facilities being reviewed. As noted in CP 16, in part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in certain risk management areas, including credit risk, is high-level. Over the years, the audit firms have therefore developed their own audit programs to audit bank's adherence to the requirements. The FINMA Circular 2017/07 does not, for example, include requirements related to the Basel Committee's Principles for the Management of Credit Risk. Notwithstanding FINMA is planning to refresh existing guidance in relation to credit risk, to more explicitly articulate its expectations in this area. The Swiss Bankers Association (SBA) is responsible for two self-regulation regimes that are recognized as minimum standards under supervisory law. These are the 'Guidelines on minimum requirements for mortgage loans' and the 'Guidelines on assessing, valuing and processing loans secured against property.' The Guidelines on minimum requirements for mortgage loans govern the borrower's use of own funds and set out specific limits with regard to amortization. They are directly linked to the CAO in that a less advantageous risk weighting applies if the minimum requirements are not met. The 'Guidelines on assessing,

	valuing and processing loans secured against property,' meanwhile, contain qualitative requirements for banks' internal mortgage lending business processes. In particular, they regulate lending policies, loan monitoring and reporting. Article 3 of the BA which sets out the general authorization rules gives FINMA extensive power to limit material risk exposures. BA Art. 4 also permits FINMA to stricter requirements in special cases. Specifically, CAO Art. 45 provides that FINMA may in special circumstances, require certain banks to hold additional capital if the prescribed minimum capital and capital buffer do not provide sufficient security, particularly in relation to the bank's business activities; risk exposures; business strategy; quality of risk management; or risk management implementation. Systemically important banks (SIBs) must hold more regulatory capital than other banks (see Principle 16). Circular 2011/2 'Capital Buffer and Capital Planning' sets out the requirement for banks to have adequate capital planning, documented in writing, which takes into account the economic cycle. They must show in their capital planning that they are in a position to meet their capital adequacy requirements in future (over a three-year horizon), even in the event of an economic downturn and their revenues falling sharply. (Margin Nos. 34 -36). There is currently 1 bank using A-IRB and 5 banks using F-IRB to calculate regulatory capital for credit risk. FINMA assesses the design and parameters of models used for capital purposes including any model changes through its Model Approval Committee (MAC). The regulatory audit firm typically assesses the implementation of the models. Assessors viewed model change applications and assessments which were thorough in their analysis and included conditional approvals where appropriate. Switzerland implementation date for the Basel III final rules was in January 2025. The regulatory impact assessment prepared as part of the implementation of these requirements indicated that a neutral effect on credit risks in aggregate is expected. Following a public consultation in 2024, at the time of the mission FINMA was finalizing a circular on 'Nature-related financial risks' which will implement the Basel 'Principles for the effective management and supervision of climate-related financial risks.'[73] The provisions in this circular will be implemented in a phased way from 2026 with an initial focus on climate risks. In 2024, FINMA undertook dedicated supervisory meetings focused on the governance of climate-related financial risks at Category 1 and 2 banks. In collaboration with SNB, in 2021 a climate scenario analysis was undertaken with the Category 1 banks; a second climate scenario is being performed for the Category 1 bank in 2024 via with a third-party data provider. In 2023-2024 SNB did a first high-level top-down materiality assessment regarding transition risks in the mortgage market while FINMA did the same for physical risks in the mortgage

[73] FINMA published the circular on 'Nature-related financial risks' in December 2024. The circular will enter into force in stages from 1 January 2026.

	market; both parties liaised closely on these assessments. The topic of 'green mortgages' was included in the 2024 mortgage survey although no follow up work is planned. Since 2023, FINMA has organized its credit risk expertise centrally. Prior to this an expert group was in place for several years that focused on risks related to mortgage markets. Given that mortgages are the main source of credit risk in Swiss banks this is the key area of focus. Every 6 months a 'mortgage cockpit' is prepared which looks at mortgage volumes. Between 2021 and 2023, FINMA carried out 18 on-site inspections in the mortgage lending sector which focused on areas such as risk appetite and affordability. Onsite inspections have highlighted variations in management assumptions between banks in relation, for example, to affordability calculations and exceptions lending. In terms of collateral valuations, recent variations that have been identified between banks related to the varying use of ranges when using hedonic pricing models. In 2024 a survey on mortgage-related criteria and valuation methods was undertaken with 27 banks which allowed the identification of outliers. Key account managers were following up with the banks in question at the time of the mission.[74] In 2024, FINMA conducted thematic on-site inspections with a focus on commercial real estate, always with the objective of benchmarking and/or comparing different approaches and determining variations. In addition, in 2023, FINMA conducted an assessment in the non-traditional lending business. Banks presenting a particular risk in the non-traditional lending area were subject to on-site inspections in 2024. On-site inspections take a holistic approach to the subject. The scope covered includes strategy and the definition of risk tolerance, as well as credit granting criteria, supervision, monitoring and reporting. Interviews are conducted and sample file reviews are performed. To further enhance data analysis, FINMA and SNB are developing a credit data repository that will capture all loans by counterparty, facilitating a single counterparty view. It is expected that the database will be in place in 2027.
EC2	The supervisor determines that a bank's board approves and regularly reviews the credit risk management strategy and significant policies for identifying, measuring, evaluating, monitoring, reporting and controlling or mitigating credit risk (including counterparty credit risk) and that these are consistent with the risk appetite set by the board. The supervisor also determines that the board oversees management in a way that ensures that these policies are implemented effectively and fully integrated into the bank's overall risk management process.
Description and Findings re EC2	FINMA Circular 2017/1 'Corporate governance – banks' sets out the corporate governance, general risk management and internal control requirements for banks. As set out in Circular 2017/1, the bank's institution-wide risk management framework is developed by the executive board and approved by the board of directors; and comprises the risk policy, risk tolerance and risk limits for all key risk categories.
EC3	The supervisor requires and regularly determines that such policies and processes establish an appropriate and properly controlled credit risk environment, including:

[74] FINMA confirmed after the mission that some of the banks had been selected for inspections in 2025.

	(a) a well documented and effectively implemented strategy and sound policies and processes for assuming credit risk, without undue reliance on external credit assessments; (b) well defined criteria and policies and processes for: (i) approving new exposures (including prudent underwriting standards), and ensuring a thorough understanding of the risk profile and characteristics of the borrowers (and in the case of securitisation exposures all features of securitisation transactions)[75] that would materially impact the performance of these exposures; (ii) renewing and refinancing existing exposures; and (iii) identifying the appropriate approval authority for the size and complexity of the exposures; (c) effective credit administration policies and processes, including: continued analysis of a borrower's ability and willingness to make all payments associated with the contractual arrangements (including reviews of the performance of underlying assets, eg for securitisation exposures or project finance); monitoring of documentation, legal covenants, contractual requirements, collateral and other forms of credit risk mitigation; and an appropriate exposure grading or classification system; (d) effective information systems for accurate and timely identification, aggregation and reporting of credit risk exposures to the bank's board and senior management on an ongoing basis; (e) prudent and appropriate credit limits consistent with the bank's risk appetite, risk profile and capital strength, which are understood by and regularly communicated to relevant staff; (f) exception tracking and reporting processes that ensure prompt action at the appropriate level of the bank's senior management or board where necessary; and (g) effective controls (including in respect of the quality, reliability and relevance of data and in respect of validation procedures) around the use of models to identify and measure credit risk and set limits.
Description and Findings re EC3	As noted in EC1 and EC2, various rules and guidance, including formally recognized self regulatory minimum requirements, apply which cover a number of these areas. As set out in Circular 2017/1, the bank's institution-wide risk management framework is developed by the executive board and approved by the board of directors; and comprises the risk policy, risk tolerance and risk limits for all key risk categories. The risk framework must address the key risk categories and include: • estimates of the potential losses from these key risk categories;

[75] Securitization includes both traditional and synthetic securitizations (or similar structures that contain features common to both). Where appropriate, supervisors should provide guidance about whether a given transaction should be considered a securitization.

	• definitions and descriptions of the tools and organizational structures required to identify, analyze, evaluate, manage and monitor the key risk categories including for reporting purposes; • policies and procedures to support the embedding and management of risk tolerances and corresponding risk limits; • policies and procedures to support risk data aggregation and reporting for institutions in supervisory categories 1 to 3. In the case of systemically important institutions, these provisions must include information about data architecture and IT infrastructure which enable an aggregated and timely risk analysis/assessment and risk data aggregation/reporting across all of the institution's key risk categories both under normal circumstances and in periods of stress. The data aggregation capabilities are largely assessed, including for Category 4 and 5 banks, through the regulatory audit. The board of directors sets out the business strategy and defines guiding principles for the institution's corporate culture. Regarding any undue reliance on credit rating agencies, Circular 2012/01 Credit rating agencies states that, regardless of the use of credit ratings, the supervised institutions are responsible for identifying their risks (credit risks, investment risks, market risks, etc.) properly and for assessing, limiting and monitoring them independently (Margin No.7). As in other risk areas, the provisions in EC3 are largely assessed through the regulatory audit. However, recent FINMA inspections have highlighted divergent practices in the area of exceptions to policy loans including inconsistent management reporting in this area.
EC4	The supervisor determines that banks have policies and processes to monitor the total indebtedness of obligors to which they extend credit and any risk factors that may result in default, including significant unhedged foreign exchange risk.
Description and Findings re EC4	FINMA requires banks to have internal regulations in place to monitor potential impairments of loans, clients or legal entities. This also includes foreign exchange risk. There are no specific requirements with respect to this matter applying to all banks but FINMA advises that it would normally form part of the regulatory audit review.
EC5	The supervisor requires that banks make credit decisions free of conflicts of interest and on an arm's length basis.
Description and Findings re EC5	Circular 2017/1 states that the board of directors should define how conflicts of interest are to be handled. All current and previous conflicting interests must be disclosed. If a conflict of interest cannot be avoided, the institution should take appropriate steps to ensure that it is effectively limited or removed. Article 4ter of the BA states that loans to members of the bank's bodies and to significant shareholders as well as to persons and companies closely associated with them may only be granted in accordance with the generally accepted principles of the banking industry e.g.,: at arm's length. See also CP20.

	Furthermore, the conditions of loans/credit risk exposures to controlling shareholders or associated bodies must be granted at arm's length based on tax regulations. Minimum and maximum interest for credit risk exposures for controlling shareholders or associated bodies are published annually by the tax authorities. The financial audit firm is obliged to review the interest rates for loans to controlling shareholders or associated bodies when auditing tax expenses and tax provisions.
EC6	The supervisor requires that the credit policy prescribes that major credit risk exposures exceeding a certain amount or percentage of the bank's capital must be decided by the bank's board or senior management. The same requirement applies to credit risk exposures that are especially risky or are otherwise not aligned with the bank's core business activities.
Description and Findings re EC6	As set out in Circular 2017/1, the bank's institution-wide risk management framework is developed by the executive board and approved by the board of directors; and comprises the risk policy, risk tolerance and risk limits for all key risk categories. Articles 95-119 of the CAO sets out the specific requirements for risk concentrations in relation to a bank's capital. A large exposure exists when the total exposure to a counterparty or group of affiliated counterparties equals or exceeds 10 per cent of the bank's adjusted eligible Tier 1 capital. Banks must identify and monitor risk concentrations and other large credit risk exposures to an individual counterparty or group of affiliated counterparties, and comply with associated reporting obligations. A large exposure may not exceed 25 per cent of adjusted eligible Tier 1 capital. See also CP 19 Concentration risk and large exposure limits. Although it is not set out explicitly, from a high-level perspective, FINMA expects banks to have an adequate exception tracking and reporting process as part of the internal control and management information systems specified in FINMA Circular 2017/01 'Corporate governance, risk management and internal controls for banks' (Margin no. 50). Revisions to the SBA self-regulation on mortgages which were due to come into force in 2025, explicitly set out this requirement.
EC7	The supervisor has full access to information in the credit and investment portfolios and to the bank officers involved in assuming, managing, controlling and reporting on credit risk.
Description and Findings re EC7	Article 29 of the Financial Market Supervision Act (FINMASA) sets out the duty to report an provide information. It requires supervised entities, their audit companies and auditors as well as persons or companies that are qualified investors or that have a substantial participation in the supervised entities to provide FINMA with all information and documents that it requires to carry out its tasks. Supervised entities and their audit firms must also immediately report to FINMA any incident that is of substantial importance to supervision.
Assessment of Principle 17	LC
Comment	In the Swiss system, in addition to its own activities FINMA makes considerable use of the work of the regulatory audit to determine whether elements of CP17 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. In part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in this area is high level. FINMA has no explicit legal basis to set binding risk management standards over credit risk. A disparity of lending

	practices for new mortgages in relation to affordability and the granting of exception to policy loans has recently been observed from onsite inspections of certain banks so the need for clearer articulation of sound risk management practices in this area is clear and compelling. In the absence of any legislative change, FINMA should nonetheless develop more detailed guidance for banks, supervisors and regulatory auditors to clearly articulate its supervisory expectations in this area. The collection of more granular data and the development of more enhanced analysis, as is planned, should support supervision in this area. It would also extend FINMA's supervisory reach to allow further benchmarking and the enhanced identification of outliers across all categories of banks. FINMA should integrate the consideration of climate-related financial risks into supervisory processes and ensure, in a more systematic way, that banks are appropriately considering the impact of climate-related risk drivers on their credit risk profiles; and incorporating them into credit risk management systems and processes as appropriate.
Principle 18	**Problem exposures, provisions and reserves.**[76] The supervisor determines that banks have adequate policies and processes for the early identification and management of problem exposures[77] and the maintenance of adequate provisions[78] and reserves.[79]
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to formulate policies, processes and methodologies for grading, classifying and monitoring all credit exposures (including off-balance sheet and forborne exposures)[80] and identifying and managing problem exposures. In addition, laws, regulations or the supervisor require regular reviews by banks of their credit exposures (at an individual level or at a portfolio level for credit exposures with homogeneous characteristics) to ensure appropriate exposure classification, detection of deteriorating exposures and timely identification of problem exposures.
Description and Findings re EC1	Under Article 12(2) of the Banking Ordinance banks must have a risk management framework as well as regulations or internal directives describing processes and responsibilities for risk-bearing business undertakings. A bank must detect, mitigate and monitor market, credit, default, settlement, liquidity and reputational risks as well as operational and legal risks.

[76] Reference documents: BCBS, Prudential treatment of problem assets – definitions of non-performing exposures and forbearance, April 2017; BCBS, Guidance on credit risk and accounting for expected credit losses, December 2015.

[77] For banks' internal risk management purposes, a problem exposure is an exposure for which there is reason to believe that all amounts due, including the principal and interest, may not be collected in accordance with the contractual terms of the agreement with the counterparty.

[78] Principle 18 covers all provisioning approaches (e.g. incurred loss models, expected credit loss models, calendar provisioning) that are used for prudential purposes. In some jurisdictions, cumulative provisions are referred to as loss allowances.

[79] Reserves for the purposes of this principle are "below the line" non-distributable appropriations of profit required by a supervisor in addition to provisions ("above the line" charges to profit).

[80] A forborne exposure is an exposure for which a bank's counterparty is experiencing financial difficulty in meeting its financial commitments and the bank grants a concession that it would not otherwise consider.

	FINMA Circular 2017/1 'Corporate governance – banks' sets out the corporate governance, general risk management and internal control requirements for banks. Risk management is defined as the methods, processes and organizational structures used to define risk strategies and risk management measures in addition to the identification, analysis, assessment, management, monitoring and reporting of risks. Per 2017/1, an effective internal control system consists of control activities which are integrated into work processes, appropriate risk management and compliance processes, and monitoring bodies – particularly an independent risk control and compliance function – which adequately reflect the size, complexity and risk profile of an institution. The BoD signs off the institution-wide risk management framework and is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks. Article 23 and Article 24 of the FINMA Accounting Ordinance (AO) set out the requirements for impairment and doubtful exposures. Article 25 sets out the requirements for exposures that are not impaired. New rules introduced in 2019 set out the requirements for valuation adjustments, , with different rules depending on the bank category and whether the bank uses Swiss GAAP or IFRS/US GAAP. Category 1 and 2 banks are required to apply an expected credit loss approach (ECL), aligned with IFRS if that is the accounting framework used, or the ECL approach set out in Article 25 of the AO. Category 3 banks are required to follow different requirements based on their business model. Banks which undertake traditional lending apply the approach for inherent default credit risks. All other Category 3,4 and 5 banks must follow the approach for latent default credit risks. The external audit assesses the bank's compliance with the Accounting Ordinance and requirements for the impaired and doubtful exposures and the determination of provisions. The regulatory audit firm also reviews and confirms compliance with the prudential qualitative and quantitative requirements, including the rules on risk approval, control, management and reporting. The outcomes of these reviews are shared with FINMA.
EC2	Laws, regulations or the supervisor require banks to formulate policies, processes and methodologies for consistently establishing provisions and ensuring appropriate and robust provisioning levels.[81] In addition, laws, regulations or the supervisor require banks to formulate policies and processes for writing off problem exposures where recovery is unlikely or where the exposures have very little recovery value.
Description and Findings re EC2	See EC1. The definitions of impaired and non-performing loans are set out in the FINMA Accounting Ordinance and are aligned with IFRS 9 definitions. Further detail also set out in FINMA Circular 2020/01 'Accounting – banks.' The implementation of the requirements set out in EC2 is assessed by the financial and regulatory auditor. FINMA assesses the audit reports in relation to provisions. FINMA collects the following on an annual basis: • P&L: Valuation Adjustments, Provisions and Losses (contains not only credit risk)

[81] Provisions are not limited to problem exposures. Depending on the relevant jurisdiction's accounting and prudential frameworks, provisions may be required for a wider range of exposures (e.g. all exposures, including performing exposures, under expected credit loss frameworks).

	• New value adjustments and provisions for default risks charged to earnings • Use of value adjustments and provisions for default risks • Balance of value adjustments and provisions for default risks • Balance of non-performing loans • Balance of gross impaired loans Peer groups are formed on the basis of the prudential reporting sent to FINMA within a 60 days period and the level of impaired loans and provisions is compared across banks. Outliers are examined appropriately.
EC3	The supervisor determines that the bank's board approves and regularly reviews significant policies for classifying exposures, determining provisions and managing problem exposures and write-offs. The supervisor also determines that the board oversees management in a way that ensures that these policies are implemented effectively and fully integrated into the bank's overall risk management process.
Description and Findings re EC3	Compliance in this area is assessed in the first instance by the regulatory auditor. In 2022, FINMA also carried out on-site inspections in the area of value adjustments for default risks on non-impaired loans. These on-site inspections followed an analysis of the 2021 annual accounts. Banks that reported low provisions were selected and detailed clarifications were carried out. In some cases FINMA identified that banks were under provisioning. Following this work, certain recommendations were issued, and their implementation followed up. There is supervisory engagement and discussion with banks that report low provisions, and the limits are assessed in the overall context of a bank's risk (business model, exposure type, loan growth, etc.). If the risk is not adequately addressed, additional capital can be requested (Pillar 2).
EC4	The supervisor determines that banks have adequate and appropriate policies, processes, methodologies and organizational resources for establishing provisions and write-offs. The supervisor determines that policies, processes and methodologies for the measurement of provisions are appropriate to ensure that provisions and write-offs are timely and reflect realistic repayment and recovery expectations and, where relevant, include appropriate expectations about future credit losses based on reasonable and supportable information. The supervisor determines that banks' credit loss provisions and write-off methodologies and levels are subject to an effective review and validation process conducted by a function independent of the relevant risk-taking function.
Description and Findings re EC4	See answers to EC1 EC2 und EC5.
EC5	The supervisor determines that banks have adequate and appropriate policies, processes and organizational resources for: (a) reviewing and classifying exposures; (b) the early identification of deteriorating exposures; (c) ongoing oversight of problem exposures; and (d) collecting past due obligations.
Description and Findings re EC5	See answer to EC2.

	As set out in Article 26 of the FINMA Accounting Ordinance Loans / receivables are deemed to be non-performing once the following payments have not been made in full for more than 90 days after becoming due: a) payment of interest b) payment of commissions c) partial repayments of principal d) full repayment of principal. The following shall also be deemed non-performing loans: amounts due from debtors in liquidation and loans with special conditions based on the borrower's credit standing (e.g., significant reductions in interest rates, with interest below the bank's refinancing costs). FINMA requires special classification and reporting of a) impaired loans (see below) and b) non-performing loans. If the interest has not been paid after a period of 90 days, they are considered to be non-performing and cannot be included in the income statement until payment has been made (and the whole loan is considered as non-performing). Impaired loans are defined as follows (Article 24 of the FINMA Accounting Ordinance): Loans / receivables in respect of which the debtor will unlikely be able to fulfil its future obligations are deemed to be impaired. Indications of an impaired loan / receivable include: • considerable financial difficulties on the part of the debtor; • actual breach of contract (e.g., default on or delay in interest or principal payments); • concessions on the part of the lender to the borrower based on economic or legal circumstances linked to the financial difficulties of the borrower that would not be otherwise granted ; • high probability of bankruptcy or other need for restructuring on the part of the debtor recording of impairment for the respective asset in a previous reporting period disappearance of an active market for this particular financial asset due to financial difficulties; • previous experience in connection with debt collection that indicates that the total face value of a portfolio of receivables is not collectible. Impaired loans/receivables shall be valued individually; individual value adjustments shall be created for the impaired loans/receivables. Homogeneous credit portfolios that consist of numerous small loans and where an individual assessment cannot be determined with a reasonable effort may be assessed collectively (Art. 24 para 3 FINMA Accounting Ordinance). Impaired loans / receivables and any collateral are to be valued at their liquidation value and the value adjusted to take the debtor's creditworthiness into account (Art. 24 para 4 FINMA Accounting Ordinance). Where the recovery of the loan/receivable is dependent exclusively on the liquidation proceeds value of the collateral, an allowance must be established to completely cover the unsecured portion (Art. 24 para 5 FINMA Accounting Ordinance).
EC6	The supervisor obtains information on a regular basis and in relevant detail or has full access to information concerning the classification of exposures, collateral and other risk mitigants, provisions and write-offs. The supervisor requires banks to have adequate documentation to support their classification and provisioning.

Description and Findings re EC6	A broad set of information is provided by banks on an annual and semi-annual basis with a deadline of 60 days in the context of "prudential reporting". This information includes the balance sheet, the income statement and, among other things, a full picture of all allowances, provisions, impaired loans and non-performing loans. These elements (with the exception of non-performing loans) must be publicly disclosed within 120 days of being audited. The audit results are sent to FINMA in the form of a prudential long form report and a copy of the comprehensive financial audit report, which are then reviewed by FINMA supervisors. Additional information gathered during on-site inspections and publicly available information are also considered by supervisors. FINMA analyzes this data into peer groups and the level of impaired loans and provisions is compared across banks. Outliers are identified and followed up by supervisors. The assessors discussed several examples of follow-up and interventions by FINMA following the review of the data submitted. See also answers to EC2 and EC5.
EC7	The supervisor assesses whether banks' classification of exposures is appropriate and whether their determination of provisioning levels is adequate for prudential purposes. The supervisor evaluates banks' treatment of exposures with a view to identifying any material circumvention of the classification and provisioning standards (e.g., forbearance). If policies, processes or methodologies are inadequate, or if exposure classifications are inaccurate or provisions are deemed to be inadequate for prudential purposes (e.g., if the supervisor considers existing or anticipated deterioration in exposure quality to be of concern, or if the provisions do not fully reflect losses expected to be realized), the supervisor has the power to take appropriate action, for example through requiring the bank to: (a) revise its policies, processes or methodologies for classification and provisioning; (b) adjust its classifications of exposures; (c) increase its levels of provisioning, reserves or capital; or (d) if necessary, impose other remedial measures. Assessments supporting the supervisor's opinion in relation to this and other Essential Criteria under this principle may be conducted by external experts, with the supervisor reviewing the work of the external experts, including to determine the adequacy of the bank's policies, processes and methodologies for classifying exposures and determining provisions.
Description and Findings re EC7	In the first instance compliance in this area is assessed by the financial and regulatory auditor. If FINMA does not agree with an assessment (e.g., provisions) of the bank, FINMA will engage with the bank and the audit firm to express its concerns. FINMA does not have the specific power to require more provisions. It may apply a Pillar 2 charge, however this is difficult to enforce should a bank wish to challenge it. FINMA may also appoint a different audit firm or expert to obtain a second opinion (Article 24(a) FINMASA). The assessors discussed several examples of engagement and follow-up by FINMA with banks where there were concerns about the sufficiency of provisions and/or allowances. Where FINMA disagrees at an early stage or has material doubts about the quality of assets and the adequacy of provisions, the bank/banking group is informed that it may not publish

	its financial statements until agreement has been reached. FINMA supervisors referenced a particular case where this had occurred.
EC8	The supervisor requires banks to have appropriate mechanisms in place for regularly assessing the value of risk mitigants, including guarantees, credit derivatives and collateral. The valuation of collateral reflects the net realizable value, considering prevailing market conditions and the time required for realization.
Description and Findings re EC8	As noted in EC1, the FINMA Accounting Ordinance (AO) sets out requirements for the valuation of derivative financial instruments and collateral. The SBA has issued guidance on mortgage loans, which are part of self-regulation recognized by the FINMA (according to Art. 7 para 3 FINMASA). Additional FINMA guidance or rules are not detailed in this regard. As part of the preparation of financial accounts banks must regularly assess the quality of their loans and the related value of risk mitigants. Regularly assessing the value of risk mitigants (where applicable, i.e. given value fluctuations) in general is a requirement under the Basel capital framework, FINMA Circular "Credit Risks – Banks" sets out requirements e.g., margin no. 138 (daily valuation of collateral in case of SFTs). In case of higher revaluation frequency, the haircuts must be adjusted. In the context of "Lombard" lending (loans backed by collateral), banks must apply internal haircuts whose size depends on the type of securities (major haircuts for shares, moderate haircuts for bonds), in order to take account of a potentially negative fluctuations in market value. The present market value of the collateral must be reassessed very frequently, and the limit granted to the customer must be updated accordingly. Regularly assessing the value of risk mitigants (where applicable, i.e. given value fluctuations) in general is a requirement under the Basel capital framework, see FINMA Circular "Credit Risks – Banks" e.g., margin no. 138 (daily valuation of collateral in case of SFTs). In case of higher revaluation frequency, the haircuts must be adjusted.
EC9	Laws, regulations or the supervisor establish criteria for an exposure to be: (a) identified as a problem exposure; (b) identified as non-performing (exposures where full repayment is unlikely or which are 90 days past due for a material amount, or defaulted exposures under either the Basel Framework or the applicable prudential regulation, or credit-impaired exposures according to the applicable accounting framework); (c) reclassified as performing (the counterparty does not have any material exposure more than 90 days past due, repayments have been made when due over a continuous repayment period, the counterparty's situation has improved so that full repayment of exposure is likely in accordance with the contractual terms, and the exposure is no longer defaulted or impaired); and (d) classified as a forborne exposure.
Description and Findings re EC9	See EC 5 (regulatory definitions of impaired loans and non-performing loans).
EC10	The supervisor determines that the bank's board obtains timely and appropriate information on the condition of the bank's credit portfolio, including classification of exposures, the level

	of provisions and reserves, and major problem exposures. The information includes, at a minimum, summary results of the latest credit exposure review process, comparative trends in the overall quality of problem exposures, and measurements of any existing or anticipated deterioration in exposure quality and losses expected to be realized.
Description and Findings re EC10	As set out in 2017/4 Margin nos. 52 – 59, the bank's institution-wide risk management framework is developed by the executive board and approved by the board of directors and comprises the risk policy and risk tolerance and the risk limits based on them in all key risk categories. The framework must take account of the following aspects: • standardized categorization of key risks to ensure consistency with risk management objectives; • specification of potential losses from these key risk categories; • definition and application of the tools and organizational structures required to identify, • analyze, evaluate, manage and monitor the key risk categories and for reporting purposes; • development of documentation which enables appropriate verification of the definition of risk tolerance and the corresponding risk limits; • provisions relating to risk data aggregation and reporting for institutions in supervisory categories 1 to 3. Risk control ensures comprehensive and systematic monitoring of and reporting on individual and aggregated risk positions (Margin no.69). Risk control reports to the executive board at least every six months and to the board of directors at least annually on the institution's risk profile and its activities (Margin no.75). Compliance with these provisions is assessed primarily through the regulatory audit. When FINMA undertakes onsite inspections it also assesses compliance with these provisions.
EC11	The supervisor requires that valuation, classification and provisioning, at least for significant exposures, are conducted on an individual item basis. For this purpose, supervisors require banks to set an appropriate threshold for the purpose of identifying significant exposures and to regularly review the level of the threshold.
Description and Findings re EC11	Article 24(3) of the Accounting Ordinance states that Impaired receivables must be assessed on an individual basis; individual value adjustments must be made for the impairments. Homogeneous credit portfolios that consist exclusively of a large number of small receivables that cannot be assessed individually at a reasonable cost can be assessed on a lump sum basis (lump sum individual value adjustments).
EC12	The supervisor regularly assesses any trends and concentrations in risk and risk build-up across the banking sector in relation to banks' problem exposures and considers any observed concentration in the risk mitigation strategies adopted by banks and the potential effect on the efficacy of the mitigant in reducing loss. The supervisor considers the adequacy of provisions and reserves at the bank and banking system level given this assessment.
Description and Findings re EC12	Based on the data received in the context of prudential reporting, FINMA regularly analyzes the evolution of the different types of credit portfolios, and – based on data collected by the

	Swiss National Bank - regularly monitors the trends for impaired loans, non-performing loans, and specific and general provisions. Particular attention is paid to outliers. At the macro-economic level (only), the Swiss National Bank also observes trends in Switzerland, especially in the mortgage sector. As noted in CP16, a sectoral CCyB targeted at mortgage loans financing residential property located in Switzerland of 2.5% currently applies due to an increase in vulnerabilities on the mortgage and residential real estate markets.
Assessment of Principle 18	LC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP18 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. FINMA does not have the specific power to require a bank to increase its level of provisioning. Furthermore, because FINMA's powers are not clearly set out in legislation, there is a lack of detail in FINMA's circulars on sound credit practices. This may limit FINMA's ability to require changes to a banks policies, processes or methodologies for classification and provisioning. However to the extent that any practices contravene accounting standards, there is a clearer path for FINMA to challenge bank practices. FINMA regularly analyzes movements in different credit portfolios, and – based on data collected by the Swiss National Bank - regularly monitors the trends for impaired loans, non-performing loans, and specific and general provisions. The additional data analysis on credit risk should support supervision of this area.
Principle 19	**Concentration risk and large exposure limits.**[82]The supervisor determines that banks have adequate policies and processes to identify, measure, evaluate, monitor, report and control or mitigate concentrations of risk on a timely basis. Supervisors set prudential limits to restrict bank exposures to single counterparties or groups of connected counterparties.[83] At least for internationally active banks, large exposure requirements are not less stringent than the applicable Basel standard.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to have policies and processes that provide a comprehensive bank-wide view of significant sources of concentration risk.[84] Exposures

[82] Reference documents: BCBS, High-level considerations on proportionality, July 2022; Joint Forum, Cross-sectoral review of group-wide identification and management of risk concentrations, April 2008; BCBS, Principles for the management of credit risk, September 2000; [LEX10], [LEX20], [LEX30], [LEX40].

[83] Connected counterparties may include natural persons as well as legal persons. Two or more natural or legal persons shall be deemed a group of connected counterparties if at least one of the following criteria is satisfied: (a) control relationship: one of the counterparties, directly or indirectly, has control over the other(s); or (b) economic interdependence: if one of the counterparties were to experience financial problems, the other(s), as a result, would also be likely to encounter financial difficulties.

[84] Concentration risk may result from credit, market and other risk where a bank is overly exposed to particular asset classes, products, collateral, currencies or funding sources, and is broader than exposures subject to large exposure

(continued)

	(including counterparty credit risk exposure) arising from off-balance sheet as well as on-balance sheet items included in both the banking book and trading book are captured. At least for internationally active banks, large exposure requirements are not less stringent than the applicable Basel standard.
Description and Findings re EC1	Article 12 of the BO requires banks to have policies and procedures for risk-related transactions that identify, limit and monitor risks including, credit, default and market risks. Articles 95-118 of the CAO set out detailed rules for risk concentrations which includes all on- and off-balance sheet items in the banking book and trading book that carry a credit risk exposure or counterparty credit risk exposure to an individual counterparty or group of affiliated counterparties (Article 96). Under Article 97 a risk concentration may not exceed 25 per cent of the adjusted eligible Tier 1 capital. This requirement is subject to certain exemptions (e.g., no limit for exposures to sovereigns) according to Article 97 para. 2; and a limit of 100 per cent to small banks in the interbank-business (excluding exposures to systemically important banks) set out in Article 98. Article 136 of the CAO sets out more stringent requirements for systemically important banks including that a risk concentration may not exceed 15 per cent of the Tier 1 capital. Banks must also report intra-group exposures on a quarterly basis to its BoD; audit firm, and the SNB (Article 102 CAO). The risk concentrations and large exposures (LEX) requirements are applicable to all banks in Switzerland, with concessions provided to some Category 4 and 5 banks (Article 98 CAO and Circular 2019/1 margin no. 97–104). In accordance with Article 7 of the CAO, the risk diversification requirements must be met at solo and consolidated level. There are three key concessions provided to Category 4 and 5 banks: (i) a 50% weight applies to short-term interbank exposures against well rated non systemically important banks, as well as to non-systemically important cantonal banks whose non-subordinated liabilities are guaranteed by the canton. This treatment applies only to exposures to a third-party banking group's parent bank; (ii) 'hidden reserves' permitted by Swiss GAAP, which are essentially general provisions adjusted for tax, may be included in the eligible capital base for the calculation of LEX (Article 102 Circular 2019/1 'Risk Diversification – banks;' and (iii) A 0% weight applies to the portion of mortgages up to 50% of the value of Swiss residential real estate collateral. In 2023, the Basel Committee assessed the implementation of the large exposures (LEX regulations in Switzerland as largely compliant with the Basel LEX framework. This is one notch below the highest overall grade. The overall grade was mainly driven by two potentially material findings related to the definition of exposure values. For the definition of exposure values, the Swiss regulations exempt the recognition of an exposure to a collateral issuer in relation to repos executed on specified platforms recognized by the Swiss authorities (at present, there is only one such platform). The Swiss regulations also apply a 10% weight to calculate the exposure value of Swiss covered bonds (Swiss Pfandbriefe),

requirements. Credit concentrations include exposures to: single counterparties (including collateral credit protection and other commitments provided); groups of connected counterparties; counterparties in the same industry, economic sector or geographic region; and counterparties whose financial performance is dependent on the same activity or commodity.

	which is below the 20% floor specified in the Basel LEX framework. FINMA's view is that these two findings are justified by Swiss specificities. The first deviation is considered essential to ensure a well functioning repo market and the implementation of the SNB's monetary policy.; and the second is considered appropriate to due the high quality of Swiss Pfandbriefe. These two deviations remain. Within FINMA there is currently a 'Large Exposures subject matter expert group' lead by the Policy area of the Risk Management Department, with three subject matter experts. The expert group receives and analyzes the large exposures data quarterly. Any outliers are flagged to supervisors who follow up with banks.
EC2	The supervisor determines that a bank's information systems identify and aggregate on a timely basis exposures creating risk concentrations and large exposure to single counterparties or groups of connected counterparties and facilitate active management of such exposures.[85]
Description and Findings re EC2	Article 100 of the CAO requires a bank to report all outstanding risk concentrations and other large exposures to its BoD, audit firm and SNB quarterly on an individual entity basis; and semi-annually on a consolidated basis using a form provided by FINMA. The SNB then sends FINMA the data set. In addition, each year the twenty largest total exposures must be reported, irrespective of whether or not they constitute risk concentrations, excluding total exposures to central banks and central governments and intra-group exposures (this data is already captured by the more frequent reporting). The same Art. also requires external auditors to verify the bank's internal monitoring of large exposures and assess its progress. Reporting for the most part reflects the maximum loss (e.g., 100% weighting) with the exception of a 10% weighting for Swiss Pfandbriefe (see EC1); a 20% weighting for exposures to highly rated Cantons (sovereign treatment); and a 20% weighting for qualifying covered bonds; as well as two weights below 100% which may only be used by cat. 4-5 banks (see EC1, items (i) and (iii)). Given the granularity of the reporting form, FINMA is however able to compute exposure values with a flat 100% weighting.
EC3	The supervisor determines that a bank's risk management policies and processes establish thresholds for acceptable concentrations of risk, reflecting the bank's risk appetite, risk profile and capital strength, which are understood by and regularly communicated to relevant staff. The supervisor also determines that the bank's policies and processes require all material concentrations to be regularly reviewed and reported to the bank's board.
Description and Findings re EC3	In accordance with margin Nos. 52-53 of 2017/1, the institution-wide risk management framework is developed by the executive board and approved by the BoD and comprises the risk policy and risk tolerance and the risk limits based on them in all key risk categories. It must also take into account the definition and application of the tools and organizational structures required to identify, analyze, evaluate, manage and monitor the key risk categories and for reporting purposes. The regulatory auditor would check compliance with this provision.

[85] The measure of credit exposure for large exposures should reflect the maximum possible loss from counterparty failure (i.e. it should encompass actual and potential exposures as well as contingent liabilities). The risk weighting concept adopted in the Basel Framework should not be used in measuring credit exposure for this purpose, as its use for measuring credit concentrations could significantly underestimate potential losses.

EC4	The supervisor regularly obtains information that enables concentrations within a bank's portfolio, including sectoral, geographical and currency exposures, to be reviewed.
Description and Findings re EC4	FINMA also collects data on real estate exposures. This enables FINMA to analyze growth or expansion trends, concentrations by regions, as well as to carry out stress tests and identify the banks that are most exposed to risks in the real estate market. If necessary, FINMA takes supervisory measures to address outliers. As set out in Article 100 of the CAO, LEX data is collected from all banks quarterly on an entity level; 6 monthly at the consolidated level. Regulatory auditors also regularly review a bank's credit portfolio if a bank is in the lending business or has significant investment activities on its asset side. Any negative observations must be reported to FINMA. Recent supervisory work has been undertaken to assess bank's identification of risk concentrations and no specific concerns were identified.
EC5	For credit exposure to single counterparties or groups of connected counterparties, laws or regulations explicitly define, or the supervisor has the power to define, a group of connected counterparties to reflect actual risk exposure. The supervisor may exercise discretion in applying this definition on a case by case basis.
Description and Findings re EC5	Article 109 of the CAO and Circular 2019/1 Risk Diversification set out the definitions and requirements for connected counterparties. Two parties are connected if there is a control relationship or economic dependence; or where counterparties that are held as financial interests by the same person, or are directly or indirectly controlled by them; or counterparties that form a consortium. Connected counterparties must be treated as one entity for the purposes of the large exposures limit. However, as set out in EC1, Article 98 of the CAO provides an exemption for Category 4 and 5 banks, allowing them a limit of large exposures limit of 100% for exposures to banks and securities firms that are not designated as systemically important. The Swiss authorities consider this necessary to facilitate smaller banks accessing the interbank market particularly at short notice.
EC6	Laws, regulations or the supervisor set prudent and appropriate requirements to control and constrain large credit exposures to a single counterparty or a group of connected counterparties. "Exposures" for this purpose include all claims and transactions (including those giving rise to counterparty credit risk exposure), whether on-balance sheet or off-balance sheet. The supervisor also determines that banks assess connectedness between counterparties through control relationships and economic interdependence based on objective and qualitative criteria. The supervisor determines that senior management monitors these limits and that they are not exceeded on a solo or consolidated basis.
Description and Findings re EC6	See EC1, EC3 & EC5.
Additional Criterion	

AC1	In respect of credit exposure to single counterparties or groups of connected counterparties, non-internationally active banks are required to adhere to the limits below: (a) 10% or more of a bank's Tier 1 capital is defined as a large exposure; and (b) 25% of a bank's Tier 1 capital is the limit for an individual large exposure to a private sector non-bank counterparty or a group of connected counterparties. Minor deviations from these limits may be acceptable, especially if they are explicitly temporary or related to very small or specialized banks.
Description and Findings re AC1	As set out in EC1 under Article 97 a risk concentration may not exceed 25 per cent of the adjusted eligible Tier 1 capital. Article 136 of the CAO sets out more stringent requirements for systemically important banks including that a risk concentration may not exceed 15 per cent of the Tier 1 capital. The risk concentrations and large exposures requirements are applicable to all banks in Switzerland, with concessions provided to some Category 4 and 5 banks (Article 98 and Circular 2019/1 Mn.97-104). Article 99 of the CAO sets out the conditions under which the risk concentration and large exposures limits may temporarily be breached: • A limit breach is permitted if it relates to the settlement of client payment transactions and lasts for no more than five business days. • A limit breach is also permitted if it arises solely from the affiliation of previously independent counterparties or the affiliation of a bank with other financial entities. The breach must be rectified within two years of the affiliation acquiring legal force. • If a bank breaches a limit outside of these exceptions, it must inform its audit firm and FINMA immediately and rectify the breach within a period to be approved by FINMA (Article 101).
Assessment of Principle 19	LC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP19 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. There are supervisory gaps regarding concentration risks and large exposures. The Basel RCAP assessment in 2023 identified two potentially material findings related to the definition of exposure values which have not been addressed. These two findings relate to the exemption of exposures to collateral issuers in repo transactions executed on a recognized exchange; and the lower weight applied to Swiss Pfandbriefe. The concessions applied to Category 4 and 5 banks may also give rise to additional risk. The exemption of residential mortgages up to a certain amount from the calculation of the large exposure limit risks allowing significant single-name concentration risk for smaller banks. Furthermore, a higher amount inter-bank exposure ceiling set for small banks is against conservative concentration risk management. As has been noted in other risk areas, in part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in this area is high level. FINMA does not have the legislative power to require general risk management

	and sound principles over large exposures and concentration risk. In the absence of any legislative change, FINMA should nonetheless develop more detailed guidance for banks, supervisors and auditors to more clearly set out expectations in this area. The collection of more granular data and the development of more enhanced analysis should also support supervision in this area. It would also extend FINMA's supervisory reach to allow benchmarking and the identification of outliers across all categories of banks. FINMA should also ensure that banks are identifying, measuring, evaluating, monitoring, reporting and managing the concentrations within and between risk types associated with climate-related financial risks.
Principle 20	**Transactions with related parties**.[86] To prevent abuses arising in transactions with related parties[87] and to address the risk of conflicts of interest, the supervisor requires banks to enter into any transactions with related parties on an arm's length basis;[88] monitor these transactions; take appropriate steps to control or mitigate the risks; and to write off exposures to related parties in accordance with standard policies and processes.
Essential Criteria	
EC1	Laws, regulations or the supervisor set out a comprehensive definition of "related parties" that should at least consider all of the elements detailed in footnote 60. The supervisor may exercise discretion in applying this definition on a case by case basis.
Description and Findings re EC1	Article 4ter of the BA stipulates that loans to members of the bank's bodies and to significant shareholders as well as to persons and companies closely associated with them may only be granted in accordance with the generally accepted principles of the banking industry e.g.,: arm's length. This description may not fully capture all of the relevant related parties detailed in footnote 60. FINMA explains that secondary legislation avoids defining the group of related parties in order not to limit the wide scope of application of the said article but that the definition should be read to include the full description of related parties. FINMA has the general power to restrict a bank's lending to related parties on a case-by-case basis (Art. 112 para. 2 of the CAO).
EC2	Laws, regulations or the supervisor require that transactions with related parties are not undertaken on more favorable terms (e.g., in credit assessment, tenor, interest rates, fees,

[86] Reference documents: BCBS, Corporate governance principles for banks, July 2015; BCBS, Principles for the management of credit risk, September 2000.

[87] Related parties can include: (a) the bank's subsidiaries and affiliates (including their subsidiaries, affiliates and special purpose entities) and any other party that the bank exerts control over or that exerts control over the bank; (b) the bank's major shareholders, including beneficial owners; (c) the bank's board members, senior management and key staff, corresponding persons in affiliated companies, and parties that can exert significant influence on board members or senior management; and (d) for the natural persons identified in (a) to (c), their direct and related interests and their close family members.

[88] Related party transactions include on-balance sheet and off-balance sheet credit exposures; dealings such as service contracts, asset purchases and sales, construction contracts and lease agreements; derivative transactions; borrowings; and write-offs. The term "transaction" should be interpreted broadly to incorporate not only transactions that are entered into with related parties but also situations in which an unrelated party (with whom a bank has an existing exposure) subsequently becomes a related party.

	amortization schedules, requirements for collateral) than corresponding transactions with non-related counterparties.[89]
Description and Findings re EC2	As set out in EC1 Article 4ter of the BA stipulates that loans to members of the bank's bodies and to significant shareholders as well as to persons and companies closely associated with them may only be granted in accordance with the generally accepted principles of the banking industry. The provision in the law only refers to 'loans' and not to other transactions, although FINMA considers that it should be read that other transactions are also included. Margin No. 29 of Circular 2017/1 states that the BoD defines how conflicts of interest are to be handled. All current and previous conflicting interests must be disclosed. If a conflict of interest cannot be avoided, the institution takes appropriate steps to ensure that it is effectively limited or removed.
EC3	The supervisor requires that transactions with related parties and the write-off of related party exposures exceeding specified amounts or otherwise posing special risks are subject to prior approval by the bank's board. The supervisor requires that board members with conflicts of interest are excluded from the approval process for granting and managing related party transactions.
Description and Findings re EC3	This is assessed as part of the regulatory audit. FINMA advises that as part of the authorization process, it requires that banks' internal policies (articles of association, organizational chart, credit regulations) ensure that transactions with related parties are handled as described under EC3.
EC4	The supervisor determines that banks have policies and processes to prevent persons benefiting from the transaction (and/or persons related to such a person) or who otherwise have a conflict of interest from being part of the process of granting and managing the related party transaction.
Description and Findings re EC4	This is assessed as part of the regulatory audit.
EC5	Laws or regulations establish, or the supervisor sets on a general or case by case basis, limits for exposures to related parties[90] or require such exposures to be collateralized or deducted from capital.[91] When limits are only set on aggregate exposures to related parties, those are at least as strict as those for single counterparties or groups of connected counterparties under Principle 19.
Description and Findings re EC5	Under Article 112 of the CAO, FINMA may tighten or relax certain risk diversification requirements. No detailed guidance, including the limit on aggregate exposures to related parties, is provided except for intra-group positions. With the exception of some intra-group transactions (see Art. 111a para. 1 CAO), the limits set on aggregated exposures to related parties correspond to those for single counterparties or a group of connected counterparties.

[89] Exceptions may be appropriate for certain transactions between entities within a banking group when the supervisor considers this to be consistent with sound group-wide risk management. An exception may also be appropriate for beneficial terms that are part of overall remuneration packages.

[90] For this purpose, exposures should be calculated consistently with Principle 19 [BCP40.43].

[91] The supervisor may exclude banks' exposures to certain entities within the banking group where the supervisor considers this to be consistent with sound group-wide risk management.

EC6	The supervisor determines that banks have policies and processes to: (a) identify individual exposures to and transactions with related parties as well as the total amount of exposures; and (b) monitor and report on them through an independent credit review or audit process. The supervisor determines that exceptions to policies, processes and limits are reported to the appropriate level of the bank's senior management and, if necessary, to the board, for timely action. The supervisor also determines that senior management monitors related party transactions on an ongoing basis, and that the board also provides oversight of these transactions.
Description and Findings re EC6	Regulatory auditors have the duty to perform periodically an overall review of the credit book. This should include a critical assessment of transactions with related parties. If a position with a related party is deemed to be a large exposure, it must be reported to the board, FINMA and the external auditor (Art. 100 para. 4, 7-9 CAO).
EC7	The supervisor obtains and regularly reviews information on aggregate exposures to related parties. Supervisors require banks to report (or the supervisor acquires this information through other means) individual related party transactions that are material (e.g. those exceeding a specified amount or a percentage of the bank's Tier 1 capital).
Description and Findings re EC7	There are no requirements for banks to report aggregated exposures to related parties. However Article 29 of FINMASA requires banks and their auditors to provide FINMA with all information and documents that it requires to carry out its tasks, so FINMA could request this information at any time. As stipulated in Article 100 of the CAO, banks must report their large exposures reported on a quarterly basis to the Board, FINMA and the regulatory auditor. Reporting on intra-group exposures may also be looked at for related party transactions.
Assessment of Principle 20	MNC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP20 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. There are several regulatory and supervisory gaps regarding related parties. In the first instance, the definition of related parties in the legislation (BA) only refers to transactions involving credit risk. Other transactions not covered by this definition such as sales and purchases of real estate, service contracts or forgiveness of loans may also pose a risk to the health of a bank. In addition, as has been noted in other risk areas, in part, but not completely, because of the weakness of the legislative underpinning, the guidance for banks and regulatory auditors in this area, with the exception of intra-group exposures, is high level. Given that the definition of related parties in the legislation does not explicitly refer to all the relevant related parties that should be captured by these provisions, it is an area where further specification and guidance is needed. FINMA considers that the definition should be considered to incorporate the full set of related parties but without guidance, there is a risk that banks are not adequately capturing this risk as they should be. In the absence of any legislative change,

	FINMA should nonetheless develop more detailed guidance for banks, supervisors and auditors to clearly set out supervisory expectations in this area. Furthermore, there is no reporting of related party transactions to the supervisor unless these transactions are captured in the large exposures and/or intra-group reporting. Reporting requirements on related parties should be implemented. The collection of more granular data and the development of more enhanced analysis would support supervision in this area. FINMA should also consider a thematic review on related parties, as the absence of supervisory guidance and regular reporting may mean that risks and poor practices remain undetected.
Principle 21	**Country and transfer risks**.[92] The supervisor determines that banks have adequate policies and processes to identify, measure, evaluate, monitor, report and control or mitigate country risk[93] and transfer risk[94] in their international lending and investment activities on a timely basis.
Essential Criteria	
EC1	The supervisor determines that a bank's policies and processes adequately consider the identification, measurement, evaluation, monitoring, reporting and control or mitigation of country risk and transfer risk. The supervisor also determines that the processes are consistent with the risk profile, systemic importance and risk appetite of the bank, consider market and macroeconomic conditions, and provide a comprehensive bank-wide view of country and transfer risk exposure. Exposures (including, where relevant, intragroup exposures) are identified, monitored and managed on a regional and an individual country basis (in addition to the end-borrower/end-counterparty basis). Banks are required to monitor and evaluate developments in country risk and in transfer risk and apply appropriate countermeasures.
Description and Findings re EC1	The 'Guidelines for the Management of Country Risk' issued by the Swiss Bankers Association (SBA) in 1997 sets out the requirements for country and transfer risks. The guidelines define the minimum standard for identifying, measuring, monitoring and controlling country risks, which is explicitly defined to include transfer risks. The guidelines are binding for all banks as a minimum standard as per Article 7(3) FINMASA. Country risk must be identified, measured, assessed, limited and managed by all banks. The scope, degree of detail, systems and methods must be appropriate to the extent of the business activities and their associated risks. There must also be an adequate internal control system. Compliance with these Guidelines is assessed mainly through the regulatory audit.

[92] Reference documents: IMF, External debt statistics – guide for compilers and users, 2013; BCBS, Management of banks' international lending: country risk analysis and country exposure measurement and control, March 1982.

[93] Country risk is the risk of exposure to loss caused by events in a foreign country. The concept is broader than sovereign risk as all forms of lending or investment activity involving individuals, corporates, banks or governments are covered.

[94] Transfer risk is the risk that a borrower will not be able to convert local currency into a foreign currency and so will be unable to make debt service payments in a foreign currency. The risk normally arises from exchange restrictions imposed by the government in the borrower's country.

	The SBA guidelines do not include a requirement for a country risk appetite. A 2024 study by the SBA on 'The impact of geopolitical risks on Swiss banking' recommends that a geopolitical risk framework and scenario analysis be required by banks, including national players.
EC2	The supervisor determines that a bank's strategies and policies for the management of country and transfer risks have been approved and are regularly reviewed by the bank's board. The supervisor also determines that the board oversees management in a way that ensures that these policies are implemented effectively and fully integrated into the bank's overall risk management process.
Description and Findings re EC2	As set out in Circular 2017/1 the BoD is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks (Margin No.10). The Board risk committee is responsible for assessing, at least annually, the institution-wide risk management framework and ensuring that necessary changes are made (Margin No.43). The senior management (executive board, group executive board, etc.) is responsible for formulating the risk policy, which is to be approved and periodically assessed for its suitability by the BoD.
EC3	The supervisor determines that banks have information systems, risk management systems and internal control systems that accurately aggregate, monitor and report country exposures on a timely basis; and ensure adherence to established country exposure limits.
Description and Findings re EC3	See EC1 and EC2. As set out in the 'Guidelines for the Management of Country Risk' issued by the SBA, country risk (which includes transfer risk) must be identified, measured, assessed, limited and managed by all banks. The scope, degree of detail, systems and methods must be appropriate to the extent of the business activities and their associated risks. There must also be an adequate internal control system. Country risk exposures and significant differences between the bank's own ratings and externally available country assessments must be part of the bank's risk reporting. Banks with foreign exposures must have an adequate limit system in place for country risk. The limits must be regularly reviewed and authorised by senior management. Banks must have adequate information systems to monitor compliance with country risk limits. It must be possible to detect a limit violation in good time and this should result in a report to higher authorities. The employees who manage country risk must have the required knowledge and must be sufficiently independent from the staff whose work they are assigned to monitor. There is also a general requirement for adequate information and internal control systems as set out in Circular 2017/1 'Corporate Governance - banks.'
EC4	There is supervisory oversight of the setting of appropriate provisions against country risk and transfer risk, which may include the following: (a) The supervisor (or relevant authority) decides on appropriate minimum provisioning by regularly setting fixed percentages for exposures to each country, considering prevailing conditions. The supervisor reviews minimum provisioning levels where appropriate. (b) The supervisor (or relevant authority) regularly sets percentage ranges for each country, considering prevailing conditions, and the banks may decide, within these

	ranges, which provisioning to apply for their individual exposures. The supervisor reviews percentage ranges for provisioning purposes where appropriate. (c) The bank itself sets percentages or guidelines or even decides on the appropriate provisioning for individual exposures. The adequacy of the provisioning will then be judged by the external auditor and/or by the supervisor.
Description and Findings re EC4	As set out in the SBA 'Guidelines for the Management of Country Risk', banks must make adequate value adjustments, on the basis of their own valuation principles (these principles must be compatible with relevant requirements). Country risk, value adjustments and provisions must be recorded in such a way that they can easily be reviewed by the auditors. In addition, banks should decide for themselves on their own provisioning against future unexpected losses on the basis of their internal risk models and, of course, within the scope of the current accounting rules (e.g., reserves for cyclical fluctuations). Swiss practice is therefore along the lines of (c). There is no specific frequency with which Country risk is assessed by FINMA on-site. When relevant, country risk is assessed as part of an on-site inspection. In 2019, FINMA undertook an onsite inspection at the two G-SIBs focused on country risk. Country risk is also picked up through regulatory work on AML. FINMA advises that country risk is mostly an issue for the Category 1 bank.
EC5	The supervisor regularly obtains and reviews sufficient and timely information on the country risk and transfer risk of banks. The supervisor has the power to obtain additional information, as needed (e.g. in crisis situations).
Description and Findings re EC5	FINMA obtains bank internal risk reports from cat. 1–3 banks on a regular (quarterly) basis, on which basis also country risk is monitored. There is no specific reporting template for country risk although there was one in the past. For banks in cat. 4 and 5 there is no systematic monitoring, except for banks with specific businesses such as commodity trade finance. Large exposures, intra-group exposures and ring-fencing risks are also regularly reported and to the extent that this reporting flags any concerns, FINMA would follow up with the banks in question. FINMA also flexibly enhances the monitoring of country and transfer risks responding to developments in the world economy. In these cases FINMA may send out a survey to banks to gather information on potential risks in response to specific global developments. Several examples of such ad hoc information requests were discussed with the assessors. Additionally, FINMA assesses country risk during its regular stress testing activity (See principle 15). Under Article 29 of FINMASA banks and their auditors must provide FINMA with all information and documents that it requires to carry out its tasks. FINMA intends to more explicitly capture country risk data (e.g., direct sovereign risk exposures) in the future.
Assessment of Principle 21	MNC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP21 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9.

	FINMA does not capture country and transfer risk data from banks in any systematic way. FINMA may send out ad hoc surveys to banks to gather information on potential risks in response to specific global developments. Whilst there is a focus on these risks at the Category 1 bank, country and transfer risk is not the subject of supervisory focus for other categories of banks. Furthermore, there is no requirement in the SBA guidelines for a bank to define a country risk appetite. The collection of regular data and the development of more enhanced analysis, as is planned, should support supervision in this area. It should also extend FINMA's supervisory reach to allow benchmarking and the identification of outliers across all categories of banks. The guidance on country and transfer risk should also be reviewed and updated where appropriate. FINMA should also consider a thematic review on country and transfer risk to gain an overview of exposures and practices across the banking sector. Firms should have a clear understanding of FINMA expectations in relation to this risk.
Principle 22	**Market risk**.[95] The supervisor determines that banks have an adequate market risk management process that considers risk appetite, risk profile, market and macroeconomic conditions, and the risk of a significant deterioration in market liquidity. This includes prudent policies and processes to identify, measure, evaluate, monitor, report and control or mitigate market risks on a timely basis.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to have appropriate market risk management processes that provide a comprehensive bank-wide view of market risk exposure. The supervisor determines that the processes are consistent with the risk appetite, risk profile, systemic importance and capital strength of the bank; that they consider market and macroeconomic conditions and the risk of a significant deterioration in market liquidity; and that they clearly articulate the roles and responsibilities for identifying, measuring, monitoring, reporting and controlling market risk.
Description and Findings re EC1	Article 12 of the BO provides general requirements for risk management including the requirement to identify, limit and monitor market risk. Circular 2017/1 sets out the general requirements for corporate governance, risk management and internal controls at banks. As set out in Margin Nos. 52-53 of 2017/1, the institution-wide risk management framework is developed by the executive board and approved by the BoD and comprises the risk policy, risk tolerance and risk limits based on them in all key risk categories. The risk management framework must also take into account the definition and application of the tools and organizational structures required to identify, analyze, evaluate, manage and monitor the key risk categories for reporting purposes. Circular 2008/20 'Market risks' Margin Nos. 6-13 set out the requirement for a clearly documented trading strategy approved by senior management and the policies and processes that must be addressed as part of the active management of trading positions.

[95] Reference documents: BCBS, High-level considerations on proportionality, July 2022; [RBC25], [MAR10], [MAR11], [MAR12], [MAR20], [MAR21], [MAR22], [MAR23], [MAR30], [MAR31], [MAR32], [MAR33], [MAR40], [MAR50], [MAR99].

	Margin No.35 requires the unit responsible for the valuation of the positions in the trading book to be independent. Banks using a model approach to calculate their regulatory capital for market risk must comply with additional qualitative requirements as set out in Margin Nos. 297-361. There are currently four banks using advanced approaches for market risk – there have been no new banks given approval to use advanced approaches since 2007. The consistency of the risk profile with the capital strength of the bank are assessed as part of capital planning. Circular 2011/2 'Capital buffer and capital planning' Part V sets out the capital planning requirements including that capital is aligned with each bank's size as well as the nature and complexity of its operations; and that it takes into account the economic cycle. For Category 1 and 2 banks, market risk is covered within FINMA'scomprehensive stress test ('loss potential analysis'). Per FINMA, market risk is not a material risk for the category 2-5 banks. The QIS undertaken in relation to support the regulatory impact assessment for the implementation of the final Basel reforms published by SIF and the FDF observed that prior to the implementation of the new Basel rules, RWA for market risk for category 4 and 5 banks accounted for only 3% of RWA, compared to 5% across all bank categories. This QIS estimated that RWA for market risk would increase by 95% for all banks, with a higher increase for internationally active banks (+101%) than for domestically focused banks (+45%). The banking groups with the most significant expected increases in RWA for market risk are asset management banks (+212%) and foreign subsidiaries (+103%). This is followed by SIBs (+86%), regional banks and other banks (68%) and cantonal banks (+45%). RWA changes are mainly driven by the new methodologies or the recalibration of the current standardized approach. Based on the QIS results, the RWA impact of the revised definition of the trading book is expected to be negligible for most banks.
EC2	The supervisor determines that a bank's strategies and policies for the management of market risk have been approved and are regularly reviewed by the bank's board. The supervisor also determines that the board oversees management in a way that ensures that these policies are implemented effectively and fully integrated into the bank's overall risk management process.
Description and Findings re EC2	As set out in Margin Nos. 52-53 of 2017/1, the institution-wide risk management framework is developed by the executive board and approved by the BoD and comprises the risk policy, risk tolerance and risk limits based on them in all key risk categories. The BoD oversees the work of the executive board and is responsible for ensuring that there is both an appropriate risk and control environment within the institution and an effective internal control system (Margin No.14). Risk control reports to the executive board at least every six months and to the BoD at least annually on the institution's risk profile and its activities. A copy of these reports must be provided to internal audit and the regulatory audit firm (Margin No.75). Compliance with FINMA Circulars is assessed by the external audit firms as part of the regulatory audit processes.

EC3	The supervisor determines that the bank's policies and processes establish an appropriate and properly controlled market risk environment including: (a) comprehensive risk measurement systems for the accurate and timely identification, aggregation, monitoring and reporting of market risk exposures to the bank's board and senior management; (b) appropriate market risk limits, which are consistent with the bank's risk appetite, risk profile, capital strength and management's ability to manage market risk and which are understood by and regularly communicated to relevant staff; (c) exception tracking and reporting processes that ensure prompt action at the appropriate level of the bank's senior management or board, where necessary; (d) effective controls around the use of models to identify and measure market risk, and set limits; and (e) sound policies and processes for the allocation of exposures to the trading book.
Description and Findings re EC3	See EC1 and EC2. (a) As set out in 2017/1, the BoD signs off the institution-wide risk management framework and is responsible for issuing regulations, establishing and monitoring an effective risk management function, and managing overall risks (Margin No.10). Risk control ensures the comprehensive and systematic monitoring of and reporting on individual and aggregated risk positions (Margin No.69). Risk control reports to the executive board at least every six months and to the BoD at least annually on the institution's risk profile and its activities (Margin No.75). (b) Margin Nos. 6-13 of 2008/20 set out the requirement for a clearly documented trading strategy approved by senior management and the policies and processes that must be addressed as part of the active management of trading positions. This includes the appropriate management and monitoring of position limits. As set out in 2017/1, the bank's risk control function is actively involved in the process of defining risk limits and ensures that risk limits are consistent with the defined risk tolerance (Margin No. 74). (c) FINMA expects banks to have an adequate exception tracking and reporting process as part of the internal control system and the respective management information system as required by Circular 2017/1 Margin No. 50. Circular 2008/20 Margin No.11 requires that positions be reported to senior management as an integral part of the bank's risk management process. (d) Margin No.72 of 2017/1 provides a general requirement that a bank's control function be responsible for developing and operating adequate risk monitoring systems, defining and applying principles and methods for risk analysis and assessment (e.g., assessment and aggregation methods, validation of models), and monitoring systems to ensure compliance with supervisory regulations. For banks using an internal model approach there are additional detailed requirements as set out in Circular 2008/20 (Margins Nos.228-365).

	(e) This is addressed in FINMA Circular 2008/20, margin nos. 4-30. In principle, a bank must define appropriate and consistent criteria for assigning positions to the trading book, and its control systems are required to ensure compliance with these criteria and the proper, accountable treatment of internal transactions (Margin No. 14). It also requires a bank to implement clearly defined instructions and procedures to determine which positions are held in trading book (Margin No.24), including criteria for transfers of positions between the trading book and the banking book.
EC4	The supervisor determines that there are systems and controls to ensure that banks' marked to market positions are revalued frequently. The supervisor also determines that all transactions are captured on a timely basis and that the valuation process uses consistent and prudent practices and reliable market data verified by a function independent of the relevant risk-taking business units (or, in the absence of market prices, internal or industry-accepted models). To the extent that the bank relies on modelling for the purposes of valuation, the bank is required to ensure that the model is validated regularly by a function independent of the relevant risk-taking business units. The supervisor requires banks to establish and maintain policies and processes for considering valuation adjustments for positions that otherwise cannot be prudently valued, including concentrated, less liquid and stale positions.
Description and Findings re EC4	Circular 2008/20 requires daily revaluation of positions (Margin No.10). Requirements to ensure the integrity of transactions data for banks using models-based approaches are described in Margin Nos. 298–301. Margin Nos. 32-48 set out the requirements for the prudent valuation of fair-valued positions, stipulating that banks must have appropriate systems and controls to ensure prudent and reliable valuations. These systems and controls should include documented guidelines and procedures for the valuation process and reporting by the unit responsible for the valuation that are independent of the trading activity right up to the senior management level. Valuation by an independent unit is also required at least monthly. The requirements for the use of valuation models are also set out in Circular 08/20. As noted above, Margin No. 41 requires approval of the valuation model in use by an independent unit. For those positions which require particular guidance for prudent valuation, Margin Nos. 46–48 stipulate requirements regarding valuation adjustments. According to these, banks must have instructions in place covering how valuation adjustments are to be taken into account at least in the following cases: credit spreads not yet assumed; settlement costs; operational risks; early redemptions; investment and refinancing costs; future administration costs; and where appropriate, model risks (Margin No. 46). Regarding valuation adjustments for less liquid positions, the time required to hedge a position, average volatility of the bid-offer spreads, availability of independent market prices and the extent of marking to model need to be considered in determining the necessity for adjustments. For large positions and less liquid holdings, the fact that settlement prices are more likely to be unfavorable should be taken into account (Margin No. 47). For complex instruments (such as securitization positions and nth-to-Default credit derivatives), a bank must consider the need for valuation adjustments to reflect the model risk associated with the use of a potentially incorrect

	valuation method and the risk arising from the use of non-observable (and potentially incorrect) calibration parameters for the valuation model. Compliance is assessed primarily by the regulatory auditor.
EC5	The supervisor determines that banks hold appropriate levels of capital against unexpected losses and make appropriate valuation adjustments for uncertainties in determining the fair value of assets and liabilities.
Description and Findings re EC5	As described in EC4 Margin Nos. 46–48 of the CAO stipulate requirements regarding valuation adjustments. Capital adequacy under adverse scenarios is assessed during the capital planning process required by FINMA Circular 11/2 "Capital buffer and capital planning - banks", margin nos. 36–45. The capital plans of the Swiss G-SIB and the 3 D-SIBs are assessed and discussed annually by FINMA and the banks. The capital plans of banks in categories 3-5 are assessed and discussed by FINMA and the banks on a regular basis. The frequency of intervention depends on the bank's rating in FINMA's rating system. The capital planning process is additionally assessed as part of the regulatory audit process performed by the regulatory audit firm, and reviewed by FINMA if there are indications that a bank is holding only a small capital buffer in excess of the requirements. Based on the results of the capital planning discussions, FINMA may impose additional Pillar 2 requirements in line with Art. 45 of the CAO. FINMA also performs a comprehensive "loss potential analysis" (LPA) for the G-SIB, based on two macro-financial stress scenarios (semi-annually). This LPA analysis includes the banking book and the trading book. The LPA is also performed annually for the three D-SIBs with one macro-financial stress scenario. For all other banks, FINMA may perform targeted or portfolio-specific stress tests (e.g., mortgage portfolios in the area of credit risk or interest rate risk in the banking book etc.). Given FINMA's risk-based approach, targeted market risk stress testing has not yet been carried out. The determination of appropriate valuation adjustments for uncertainties is covered by FINMA Circular 2020/1 'Accounting-Banks'; the Accounting Ordinance; and FINMA Circular 2008/20 'Market risks - banks,' Margin no. 47. New rules introduced in 2019 set out the requirements for valuation adjustments for regulatory purposes with different rules depending on the bank category and whether the bank uses Swiss GAAP or IFRS/US GAAP.
Assessment of Principle 22	C
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP22 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. As market risk is not a material risk for Category 2-5 banks, FINMA's main focus on this area is on the Category 1 bank. The assessors view the current framework as compliant with this principle.

Principle 23	**Interest rate risk in the banking book**.[96] The supervisor determines that banks have adequate systems to identify, measure, evaluate, monitor, report and control or mitigate interest rate risk in the banking book on a timely basis.[97] These systems consider the bank's risk appetite, risk profile and market and macroeconomic conditions.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to have an appropriate interest rate risk strategy and interest rate risk management framework that provides a comprehensive bank-wide view of interest rate risk. This includes policies and processes to identify, measure, evaluate, monitor, report and control or mitigate material sources of interest rate risk. The supervisor determines that the bank's strategy, policies and processes are consistent with the risk appetite, risk profile and systemic importance of the bank, that they consider market and macroeconomic conditions, and that they are regularly reviewed and appropriately adjusted, where necessary, in line with the bank's changing risk profile and market developments.
Description and Findings re EC1	Circular 2019/2 'Interest rate risks' sets out the requirements for banks to identify, measure, monitor and control their interest rate risk in the banking book. The requirements in 2019/2 are dependent on the size of the bank, as well as the type, scope, complexity and risk content of the business activities (principle of proportionality). Category 4 and 5 banks are exempt from certain requirements as are certain Category 3 banks (Margin No.14). The bank's senior management body is responsible for overseeing and approving an appropriate policy framework for interest rate risk and for setting the risk tolerance for interest rate risk. The senior management body or its delegates shall set out guidelines on interest rate risk, against which it shall be measured, monitored and controlled in accordance with the approved strategies and guidelines. This also includes requirements for interest rate shock and stress scenarios (Margin No.17 & 18). Appropriate limits should be in place based on the bank's risk tolerance with regard to the short-term and long-term effects of fluctuating interest rates and map meaningful shock and stress scenarios (Margin No.19). Margin No.13 relates to credit spread risk in the banking book (CSRBB). Interest rate risk measurement systems should be based on precise data and adequately documented, managed and tested. Models for interest rate risks should also be adequately documented and managed and, if suitable data are available, also tested. Both should be subject to independent, appropriately documented validation. (Margin No.35). The senior management body or its delegates should be updated regularly (at least every six months) about the extent and development of the interest rate risk, its measurement, management, monitoring and control. The reporting should include in particular the exposure of interest rate risk (also under stress considerations), the use of limits and essential model assumptions (Margin Nos 39-40). FINMA does not require by default the Basel Committee optional standardized approach for IRRBB.

[96] Reference documents: BCBS, High-level considerations on proportionality, July 2022; [SRP31].

[97] Wherever "interest rate risk" is used in this principle the term refers to interest rate risk in the banking book. Interest rate risk in the trading book is covered under Principle 22 [BCP40.50].

	All banks must report IRRBB-relevant data quarterly. Using this data FINMA calculates various IRRBB risk-metrics including changes in economic value (EVE) and net interest income (NII) based on bank-internal replications, but also based on average replications for three categories of banks on a systemic level (e.g., retail banks). This analysis reveals outlier banks with increased interest rate risks. Supervisory follow-up takes place for those outliers. Depending on the category of the banks there are various levels of actions: • Cat 1 bank(s): Apart from potential on-site activities at the banks' premises, there is a semi-annual extensive meeting with bank on all IRRBB-related activities. • Cat 2-3 banks: In-depth on-site review for about 3 days on the topic of IRRBB about once in 6 years. If a bank shows increased risks or revealed quality issues for instance, an ad-hoc action is defined (delivery of data followed by a desk-analysis, and a potential meeting (on or off-site). • Cat 4-5 banks: On-site reviews only in situations where very specific risks have been identified. If a bank shows increased risks or revealed quality issues for instance, an ad-hoc action is defined often followed by a specific meeting with the bank. • If any bank (from any category) reveals data quality issues, this is also followed up with the bank. Since 2021, FINMA have also run standalone net interest income stress tests for 5-6 different banks per year and they follow up where any issues are identified. General requirements on risk management and the bank's risk management framework are set out in Circular 2017/1. As noted in EC8, CP2 FINMA can reject a bank's application to be eligible for the Small Bank Regime if supervisory measures or proceedings have been initiated in relation to inadequate interest rate risk management, or unreasonably high-interest rate risk.
EC2	The supervisor determines that a bank's strategies and policies for the management of interest rate risk have been approved and are regularly reviewed by the bank's board. The supervisor also determines that the board oversees management in a way that ensures that these policies are implemented effectively and fully integrated into the bank's overall risk management process.
Description and Findings re EC2	See EC1.
EC3	The supervisor determines that a bank's policies and processes establish an appropriate and properly controlled interest rate risk environment, including: (a) comprehensive risk measurement systems for the accurate and timely identification, aggregation, monitoring and reporting of interest rate risk exposures to the bank's board and senior management; (b) a regular review and independent (internal or external) validation of any models used by the functions tasked with managing interest rate risk (including a review of key model assumptions, eg regarding optional elements (whether implicit or explicit) embedded in a bank's assets, liabilities and/or off-balance sheet items, in which the bank or its customer can alter the level and timing of their cash flows);

	(c) appropriate limits, approved by the bank's board and senior management, that reflect the bank's risk appetite, risk profile and capital strength and that are understood by and regularly communicated to relevant staff; and (d) effective exception tracking and reporting processes which ensure prompt action at the appropriate level of the bank's senior management or board, where necessary.
Description and Findings re EC3	See EC1. Margin No.16 of 2019/2 requires banks to identify, measure, monitor and control their interest rate risk in the banking book. The senior management body or its delegates should be updated regularly (at least every six months) about the extent and development of the interest rate risk, its measurement, management, monitoring and control. The reporting should include in particular the exposure of interest rate risk (also under stress considerations), the use of limits and essential model assumptions (Margin Nos 39-40). Interest rate risk measurement systems should be based on precise data and adequately documented, managed and tested. Models for interest rate risks should also be adequately documented and managed and, if suitable data are available, also tested. Both should be subject to independent, appropriately documented validation. (Margin No.35). Appropriate limits should be in place based on the bank's risk tolerance with regard to the short-term and long-term effects of fluctuating interest rates and map meaningful shock and stress scenarios (Margin No.19). Exception tracking and reporting processes more generally are addressed in Circular 2017/1 which requires the bank's control function to ensure comprehensive and systematic monitoring of and reporting on individual and aggregated risk positions. This includes conducting stress tests and scenario analysis under unfavorable operating conditions as part of the quantitative and qualitative analysis (Margin No.69). The control function also monitors the institution's risk profile in line with the risk tolerance and risk limits defined in the institution-wide risk management framework (Margin No.71).. These elements are assessed through the regulatory audit. FINMA also undertook 14 inspections on IRRBB between 2021 and 2024. The management of interest rate risk was a particular focus for FINMA in 2023. By conducting regular, proactive risk analyzes, FINMA was able to identify potential interest rate risks among the supervised institutions at an early stage and, where necessary, it instructed them to take action. In-depth on-site supervisory reviews and specific stress tests were also carried out.
EC4	The supervisor obtains from banks the results of their internal interest rate risk measurement systems, expressed in terms of the threat to both economic value and earnings, using standardized interest rate shocks on the banking book.
Description and Findings re EC4	Margin No.49 of 2019/2 requires banks to report to FINMA the information on their interest rate risks on a solo basis quarterly and consolidated basis semi-annually at periodic intervals by means of a data report issued by FINMA. This includes economic value and earnings changes using standardized interest rate shocks as set out in Circular 2019/2.
EC5	The supervisor assesses whether the internal capital measurement systems of banks adequately capture interest rate risk in the banking book.
Description and Findings re EC5	As set out in Margin No.42 of 2019/2 banks, in meeting their requirements in Circular 2011/2 'Capital buffer and capital planning' to hold adequate capital for all relevant risks must also ensure that they hold adequate appropriate capital for interest rate risk. Margin No.36 of

	2011/2 requires banks to demonstrate through their capital planning that they are in a position to meet their capital adequacy requirements in future (over a three-year horizon), even in the event of an economic downturn. FINMA may and does impose Pillar 2 capital add-ons where appropriate to address IRRBB risks.
Assessment of Principle 23	C
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP23 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. IRRBB is an area of focus for FINMA across all bank categories. The assessors consider the current framework as compliant with this principle.
Principle 24	**Liquidity risk**.[98] The supervisor sets prudent and appropriate liquidity requirements (which can include either quantitative or qualitative requirements or both) that reflect the liquidity needs of banks. The supervisor determines that banks have a strategy that enables prudent management of liquidity risk and compliance with liquidity requirements. The strategy considers the bank's risk profile, market and macroeconomic conditions, and includes prudent policies and processes, consistent with the bank's risk appetite, to identify, measure, evaluate, monitor, report and control or mitigate liquidity risk over an appropriate set of time horizons. At least for internationally active banks, liquidity (including funding) requirements are not lower than the applicable Basel standards.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to consistently observe prescribed liquidity requirements, including thresholds with reference to which a bank is subject to supervisory action. At least for internationally active banks, the prescribed requirements are not lower than those prescribed in the applicable Basel standards, and the supervisor uses a range of liquidity monitoring tools no less extensive than those prescribed in the applicable Basel standards.
Description and Findings re EC1	Article 4 of the Banking Act sets out the requirement for banks to maintain adequate liquidity, individually and on a consolidated basis. Article 4 also provides the Federal Council the power to determine the constituents of liquidity and to set minimum requirements in accordance with the bank's activities and risks. Liquidity requirements for banks are set out both in primary legislation through the Liquidity Ordinance (LO) issued by the Swiss Federal Council, and secondary legislation, through Circular 2015/2 'Liquidity risks - banks' issued by FINMA. In Switzerland, all banks are subject to the Liquidity Coverage Ratio (LCR); and the Net Stable Funding Ratio (NSFR), with proportionality in the application of the rules. Category 4 and 5 banks that qualify for the 'small banks regime' are exempt from meeting the full NSFR

[98] Reference documents: BCBS, High-level considerations on proportionality, July 2022; BCBS, Principles for sound liquidity risk management and supervision, September 2008; [LCR10], [LCR20], [LCR30], [LCR31], [LCR40], [LCR99], [NSF10], [NSF20], [NSF30], [NSF99].

requirements (Article 47 of the CAO). In order to qualify for the small banks regime, banks must maintain an average liquidity coverage ratio (LCR 12 months) of at least 110%.

In response to the CS crisis, additional quantitative liquidity requirements have been applied to SIBs since January 2024. These requirements are set out in Chapter 4 of the LO. Under the LCR SIBs are now required to hold higher or lengthier outflows of deposits and to address risks 'not sufficiently covered' by the LCR such as operating cash requirements for intraday liquidity or the execution of a liquidation or restructuring. The amendments include additional institution-specific requirements determined by FINMA on the basis of estimates provided by each SIB. The additional institution-specific requirements are to be reviewed at suitable intervals by the relevant banks and will be revised by FINMA where necessary.

In October 2017 the Basel Committee's Regulatory Consistency Assessment Programme (RCAP) assessed Switzerland's implementation of the LCR regulations as compliant. In December 2023 the RCAP assessment of the implementation of the NSFR in Switzerland was assessed as 'largely compliant' with the Basel NSFR standard. This is one notch below the highest overall grade. There has been no change to the Swiss NSFR implementation to address these findings.

In addition to the regulatory liquidity requirements, since 2018 all banks have been required to report to the supervisor Information about contractual maturity mismatching, concentration of funding and available unencumbered assets.

List of monitoring tools prescribed by the Swiss authorities — Table A.8

No	Basel monitoring tool	SNB's corresponding reporting template	Effective since	Frequency of submission	Deadline for submission to SNB
1	Contractual maturity mismatch	Contractual maturity mismatch	September 2015	Quarterly	Within 60 days
2	Concentration of funding	Concentration of funding	September 2015	Quarterly	Within 60 days
3	Available unencumbered assets	Available unencumbered assets	September 2015	Quarterly	Within 60 days
4	LCR by significant currency	(Same format as LCR)	January 2015	Monthly	Within 20 business days
5	Market-related monitoring tools	*None*	*Individually*	*Individually*	*Individually*

Intraday liquidity reporting is required for all SIBs. Market information and internal bank information is gathered on the internal stress models for Category 1 and 2 banks. The intraday liquidity monitoring form has to be reported monthly. The reference date for reporting is the last calendar day of the month. The deadline for submitting the report is the last calendar day of the following month at the latest.

In the future, FINMA propose to enhance their liquidity diagnostic tools e.g., to identify concentrations of maturities and indicators of increased liquidity risks. The intention is to incorporate these new metrics into the revised supervisory rating system.

	The Basel Committee's Principles for Sound Liquidity Risk Management and Supervision have applied to all banks since 2014. The Sound Principles were implemented through the Liquidity Ordinance (LO) and Circular 2015/2 'Liquidity Risks-Banks.' FINMA has a small, dedicated team of liquidity risk specialists in its risk management functions that carries out onsite reviews, engages in dialogue with banks on liquidity risks and risk management issues and monitors liquidity positions at the banks. Between 2021 and 2024 there were 21 dedicated liquidity risk inspections undertaken by FINMA staff. As in other risk areas, compliance with liquidity requirements is mainly assessed as part of the regulatory audit.
EC2	The prescribed liquidity requirements reflect the liquidity risk profile of banks (including on- and off-balance sheet risks) in the context of the markets and macroeconomic conditions in which they operate.
Description and Findings re EC2	In addition to provisions in Circular 2015/2, the LO includes a number of relevant requirements: • Article 5 of the LO requires banks to manage liquidity risks appropriately at the level of the financial group and individual institution, in line with their size and the nature, scope, complexity and risk content of their business activities. Article 7 of the LO requires banks to establish appropriate processes to identify, assess, manage and monitor liquidity risks. This includes a requirement to prepare a liquidity overview for different periods of time, comparing the expected inflows and outflows of funds from balance sheet and off-balance sheet items. • Article 6 of the LO requires banks to take into account their liquidity costs and risks for all significant on-balance sheet and off-balance sheet business activities, in particular when setting prices, introducing new products and measuring returns. • Article 9 of the LO requires banks to take into account institution-specific, market-wide and combined stress events and factors when defining the stress scenarios they use for stress testing. During the CS crisis, the outflow rate of large-volume deposits (over CHF1.5m) at CS were observed to be much faster and larger than assumed in the liquidity coverage ratio (LCR). The high proportion of very short-term funding amplified the impact of the loss of confidence. This has led to the additional quantitative liquidity requirements that have been applied to SIBs since January 2024 (see EC1).
EC3	The supervisor determines that banks have a robust liquidity management framework that requires them to maintain sufficient liquidity to withstand a range of stress events and that includes appropriate policies for managing liquidity risk, which have been approved by the bank's board. The supervisor also determines that these policies and processes provide a comprehensive bank-wide view of liquidity risk and are consistent with the bank's liquidity risk tolerance, risk profile and systemic importance.
Description and Findings re EC3	Circular 2017/1 establishes that the BoD bears ultimate responsibility for the financial situation and development of the institution. It approves/signs off the capital and liquidity plans, the annual report, the annual budget, the interim financial statements and the financial objectives for the year. (Margin no.12). The BoD is also responsible for managing the day-to-day business, operational revenue and risk management, including management of the

	balance sheet structure and liquidity. (Margin no. 48). The institution-wide risk management framework is developed by the executive board and approved by the BoD. The framework comprises the risk policy and risk tolerance and the risk limits based on them in all key risk categories. (Margin nos. 52 and 53). The Board Risk Committee should assess, at least annually, the institution-wide risk management framework and ensure that necessary changes are made. (Margin no 43). The LO and Circular 2015/2 set out the more detailed requirements in relation to EC3. The relevant provisions in the LO are: Article 2 of the LO requires banks to have sufficient liquidity at all times to be able to meet its payment obligations even in stress situations. Article 6 requires banks to: • define the extent to which they are willing to take liquidity risks (liquidity risk tolerance); • establish strategies for managing liquidity risk in accordance with the liquidity risk tolerance; • take into account their liquidity costs and risks for all material on-balance sheet and off-balance sheet business activities, in particular when setting prices, introducing new products and measuring returns. They ensure a balance between risk incentives and liquidity risks incurred in accordance with the defined liquidity risk tolerance. Furthermore Article 7 of the LO requires banks to: • establish appropriate processes to identify, assess, manage and monitor liquidity risks. In particular, they shall prepare a liquidity overview for different periods of time, comparing the expected inflows and outflows of funds from balance sheet and off-balance sheet items; • identify, manage and monitor the liquidity risks and the financing needs of the financial group and the legal entities, business areas and currencies that are material to the liquidity risk. In doing so, they take into account legal, regulatory or operational restrictions on the transferability of liquidity; • identify, manage and monitor intraday liquidity risks. The liquidity risks incurred must not affect payment and settlement obligations and systems; • monitor the assets used to generate liquidity, distinguishing between encumbered and unencumbered assets. They must be able to demonstrate at any time where assets are held and how they can be mobilized promptly. In addition, Circular 2015/2 requires: Banks to have a liquidity risk management system in place that is effectively integrated into the bank-wide risk management processes. (Margin no. 9) Liquidity risk management must, in particular, pursue the objective of ensuring the current and ever-time solvency, especially in times of bank-specific and/or market-wide periods of stress in which collateralised and unsecured financing options are severely affected. (Margin

	no.10). Liquidity risk management strategies can be developed by senior management, or a committee directly subordinate to senior management. (Margin no.12). Banks must have processes for identifying, assessing, managing and monitoring liquidity risk. The risk management and control processes should include comprehensive liquidity risk measurement systems for risk identification and quantification tailored to the needs of the bank, which are integrated into the liquidity management strategies and the emergency concept. (Margin no. 30). The general principle of proportionality applies to the LO as well as to the Circulars whereby banks are obliged to manage liquidity risks appropriately at the level of the financial group and individual institution, in line with their size and the nature, scope, complexity and risk content of their business activities. An explicit exemptions is provided for 'smaller banks' in 2015/2 from the requirement to have a well-diversified financing structure (Margin no.60).
EC4	The supervisor determines that a bank's liquidity strategy, policies and processes establish an appropriate and properly controlled liquidity risk environment, including: (a) clear articulation of an overall liquidity risk appetite that is appropriate for the bank's business and its role in the financial system, and that is approved by the bank's board; (b) sound day-to-day and intraday liquidity risk management practices; (c) comprehensive risk measurement systems for the accurate and timely identification, aggregation, monitoring, reporting and control of liquidity risk exposures and funding needs (including active management of collateral positions) bank-wide; (d) adequate oversight by the bank's board to ensure that management effectively implements policies and processes for the management of liquidity risk in a manner consistent with the bank's liquidity risk appetite; and (e) regular review by the bank's board (at least annually) and appropriate adjustment of the bank's strategy, policies and processes for the management of liquidity risk given the bank's changing risk profile and external developments in the markets and macroeconomic conditions in which it operates.
Description and Findings re EC4	See EC3. On the need for risk measurement systems, Margin no. 37 of Circular 2015/2 requires a bank's risk management and control processes to include IT systems and qualified staff to ensure timely measurement, monitoring and reporting of the bank's liquidity position compared to set limits. Margin no.14 of Circular 15/2 sets out the areas in which the bank senior management may set requirements including in relation to the degree of centralisation of liquidity management; the allocation of liquidity risk to business activities; intraday liquidity management; collateral management; the setting of limits and the escalation procedure; and the diversification of sources of funding and limit concentrations. As noted in EC3 senior management should verify the adequacy and operational readiness to apply the liquidity risk management requirements on a regular basis, but at least annually (Margin no.26).

EC5	The supervisor requires banks to establish, and regularly review, funding strategies, policies and processes for the ongoing measurement and monitoring of funding requirements and the effective management of funding risk. The policies and processes include consideration of how other risks (eg credit, market, operational and reputational risks) may impact the bank's overall liquidity strategy, and include: (a) an analysis of funding requirements under alternative scenarios; (b) the maintenance of a cushion of high-quality, unencumbered, liquid assets that can be used, without impediment, to obtain funding in times of stress; (c) diversification in the sources (including counterparties, instruments, currencies and markets) and tenor of funding, and regular review of concentration limits; (d) regular efforts to establish and maintain relationships with liability holders; and (e) regular assessment of the capacity to monetise assets.
Description and Findings re EC5	There is no explicit requirement to establish, and regularly review, funding strategies, policies and processes for the ongoing measurement and monitoring of funding requirements and the effective management of funding risk. FSAP FINMA expects funding strategies, policies and processes to be covered in the overall liquidity risk management frameworks described in above ECs. (a) On the analysis of funding requirements under alternative scenarios, Article 9 of the LO, states that each bank must prepare various stress scenarios for liquidity risk and when selecting stress scenarios, a bank must take into account: • institution-specific, market-wide and combined causes and factors; • different time horizons; and • different severity levels for stress events, including the scenario of a loss of unsecured funding as well as the restriction of secured funding. Margin no.10 of Circular 2015/2 states that liquidity risk management must pursue the objective of ensuring ongoing solvency, especially in times of bank-specific and/or market-wide periods of stress in which collateralised and unsecured financing options are severely affected. See also EC7. (b) On the maintenance of a liquidity cushion, Article 2 of the LO requires a bank to maintain a sufficient, sustainable liquidity reserve against short-term deteriorations in liquidity and to ensure appropriate medium- to long-term financing. Margin no.23 of 2015/2 states that senior management may put in place requirements, as appropriate, on the amount and composition of a reserve of liquid assets held in can be sold or mortgaged during periods of stress. Margin 32 of Circular 2015/2 states that risk management and control systems include the holding of a liquidity reserve consisting of unencumbered, first-class and highly liquid assets against short-term deterioration in the liquidity situation. Margin nos 63-71 set out further requirements on the amount and composition of the liquidity reserve including that the assets in the reserve should be aligned with the established risk tolerance and be appropriately diversified; and that that the use of the liquidity reserves is not opposed by legal, regulatory or operational restrictions.

	(c) Article 8 of the LO requires a bank to take measures to reduce its liquidity risks. In particular, it must have limits in place and a financing structure that is appropriately diversified in terms of financing sources and maturities. Margin no.23 of Circular 2015/2 states that senior management may put in place requirements, as appropriate to diversify sources of funding and limit concentrations. Margin no.38 states that a bank's risk management and control processes should include requirements to manage access to well-diversified sources of finance, and financing maturities. Small banks not active in capital markets and trading or those that do not rely on market funding or funding by institutional investors are exempt from the requirement to have of a well-diversified financing structure (Margin no.60). (d) Margin Nos 61 and 62 of Circular 2015/2 require anks to regularly assess how quickly funding can be generated from a funding source in a stress situation and shall assess the consequences of losing an important funding source and take appropriate precautionary measures. (e) Per Margin No.71 of Circular 2015/2 banks must have processes and systems in place to be able to sell HQLA or use them in a repo transaction at all times.
EC6	The supervisor determines that banks have robust liquidity contingency funding plans to handle liquidity problems. The supervisor determines that the bank's contingency funding plan is formally articulated, adequately documented and sets out the bank's strategy for addressing liquidity shortfalls in a range of stress environments without placing reliance on lender of last resort support. The supervisor also determines that the bank's contingency funding plan establishes clear lines of responsibility, includes clear communication plans (including communication with the supervisor) and is regularly tested and updated to ensure it is operationally robust. The supervisor assesses whether the bank's contingency funding plan is feasible (given its risk profile and systemic importance) and requires the bank to address any deficiencies.
Description and Findings re EC6	Article 10 of the LO requires each bank to establish a contingency plan containing effective strategies for dealing with liquidity bottlenecks. The plan should specify the responsibilities, communication channels and necessary measures in an appropriate form in internal guidelines and instructions. When drawing up the contingency plan, particular account should be taken of the stress scenarios and the results of the stress tests. Circular 2015/2 provides further guidance in Margin nos. 91-103, including that the contingency plan should be adequately documented (Margin no. 103); updated annually (Margin no.101); and included in the bank's overall crisis planning (Margin no.102) The contingency plan must also include: • appropriate early warning indicators to identify and respond in good time to the emergence of risks to the liquidity position and potential financing opportunities (Margin no.93); • emergency triggers and a structured and multi-stage escalation procedure according to the severity of the liquidity crisis (Margin no.94); • options for action depending on the level of escalation and/or stress event, whereby in particular the possible liquidity-generating and liquidity-saving measures in each

	case are to be presented and prioritized and the sources of liquidity and liquidity generation are to be conservatively estimated (Margin no. 95); • operational procedures to transfer liquidity and assets between jurisdictions, legal entities and systems, subject to restrictions on transferability liquidity and assets (Margin no.96); • a clear division of roles and the allocation of competences, rights and duties of all involved persons (Margin no.97); • clear procedures, decision-making processes and reporting obligations with the aim of a timely and continuous flow of information to higher management levels, clearly defining which incidents are to be escalated to higher management levels (Margin no.98); • clearly developed and defined communication channels and strategies that provide a clear, ensure a consistent and regular flow of information to internal and external stakeholders in the event of an emergency (Margin no.99).
EC7	The supervisor requires banks to include a variety of short-term and protracted bank-specific and market-wide liquidity stress scenarios (individually and in combination), using conservative and regularly reviewed assumptions, into their stress testing programs for risk management purposes. The supervisor determines that the results of the stress tests are used by the bank to adjust its liquidity risk management strategies, policies and positions and to develop effective contingency funding plans.
Description and Findings re EC7	Article 9 of the LO requires each bank to prepare various stress scenarios for liquidity risk and, based on these, to carry out stress tests on its liquidity position. In doing so, the bank should take into account cash flows from off-balance sheet items and other contingent liabilities, including those from securitization special purpose vehicles and other special purpose vehicles to which it acts as a liquidity provider or is required to provide material liquidity support for contractual or reputational reasons. Banks in categories 4 and 5 are only required to consider the LCR stress scenario for their stress tests. When selecting stress scenarios, the following must be taken into account: • institution-specific, market-wide and combined causes and factors; • different time horizons; • different severity levels for stress events, including the scenario of a loss of unsecured funding as well as the restriction of secured funding. The assumptions on the scenarios, in particular those on cash inflows and outflows and the liquidity value of assets in the event of a stress event, must be reviewed regularly and after a stress event has occurred. When evaluating the stress tests, the effects on the income statement must also be analyzed. Further detailed requirements are set out in Circular 2015/2 Margin nos.72-90. The bank must carry out regular stress tests at the relevant levels; in order to identify and quantify exposure to potential extreme events. Stress tests should adequately consider the scope, methods, variety of scenarios, severity of scenarios, selected time horizons and shocks, and frequency of implementation. Stress test results should be reviewed regularly or after the occurrence of a stress event for its appropriateness and relevance.

	If a small bank can justify and document in a reasonable way that the LCR scenario is appropriate for the liquidity risks it has taken, it can use this scenario as a basis for its stress tests by adapting it for institution-specific characteristics. The results of stress tests should be adequately documented, assessed and incorporated into liquidity risk management processes and procedures. The senior management must be closely involved in liquidity stress testing. Stress test results must be reported to the senior management body regularly, but at least annually. Stress tests must reflect extreme events that are likely to occur with a low probability but are nevertheless plausible. The selected severity levels for stress events should be based on historical events, case studies of liquidity crises and/or hypothetical scenarios involving internal and/or external experts. The stress test should take into account that liquidity bottlenecks are often extreme scenarios with unexpected liquidity outflows and financing consequences. Consequently, defined stresses should be conservative. Scenarios should cover all material liquidity risks to which the bank is exposed.
EC8	The supervisor identifies those banks carrying out significant foreign currency liquidity transformation. Where a bank's foreign currency business is significant, or the bank has significant exposure in a given currency, the supervisor requires the bank to undertake separate analysis of its strategy and monitor its liquidity needs separately for each such significant currency. This includes the use of stress testing to determine the appropriateness of mismatches in that currency and, where appropriate, the setting and regular review of limits on the size of its cash flow mismatches for foreign currencies in aggregate and for each significant currency individually. In such cases, the supervisor also monitors the bank's liquidity needs in each significant currency, and evaluates the bank's ability to transfer liquidity from one currency to another across jurisdictions and legal entities.
Description and Findings re EC8	Article 7 of the LO states that banks should identify, manage and monitor the liquidity risks and the financing needs of the financial group and the legal entities, business areas and currencies that are material to the liquidity risk. In doing so, they should take into account legal, regulatory or operational restrictions on the transferability of liquidity. Margin nos. 45 and 46 of 2015/2 set out the requirement for banks with significant assets or liabilities in foreign currencies and considerable mismatches in terms of both maturities and currencies of these foreign currency assets and liabilities to implement appropriate procedures to manage its payment obligations and foreign currency liquidity in its major currencies. This includes at least a separate liquidity overview, separate foreign currency stress tests as well as explicit consideration in the contingency plan for liquidity challenges. A bank with significant liquidity risks from different must be able to anticipate changes in liquidity in foreign currency swap markets and in the fungibility of currencies at an early stage and to initiate countermeasures. Distortion in foreign currency swap markets, which exacerbate currency mismatches, and unexpected price volatilities must be taken into account in these banks' stress tests. Banks are required to report monthly on an individual significant currency basis for significant currencies. A currency is considered as significant if the aggregated volume in outbound payments in that currency amounts to 5% or more of the bank's total volume in outbound payments.

	Article 17 of the LO states that FINMA regulates the conditions under which and the extent to which banks may use HQLA in foreign currencies to meet the LCR. Banks are permitted to include additional HQLA in foreign currencies when calculating the LCR.
EC9	The supervisor determines that a bank's level of encumbered balance sheet assets is managed within acceptable limits to mitigate the risks in terms of the impact on the bank's cost of funding and the implications for the sustainability of its long-term liquidity position. The supervisor requires banks to commit to adequate disclosure and to set appropriate limits to mitigate identified risks.
Description and Findings re EC9	Article 7 of the LO requires a bank to monitor the assets used to generate liquidity, distinguishing between encumbered and unencumbered assets. Margin no.32 of 2015/2 sets out that a bank's risk management and control processes to ensure the bank holds a liquidity reserve consisting of unencumbered, first-class and highly liquid assets against short-term deterioration in the liquidity situation. Margin no.153 of 2015/2 establishes one of the characteristics of HQLA as being free of encumbrances. HQLA must also be HQLA must be under the control of the functional unit responsible for liquidity management which must have the power, as well as the legal and operational capability to sell HQLA within 30 calendar days or as part of simple repo transactions. As part of the monitoring tools, available unencumbered assets must be reported quarterly by all banks. Circular 2016/1 'Disclosure – banks' sets out the liquidity disclosure requirements for banks. On limits, Article 6(1) of the LO requires banks to define the extent to which they are willing to take liquidity risks (liquidity risk tolerance). Article 8 requires banks to take measures to reduce their liquidity risks. In particular, they must have a limit system and a financing structure that is appropriately diversified in terms of financing sources and maturities.
Assessment of Principle 24	LC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP24 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. The Basel RCAP assessment in 2023 rated the implementation of the NSFR in Switzerland as 'largely compliant,' one notch below the highest overall grade. The two potentially material findings related to the definition of exposure values which led to this grade have not been addressed. FINMA should increase and enhance its data analysis capabilities in liquidity to support its supervision in this area. Consideration should be given to the appropriateness of the application of proportionality in relation to liquidity risk requirements and supervision.

	Exempting small banks, for example, from a qualitative requirement on diversification of the financing structure is not warranted, as even a small bank could face problems if it is relying on a few large depositors for funding. In this respect, improved data and diagnostic analysis would also support greater reach and oversight of smaller banks. FINMA should also ensure that banks identify and quantify climate-related financial risks and incorporate those assessed as material over relevant time horizons into their internal liquidity adequacy assessment processes, including their stress testing programs where appropriate.
Principle 25	**Operational risk and operational resilience**.[99] The supervisor determines that banks have an adequate operational risk[100] management framework and operational resilience[101] approach that considers their risk profile, risk appetite, business environment, tolerance for disruption to their critical operations,[102] and emerging risks. This includes prudent policies and processes to: (i) identify, assess, evaluate, monitor, report and control or mitigate operational risk on a timely basis; and (ii) identify and protect themselves from threats and potential failures, respond and adapt to, as well as recover and learn from, disruptive events to minimize their impact on delivering critical operations through disruption.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to have appropriate operational risk management and operational resilience strategies, policies, procedures, systems, controls and processes to: (a) identify, assess, evaluate, monitor, report and control or mitigate operational risk; and (b) identify and protect themselves from threats and potential failures, respond and adapt to, as well as recover and learn from, disruptive events to minimize their impact on their delivery of critical operations.

[99] Reference documents: FSB, Enhancing third-party risk management and oversight: a toolkit for financial institutions and financial authorities, December 2023; BCBS, High-level considerations on proportionality, July 2022; BCBS, Principles for the effective management and supervision of climate-related financial risks, June 2022; BCBS, Revisions to the principles for the sound management of operational risk, March 2021; BCBS, Principles for operational resilience, March 2021; BCBS, Cyber resilience: range of practices, December 2018; BCBS, Sound practices implications of fintech developments for banks and bank supervisors, February 2018; FSB, Guidance on identification of critical functions and critical shared services, July 2013; BCBS, Recognizing the risk-mitigating impact of insurance in operational risk modelling, October 2010; BCBS, High-level principles for business continuity, August 2006; BCBS, Outsourcing in financial services, February 2005.

[100] Operational risk is the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. This definition includes legal risk but excludes strategic and reputational risk.

[101] Operational resilience refers to the ability of the bank to deliver critical operations through disruption. Operational resilience is an outcome that benefits from the effective management of operational risk.

[102] Tolerance for disruption is the level of disruption from any type of operational risk a bank is willing to accept given a range of severe but plausible scenarios. The term "critical operations" encompasses critical functions and includes activities, processes, services and their relevant supporting assets, the disruption of which would be material to the continued operation of the bank or its role in the financial system. Whether a particular operation is critical depends on the nature of the bank and its role in the financial system.

	These strategies, policies, procedures, systems and controls are consistent with the bank's risk profile, systemic importance, risk appetite, tolerance for disruption and capital strength, and consider market and macroeconomic conditions and emerging risks.
Description and Findings re EC1	Under Article 12(2) of the Banking Ordinance a bank must have a risk management framework as well as regulations or internal directives describing processes and responsibilities for risk-bearing business undertakings. A bank must detect, mitigate and monitor market, credit, default, settlement, liquidity and reputational risks as well as operational and legal risks. FINMA Circular 2017/1 'Corporate governance – banks' sets out the corporate governance, general risk management and internal control requirements for banks. Circular 2023/1 'Operational risks and resilience – banks' sets out the specific requirements for operational risk. As set out in Circular 2017/1, the bank's institution-wide risk management framework is developed by the executive board and approved by the board of directors; and comprises the risk policy, risk tolerance and risk limits for all key risk categories. The risk framework must address the key risk categories and include: • estimates of the potential losses from these key risk categories; • definitions and descriptions of the tools and organizational structures required to identify, analyze, evaluate, manage and monitor the key risk categories including for reporting purposes; • policies and procedures to support the embedding and management of risk tolerances and corresponding risk limits; • policies and procedures to support risk data aggregation and reporting for institutions in supervisory categories 1 to 3. For Category 4 and 5 banks, the assessment is built into their overall supervision. In the case of systemically important institutions, these provisions must include information about data architecture and IT infrastructure which enable an aggregated and timely risk analysis/assessment and risk data aggregation/reporting across all of the institution's key risk categories both under normal circumstances and in periods of stress. Although 2017/1 doesn't explicitly reference operational risk, 2023/1 notes that the board of directors approves the basic principles for the management of operational risks relevant for the institution and monitors their application. Among others, these include the ICT risks, the cyber risks, the risks relating to critical data, the risks resulting from the design and implementation of business continuity management (BCM) and, where applicable, the risks from cross border service business. Margin Nos. 101 to 111 of 2023/1 set out the requirements for banks in relation to their operational resilience. 2023/1 defines operational resilience as institution's ability to restore its critical functions in case of a disruption within the tolerance for disruption. That is to say, the institution's ability to identify threats and possible failures, to protect itself from them and to respond to them, to restore normal business operations in the event of disruptions and to learn from them, so as to minimize the impact of disruptions on the provision of critical functions.

	Both Circulars 2017/1 and 2023/1 apply to all banks although the principle of proportionality applies, namely that the requirements should be implemented on a case-by-case basis, depending on the size, complexity, structure and risk profile of each institution. FINMA can relax or tighten the rules in individual cases. Banks growing exposure to cyber risk and the increased outsourcing of important functions from banks to third party providers has increased the operational risk facing Swiss banks. Capital requirements for operational risk constitute over 25% of RWA for Category 1 but less than 10% at Category 2 banks as at the end of Q4 2023. The high proportion for the Category 1 bank reflects, among other things, the complexity of its international business activities and its operational loss history. The introduction of the final Basel rules is expected to result in an increase in RWA of 22% on average for banks included in estimates. For internationally oriented banks, RWA for operational risks are expected to increase by 26%, compared to 9% for domestically focused banks. Small banks are only expected to experience a small increase (+1%) in RWA for operational risk.
EC2	The supervisor determines that a bank's board approves and periodically reviews the strategies and policies for its: (a) management of operational risk for all material products, activities, processes and systems (including the bank's risk appetite for operational risk); and (b) operational resilience approach (including tolerance for disruption to critical operations). The supervisor also requires that the board oversee senior management to ensure that these policies are implemented effectively and fully integrated into the overall framework for managing risks across the bank. The supervisor determines that banks have adequate functions[103] for the management of operational risk to identify external and internal threats and potential failures in people, processes and systems on an ongoing basis.
Description and Findings re EC2	As noted above, Circulars 2017/1 'Corporate governance – banks' and Circular 2023/1 'Operational risk – banks' address these requirements. As set out in 2017/1: • The institution-wide risk management framework is developed by the executive board and • approved by the board of directors. • The BoD It is responsible for ensuring that there is both an appropriate risk and control environment within the institution and an effective internal control system (ICS). • The BoD's Risk Committee is responsible for assessing, at least annually, the institution-wide risk management framework and ensuring that necessary changes are made; • The BoD's Risk Committee is responsible for controlling whether the institution has adequate risk management with effective processes which are appropriate to the institution's particular risk situation.

[103] Including control functions, risk management and internal audit.

	• Institutions in supervisory categories 1 to 3 must establish an audit committee and a risk • Committee which are responsible for ensuring appropriate reporting to the board of directors. Circular 2023/1 came into force in January 2024, but it is being implemented in a phased way with transitional provisions on operational resilience and capital requirements. The principle of proportionality applies with the implementation of the requirements depending on the size, complexity, structure and risk profile of each institution. As set out in Circular 23/1: • The BoD approves the basic principles for the management of operational risks relevant for the institution and monitors their application. Among others, these include the information and communication technology (ICT) risks, the cyber risks, the risks relating to critical data, the risks resulting from the design and implementation of BCM and, where applicable, the risks from cross border service business. • At least once a year, the board of directors approves the risk tolerance for operational risk in accordance with the risk policy, taking the institution's strategic and financial goals into account. • The board of directors regularly approves strategies for dealing with ICT, cyber risks, critical data and BCM, and monitors their application. • The institution shall identify its critical functions and their tolerances for disruption. These must be approved by the board of directors. The board of directors must also regularly approve and monitor the approach for ensuring operational resilience. • The critical functions and the associated tolerances for disruption must be approved at least annually by the board of directors. • The risk control function reports to the BoD at least annually and to the executive board at least every six months on, as a minimum, the high-level operational risks and how they compare to the defined risk tolerance, and on details of material internal losses. In relation to the relevant ICT and cyber risks, the report for the executive board produced at least annually shall also contain information on the development of these risks, on the effectiveness of the corresponding key controls, and on material internal and external events in connection with these risks. • In relation to BCM, Regular reporting to the board of directors and the executive board shall include information about the testing and review activities carried out and their results. • In relation to operational resilience, reporting to the BoD and the executive board must take place annually and in the event of significant control weaknesses or incidents that jeopardize operational resilience. Compliance with these provisions is assessed by the regulatory auditor.
EC3	The supervisor determines that the bank has identified its critical operations (consistent with its operational resilience approach) and mapped the people, technology, processes, data, facilities, third parties or intragroup entities and the interconnections and interdependencies among them that are necessary for the delivery of critical operations through disruption.

Description and Findings re EC3	For critical operations, Circular 2023/1 requires banks to identify its critical functions and their tolerances for disruption. These must be approved at least annually by the BoD. Banks are also required to keep an inventory of their critical functions, which should be reviewed and updated at least annually. This inventory must contain the tolerances for disruption of the critical functions, as well as connections and dependencies between the necessary critical processes and their resources for providing the critical functions. As a minimum, the significant operational risks and the key controls must be documented for the critical functions. Critical functions should be mapped as set out in Annex I to Circular 2023/1.
EC4	The supervisor determines that banks develop and implement response and recovery plans to manage incidents that could disrupt the delivery of critical operations in line with the bank's risk appetite and tolerance for disruption and that they continuously improve their incident response and recovery plans by incorporating the lessons learnt from previous incidents.
Description and Findings re EC4	In accordance with Circular 2023/1 the bank must coordinate the relevant components of a comprehensive risk management framework, such as operational risk management, including ICT and cyber risk management, business continuity management, outsourcing management, and emergency planning such that these contribute to strengthening the institution's operational resilience. The business continuity plan (BCP) is a forward-looking plan that sets out the necessary procedures, recovery options and alternative resources (the recovery processes) for ensuring continuity and recovering critical processes. The disaster recovery plan (DRP) defines the recovery processes for achieving the recovery goals in the event of a catastrophic failure or destruction of the ICT and taking into account the possible loss of key personnel. The bank must ensure that it can transition smoothly to its BCP and DRP processes in the event of significant disruptions to its ICT operations. It must implement adequate back-up processes and recovery processes that are tested and validated regularly. The implementation of the BCP and DRP as well as the functioning of the crisis organization must be regularly evaluated through tests. Margin no.58 of 2023/1 requires banks to take into account the full life-cycle of significant ICT incidents which refers to the need for continuous improvement and the incorporation of lessons learned.
EC5	The supervisor requires that banks conduct business continuity exercises under a range of severe but plausible scenarios to test their ability to deliver critical operations through disruption. The supervisor reviews the quality and comprehensiveness of the bank's business continuity and disaster recovery plans to assess their ability to deliver critical operations. In doing so, the supervisor determines that the bank can operate on an ongoing basis and minimize losses and interruptions to service provision in the event of a severe business disruption or failure (including but not limited to disruption at a service provider and disturbances in payment and settlement systems).
Description and Findings re EC5	Banks are required to test or exercise regularly their ability to provide critical functions within their tolerance for disruption in severe but plausible scenarios. Circular 23/1 further specifies that this should also include scenarios that differ from shorter and more limited interruptions and that are characterized by a longer duration (e.g., over several months); and that contemplate a lack of basic resources (e.g.: e a pandemic, a power shortage or a prolonged

	downtime resulting from the insolvency of a key service provider). The tests or exercises must be designed in such a way that they do not fundamentally endanger the institution. Margin no.106 of 2023/1 requires internal and external threats and the corresponding exploitation of vulnerabilities to be identified and assessed for the critical functions. FINMA advises that this should include disruptions at a service provider and disturbances in payment and settlement systems).
EC6	Laws, regulations or the supervisor require banks to implement a robust information and communication technology (ICT)[104] framework (including cyber security) within their operational risk management framework and operational resilience approach. The supervisor determines that banks have established appropriate policies and processes to identify, assess, mitigate, monitor and manage ICT risks.[105] These policies and processes also require the board to regularly oversee the effectiveness of the bank's ICT risk management and senior management to routinely evaluate the design, implementation and effectiveness of the bank's ICT risk management. The supervisor also determines that banks have resilient ICT that is subject to protection, detection, response and recovery processes that are regularly tested, incorporate appropriate situational awareness of vulnerabilities and convey relevant timely information for risk management and decision-making processes to fully support and facilitate the delivery of the bank's critical operations.
Description and Findings re EC6	Circular 23/1 requires the BoD to approve the basic principles for the management of operational risks relevant for the institution and to monitor their application. Among others, these include the ICT risks, the cyber risks, the risks relating to critical data, the risks resulting from the design and implementation of BCM and, where applicable, the risks from cross-border service business. At least once a year, the BoD must approve the risk tolerance for operational risk in accordance with the risk policy, taking into account the bank's strategic and financial goals; and the results from regularly conducted risk and control assessments. In relation to the relevant ICT and cyber risks, the report for the executive board produced at least annually contains information on the development of these risks, on the effectiveness of the corresponding key controls, and on material internal and external events in connection with these risks. Circular 2023/1 includes separate sections on ICT and cyber risk setting out specific requirements in each area. The executive board is required to ensure that appropriate procedures, processes and controls including tasks, competencies and responsibilities are implemented and documented both for change management and for ICT operations. As part of cyber risk management banks are required to ensure effective implementation through appropriate procedures, processes and controls and to continuously develop and improve them.

[104] Information and communication technology refers to the underlying physical and logical design of information technology and communication systems, the individual hardware and software components, data and the operating environments.

[105] These include cyber security, ICT response and recovery programs, ICT change management processes, ICT incident management processes and relevant information transmission to users on a timely basis.

	Margin No.48 of 2023/1 states that ICT risk management should take into account relevant internationally recognized standards and practices. FINMA advise that they are unable to put specific references into a circular but that in this case these references refer to the National Institute of Standards and Technology (NIST) standards from the US Dept Commerce; and ISO/IEC 27001:2022 'Information security, cybersecurity and privacy protection — Information security management systems — Requirements'. These standards are referenced in the regulatory audit program. Banks' cyber risk management should ensure procedures, processes and controls to ensure effective protection, detection, response and recovery including regular vulnerability assessments and penetration tests. Risk-based, threat intelligence-related scenario cyber exercises must also be conducted on the basis of the institution-specific threat landscape. There is a requirement to report to the BoD and the executive board in the event of significant control weaknesses or incidents that jeopardize operational resilience.
EC7	The supervisor assesses whether banks have appropriate processes and effective information systems to: (a) regularly monitor operational risk profiles and material operational exposures; (b) compile and analyze operational risk event data, which include internal loss data, and, when feasible, external operational loss event data; and (c) facilitate appropriate reporting mechanisms at the level of the bank's board, senior management, the independent risk function and the business units that support proactive management of operational risk and operational resilience.
Description and Findings re EC7	As part of the overall risk management framework, Circular 17/1 requires a bank to define and implement the appropriate tools and organizational structures necessary to identify, analyze, evaluate, manage and monitor the key risk categories and for reporting purposes. As set out in 23/1 the BoD approves the basic principles for the management of operational risks relevant for the institution and monitors their application. The BoD is also required to regularly approve the strategies for dealing with ICT, cyber risks, critical data and BCM, and monitors their application. As set out in Circular 23/1 banks should ensure that both internal and external factors are taken into account when identifying operational risks. The identified operational risks should be assessed in a comprehensive way both from the perspective of inherent as well as residual risks. Depending on the type, scope, complexity and risk of institution-specific products, activities, processes and systems, banks may systematically collect and analyze internal loss data and relevant external events associated with operational risk. Under the new Basel operational risk framework, as part of the standardized approach, banks that meet the requirement to calculate a loss component are required to collect internal loss data. As set out in 2017/1, the Executive Board of a bank is responsible for developing and maintaining an appropriate management information system (MIS). As noted in EC1 the institution-wide risk management framework should include definitions and descriptions of

	the tools and organizational structures required to identify, analyze, evaluate, manage and monitor the key risk categories including for reporting purposes. The risk control function reports to the BoD at least annually and to the executive board at least every six months on, as a minimum, the high-level operational risks and how they compare to with the defined risk tolerance, and on details of material internal losses. In relation to the relevant ICT and cyber risks, the report for the executive board produced at least annually shall also contain information on the development of these risks, on the effectiveness of the corresponding key controls, and on material internal and external events in connection with these risks. In relation to BCM, Regular reporting to the board of directors and the executive board shall include information about the testing and review activities carried out and their results. In relation to operational resilience, reporting to the BoD and the executive board must take place at a minimum annually and in the event of significant control weaknesses or incidents that jeopardize operational resilience. In discussion with FINMA staff they have indicated that they would expect much more frequent and regular reporting for larger banks.
EC8	The supervisor requires banks to have appropriate reporting mechanisms to keep the supervisor apprised of developments affecting their operational risk, including reporting of incidents that disrupt critical operations, and their severity.
Description and Findings re EC8	Article 29 of FINMASA requires supervised persons and entities and the audit companies that conduct audits of them to immediately report to FINMA any incident that is of substantial importance to the supervision of the entity. Circular 23/1 includes the following requirements in relation to reporting to the supervisor: • ICT incidents that are regarded by the institution as a significant disruption in the provision of its critical processes and are of material significance for supervision must be reported to FINMA without delay. • A successful or partially successful cyber attack should be preliminarily notified to the body responsible at FINMA within 24 hours, with more detailed information to be submitted to FINMA within 72 hours. Once the institution has finished processing the case, a conclusive root cause analysis must be submitted to the body responsible at FINMA. • Incidents that substantially impair the confidentiality, integrity or availability of critical data must be reported to FINMA without delay. FINMA is also in regular contact with larger supervised entities particularly G- and D-SIBs in order to be informed about and discuss the operational risk profile of these entities and the development of their work in this area. Normally FINMA will not be in direct contact with any Category 3-5 banks unless there is a specific issue. This is due to resourcing constraints.
EC9	Laws, regulations or the supervisor require the board and senior management to understand the risks associated with bank activities performed by service providers and ensure that effective risk management policies and processes are in place to manage these risks. The supervisor determines that banks have established appropriate policies and processes to

	assess, manage and monitor bank activities performed by service providers. The supervisor determines that banks' third-party risk management policies cover: (a) procedures for determining whether and how activities can be provided by service providers, and conducting appropriate due diligence for selecting potential service providers; (b) sound structuring of the service providers' provision, including ownership and confidentiality of data, as well as termination rights; (c) managing and monitoring the risks associated with the service provider arrangement, including the financial condition of the service provider; (d) maintaining an effective control environment at the bank over the service provider, which includes a register of outsourced activities, metrics and reporting to facilitate service provider oversight; (e) managing dependencies on arrangements, including (but not limited to) those of service providers, for the delivery of critical operations; (f) maintaining viable contingency planning and developing exit strategies to demonstrate the bank's operational resilience in the event of a failure or disruption at a service provider impacting the provision of critical operations.[106] The bank's business continuity plans should assess the substitutability of the service providers that it uses for critical operations and other viable alternatives that may facilitate operational resilience in the event of an outage at a service provider, such as bringing the activity back in-house; (g) execution of comprehensive contracts and/or service level agreements that ensure a clear allocation of responsibilities between the service provider and the bank; and (h) the bank's right to inspect the service provider's books and records and ability to request reporting (e.g. audit reports), and permission for the bank's supervisor to access, directly or via the supervised bank, documentation, data and any other information related to the provision of the activity to the bank.
Description and Findings re EC9	Circular 2018/3 'Outsourcing – banks and insurers' addresses outsourcing at banks and insurance companies. (It should be noted that financial groups and conglomerate are not in scope of this Circular as FINMA does not have the power to set requirements for these on outsourcing). Circular 2018/3 sets out the following requirements: Before an outsourcing agreement is signed, a bank should conduct a risk analysis that takes account of the main economic and operational considerations as well as the associated risks and opportunities. A service provider must be chosen with due regard to, and subject to checks of, its professional capabilities as well as its financial and human resources. (a) Security and confidentiality of data must be assured.

[106] In developing their exit strategies, banks should consider both near-term and long-term disorderly and orderly exits, as this could impact exit strategies and assumptions.

	(b) The main risks associated with the outsourcing must be systematically identified, monitored, quantified and controlled. A unit within the bank must be named as responsible for monitoring and controlling the service provider. The service provider's services must be monitored and assessed on an ongoing basis so that any necessary measures can be taken promptly. (c) An inventory of outsourced functions must be drawn up and kept up to date at all times. (d) The outsourced function must be monitored, controlled and assessed on an ongoing basis. (e) Risk analysis should ensure that the main economic and operational considerations are assessed as well as the associated risks and opportunities. (f) Arrangements must ensure the outsourced activity can continue to be performed in an emergency. (g) The duties of the company and the service provider must be contractually agreed and delimited, in particular with regard to interfaces and responsibilities. (h) The company, its audit firm and FINMA must be able to verify the service provider's compliance with supervisory regulations. They must have the contractual right to inspect and audit all information relating to the outsourced function at any time without restriction.
EC10	The supervisor determines that senior management has established a change management process[107] that is comprehensive, appropriately resourced, adequately divided up between the risk management and control functions, and conducive to the assessment of potential effects on the delivery of critical operations and on their interconnections and interdependencies.
Description and Findings re EC10	Circular 23/1 includes sets out requirements for change management. The change management process must define the procedures, processes and controls for all phases in the development or procurement of ICT. In each of these phases it should consider the impact of the change on the ICT risks. It should focus in particular on the requirements with regard to confidentiality, integrity and availability. The development or test environments should be separate from the ICT production environment. This also involves the clear allocation of tasks, competencies and responsibilities and laying down rules for the associated access rights. Margin No. 16 of 2023/1 requires that before agreements are signed, the supervised entity prepares a risk analysis that takes account of the main economic and operational

[107] A bank's operational risk exposure evolves when it initiates change, such as engaging in new activities or developing new products or services; entering into unfamiliar markets or jurisdictions; implementing new business processes or technology systems or modifying existing ones; and/or engaging in businesses that are geographically distant from the head office. Change management should assess the evolution of associated risks across time throughout the full life cycle of a product or service.

	considerations as well as the associated risks and opportunities of the proposed outsourcing arrangement.
Additional Criteria	
AC1	The supervisor regularly identifies any common points of exposure across banks to operational risk or potential vulnerability (e.g., reliance of many banks on a common service provider, disruption to service providers of payment and settlement activities, exposures to losses from physical risks or from geopolitical events).
Description and Findings re AC1	FINMA undertakes an annual survey on outsourcing which it uses to analyze connections between supervised entities and critical service providers such as vendors. FINMA uses visualization software to map these nodes and dependencies. There is also a project underway between FINMA and the State Secretariat for International Finance (SIF) with a view to seeking additional contact and engagement with 3rd party risk management. They have planned a future onsite visit to an outsourcing provider used by many banks where they will focus on banking software and business continuity. FINMA wrote to the banks that use this outsourcing provider to advise them of this work. This is a very useful exercise for FINMA and they hope to continue to do more of this work in the future. As per FINMA's last risk monitor, operational risks related to cyber and outsourcing are elevated and therefore, defined as principal risks for FINMA. Cyber risks remain one of the biggest operational risks for supervised institutions. In its risk monitor FINMA has identified cyber risk as one of the main risks facing Swiss financial entities. In ranking the risks facing banks, regulatory auditors have also ranked cyber risk as one of the most important risks facing banks. As publicly reported by FINMA in 2022, out of 63 reports received during 2022, 48 related to banks. More than half of the cyber attacks were directed against small institutions. Around a quarter of the attacks targeted institutions in supervisory Categories 3 and 4, and only one cyber attack affected a larger institution.
AC2	The supervisor assesses concentration risk-related arrangements, and potential systemic risks arising from the concentration of services provided by specific service providers to banks within its jurisdiction.
Description and Findings re AC2	See AC1.
Assessment of Principle 25	LC
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP25 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. The new circular on operational risks and resilience is still in the transitional phases of implementation and banks are finding it challenging to meet the requirements. Furthermore, the circular on outsourcing does not capture financial groups or conglomerates, potentially leaving regulatory gaps for financial groups. This limit in scope is due to the absence of FINMA legal powers over non-banks. FINMA is also limited in its ability to directly access and assess critical outsourcing providers. These regulatory gaps should be addressed to ensure financial groups are captured as part of outsourcing requirements.

	FINMA should significantly increase its resources in relation to operational risk and operational resilience. This should extend not just to hiring new staff but also to engaging specialized expertise consultants particularly in the BCM and cyber areas. There is also an opportunity to more effectively leverage data to provide additional analysis and insights to support supervision in this area**.** FINMA should also increase its supervisory attention on the Category 3-5 banks. As noted in the cyber statistics, more than half of cyber attacks were directed against small institutions. A successful cyber attack on a small bank may trigger contagion so these smaller banks should not be subject to lighter touch supervision in this area. Although FINMA has undertaken onsite inspection focused on Cat.3 banks, increased supervisory resources as well as better leveraging of data analysis should support increased supervisory focus on these banks.
Principle 26	**Internal control and audit**.[108] The supervisor determines that banks have adequate internal control frameworks to establish and maintain an effectively controlled and tested operating environment for the conduct of their business, considering their risk profile. These include clear arrangements for delegating authority and responsibility; separation of the functions that involve committing the bank, paying away its funds, and accounting for its assets and liabilities; reconciliation of these processes; safeguarding the bank's assets; and appropriate independent[109] internal audit (including those that are outsourced or co-sourced), compliance and other control functions to test adherence to and effectiveness of these controls as well as applicable laws and regulations.
Essential Criteria	
EC1	Laws, regulations or the supervisor require banks to have internal control frameworks that are adequate to establish an effectively controlled and tested operating environment for the conduct of their business, considering their risk profile with a forward-looking view.[110] These controls are the responsibility of the bank's board and/or senior management and deal with organizational structure, accounting policies and processes, checks and balances, and the safeguarding of assets and investments (including measures for the prevention and early detection and reporting of misuse, such as fraud, embezzlement, unauthorised trading and computer intrusion). More specifically, these controls address: (a) organizational structure: definitions of duties and responsibilities, including clear delegation of authority (eg clear loan approval limits), decision-making policies and

[108] Reference documents: BCBS, Principles for the effective management and supervision of climate-related financial risks, June 2022; BCBS, Corporate governance principles for banks, July 2015; BCBS, The internal audit function in banks, June 2012; BCBS, Compliance and the compliance function in banks, April 2005; BCBS, Framework for internal control systems in banking organizations, September 1998.

[109] In assessing independence, supervisors give due regard to the control systems designed to avoid conflicts of interest in the performance measurement of staff in the compliance, control and internal audit functions. For example, the remuneration of such staff should be determined independently of the business lines that they oversee.

[110] The time horizon for establishing a forward-looking view should appropriately reflect climate-related financial risks and emerging risks as needed.

	processes, separation of critical functions (eg business origination, payments, reconciliation, risk management, accounting, audit and compliance); (b) accounting policies and processes, such as but not limited to: reconciliation of accounts, control lists, information for management; (c) checks and balances (or "four-eyes principle"): segregation of duties, cross-checking, dual control of assets, double signatures; and (d) safeguarding assets and investments: including physical control and computer access.
Description and Findings re EC1	Article 3, 2(a) of the BA requires a bank to have appropriate governance to manage and monitor its activities. Article 12(4) of the BO requires a bank to have an effective internal control system; and to appoint an internal auditor that is independent of management. In justified individual cases, FINMA may exempt a bank from the obligation to appoint an internal auditor although this has not been used in the recent past. Margin No.12 of 2017/1 requires the BoD to set the business strategy; approve the institution-wide risk management framework and be responsible for establishing and monitoring an effective risk management function, and managing overall risks. The institution-wide risk management comprises the risk policy; risk tolerance and risk limits in all key risk categories (Margin Nos.52-53). Article 12 of the BO requires the bank to have effective internal separation of lending, trading, asset management and settlement. FINMA may permit exceptions in justified individual cases or order the separation of other functions. This exception is only used in the case of very small banks where due to the reduced number of employees, complete separation is more challenging. A bank is also required to implement the basic principles of risk management as well as the authority and procedure for approving transactions involving risk in a regulation or in internal guidelines. In particular, it must identify, limit and monitor market, credit, default, settlement, liquidity and reputation risks as well as operational and legal risks. As set out in Margin No.14 of 2017/1 the BoD is responsible for ensuring that there is both an appropriate risk and control environment within the institution and an effective internal control system. Per Margin No.6 an effective internal control system consists of control activities which are integrated into work processes, appropriate risk management and compliance processes, and monitoring bodies – particularly an independent risk control and compliance function – which adequately reflect the size, complexity and risk profile of an institution. The more detailed aspects of EC1 such as reconciliation of accounts, segregation of duties, cross checks, dual control of assets, double signatures, safeguarding assets and investments are not specified in FINMA Circulars or guidance. However FINMA considers these activities to be expected as part of an 'effective internal control system.' Appendix 1of the BO sets out what the annual financial statements should include as a minimum, including accounting policies. The regulatory audit firms must also audit the internal control framework. FINMA advises that during on-site and off-site inspections, supervisors challenge the internal control framework of the banks in order to assess whether they have an adequate and effective control framework in place. While the specific organization, responsibilities, policies, processes, etc. are generally audited in the respective specialist area/field (e.g., AML,

	suitability), there are specific audit areas for the overarching internal control systems and the risk control function. FINMA specifies detailed standard work programs for the regulatory auditors, however the audit standard required for internal controls is 'critical assessment' where the auditor indicates whether anything in the course of its audit work leads to conclude non-compliance with prudential requirements. This is a lower standard than 'audit level,' requiring the auditor to provide 'positive assurance' of compliance with the prudential requirements. Applying 'audit level' increases the reliability of the audit work and the auditors' accountability, and should be required for critical areas of the supervision of the largest banks. The risk analyzes and a proposal for the audit strategy of the current year, as prepared by the regulatory auditor and submitted to FINMA for decision, determine the depth and the frequency of the prudential audits. This approach applies for medium and small banks. For G-SIBs and D-SIBs FINMA determines the audit strategy itself, based on the risk assessment and a dialogue with the regulatory audit firm. For the standard audit strategy for medium and small banks FINMA has prescribed the minimum depth and frequency for every audit field. Both minimum depth and frequency are aligned to the net risk exposure per audit field, e.g., areas with a very high net risk will be audited on an annual basis. If an institution's risk increases during the year, the risk analysis and audit strategy for the current year can be adjusted at any time in consultation with FINMA. For internal controls the prescribed approach is a gradual coverage of the whole system over a 6-year period (Circular 2013/3 'Auditing' Mn.97). FINMA advises that during on-site and off-site inspections, supervisors challenge the appropriate segregation of duties. When it comes to off-site supervision, there are several supervisory techniques to verify an appropriate segregation and effective control environment (e.g., high level meetings, working level meetings, desk reviews for analyzing processes in detail, questionnaires, clarifications by special matter experts, additional audit scope to the external auditor, mandating a third party etc.). In 2024 FINMA increased the amount of working level meetings with control functions, as well as 'Welcome Meetings' with new executive committee members and exit meetings with leaving staff. (See also Principle 14 Corporate Governance).
EC2	The supervisor determines that there is an appropriate balance in the skills and resources of the back office, control functions and operational management relative to the business origination units. The supervisor also determines that the staff of the back office and control functions have sufficient expertise and authority within the organization (and, where appropriate, in the case of control functions, sufficient access to the bank's board) to be an effective check and balance to the business origination units.
Description and Findings re EC2	Article 12(1) of the BO requires a bank to ensure separation of lending, trading, asset management and settlement functions. Margin No. 64 of 2017/1 requires the independent control bodies to have unlimited information, access and inspection rights and to be integrated independently from the revenue-generating units into the overall organization or the internal control system. They must be provided with the necessary resources and powers to carry out their functions. The bank must define one or more persons on the executive

	board to be responsible for the independent control bodies; and the independent control bodies must have direct access to the board of directors (Margin Nos 65-66). Margin Nos 87-88 set out the requirements for Internal audit to report to the BoD or its audit committee and to fulfil the auditing and monitoring responsibilities assigned to it in an independent fashion. Internal audit must have an unlimited right of inspection, information and audit within the institution and its consolidated companies. Internal audit must adequately reflect the size, complexity and risk profile of the institution be organizationally independent of business operations.
EC3	The supervisor determines that banks have an adequately staffed, permanent and independent compliance function that assists senior management in managing effectively the compliance risks faced by the bank. The supervisor determines that staff within the compliance function are suitably trained, have relevant experience and have sufficient authority within the bank to perform their role effectively. The supervisor determines that the bank's board exercises oversight of the management of the compliance function.
Description and Findings re EC3	Compliance functions must be allocated adequate resources and authority according to the size of the institution, the complexity of the business and its organization, and compliance issues. Board oversight is required (see EC1, EC2). Margin Nos.77-81 set out the functions of a bank's compliance function which includes a requirement to perform assessment of compliance risk and prepare an activity plan at least once a year for approval by senior management. The compliance function must also provide the senior management with timely reporting regarding material changes in the assessment of compliance risks, and determine and investigate serious compliance breaches. Compliance duties also include annual reporting to the board of directors regarding the assessment of the compliance risks and the activities of the compliance function. FINMA advises that they assess the effectiveness and adequacy of staffing of the compliance function as part of regular supervisory engagement and meetings. The seniority, experience, training and attrition rates of compliance staff are discussed. Identified weaknesses by FINMA supervisors are addressed during the regular or even during an intensified supervision, depending on the severity of the finding. For Category 3-5 banks, the organization, internal control framework and potential conflict of interests are regularly subject of high level meetings. During these supervisory meetings with the bank, and in the yearly assessment letter FINMA address such issues to the governing body (Board of Directors, Executive Committee).
EC4	The supervisor determines that banks have an independent, permanent and effective internal audit function (including those that are outsourced or co-sourced) charged with: (a) assessing whether existing policies, processes and internal controls (including risk management, compliance and corporate governance processes) are effective and appropriate and remain sufficient for the bank's business; and (b) ensuring that policies and processes are complied with.
Description and Findings re EC4	Article 12(4) of the BO requires a bank to have an effective internal control system, with an internal auditor that is independent of the management.

	Circular 2017/1 further permits delegation of the function to a second audit firm which is independent of the institution's regulatory audit firm, (Margin no.85) or to a group company or independent third party, provided that the regulatory audit firm confirms that it has the necessary expertise and appropriate technical and personnel resources. Margin Nos. 91-97 set out the duties and responsibilities of the internal audit function including that it deliver independent audits and assessments of the appropriateness and effectiveness of the company's organization and business processes, particularly as regards the institution's internal control system and risk management. The assessment of internal audit is undertaken as part of the regulatory audit process which assesses this function annually at the level of critical assessment (Circular 2013/3 Margin No.96). During on-site inspections, FINMA regularly review internal audit reports and hold meetings with the Head of Internal Audit. For SIBs, internal audit reports are requested semi-annually and quarterly for the G-SIB and meetings are held with the Head of Internal Audit and the Chair of the Audit committee. FINMA does not have a systematic approach to the assessment of the effectiveness of internal audit for other banks. As part of an internal project FINMA intends to develop a more focused approach in relation to the oversight over internal audit departments.
EC5	The supervisor determines that the internal audit function: (a) has sufficient resources and that staff are suitably trained and have relevant experience to understand and evaluate the business they are auditing; (b) has appropriate independence and is accountable to the bank's board or to an audit committee of the board, and its status within the bank ensures that senior management reacts to and acts upon its recommendations; (c) is kept informed in a timely manner of any material changes made to the bank's risk management strategy, policies or processes; (d) may communicate with any member of staff and has full access to records, files or data of the bank and its affiliates, whenever relevant to the performance of its duties; (e) employs a methodology that identifies the material risks run by the bank; (f) prepares an audit plan, which is reviewed regularly, based on its own risk assessment and allocates its resources accordingly; and (g) has the authority to assess any outsourced functions.
Description and Findings re EC5	Circular 2017/1 specifies that internal audit must adequately reflect the size, complexity and risk profile of the institution and must be independent of business operations (Margin No.88). The Head of Internal Audit used to be subject to a fit and proper check but is no longer. Internal audit publishes a report setting out the key audit findings and important activities in the audit period at least annually and submits this report with any corresponding conclusions

	to the board of directors or its audit committee, the executive board and the regulatory audit firm for their information (Margin No.96). Internal audit has an unlimited right of inspection, information and audit within the institution and its consolidated companies (Margin No.87). It must conduct a comprehensive risk assessment of the institution on an annual basis that takes appropriate account of external developments (e.g., the economic environment, regulatory changes) and internal factors (e.g., major projects, business strategy). Internal audit reports in writing in a timely manner on all material findings both to the board of directors or its audit committee and to the executive board (Margin No.95). On methodology, Internal audit must meet the qualitative requirements defined by the Institute of Internal Auditing Switzerland (IIAS). The work of internal audit is based on the International Standards for the Professional Practice of Internal Auditing, as issued by the Institute of Internal Auditors (IIA) (Margin No.89). As set out in 2018/7 'Outsourcing' the bank, its audit firm and FINMA must be able to verify the service provider's compliance with supervisory regulations. They must have the contractual right to inspect and audit all information relating to the outsourced function at any time without restriction (Margin No.26). The assessment of the internal audit function is undertaken as part of the regulatory audit process which assesses this function annually. As noted in EC4, FINMA would like to perform more direct supervision over internal audit functions in the future.
Assessment of Principle 26	C
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP26 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. Strong internal controls are central to effective risk management and should be audited to the higher standard of positive assurance rather than the default of negative assurance. The importance of a strong internal audit function in banks makes it appropriate for FINMA to take a more direct role in assessing the adequacy of this function and its activities. This should be done in a more systematic way and also to a higher standard than the current negative assurance provided by the regulatory audit. The Head of Internal Audit should also be subject to a fit and proper review undertaken by FINMA.
Principle 27	**Financial reporting and external audit**.[111] The supervisor determines that banks and banking groups maintain adequate and reliable records, prepare financial statements in accordance with accounting policies and practices that are widely accepted internationally and annually publish information that fairly reflects their financial condition and performance

[111] Reference documents: BCBS, Supplemental note to external audits of banks – audit of expected credit loss, December 2020; BCBS, External audits of banks, March 2014; BCBS, Supervisory guidance for assessing banks' financial instrument fair value practices, April 2009.

	and bears an independent external auditor's opinion. The supervisor also determines that banks and parent companies of banking groups have adequate governance and oversight of the external audit function.
Essential Criteria	
EC1	The supervisor[112] holds the bank's board and management responsible for ensuring that financial statements are prepared in accordance with accounting policies and practices that are widely accepted internationally and for ensuring that these are supported by recordkeeping systems to produce adequate and reliable data.
Description and Findings re EC1	Article 716(a) of the Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations) sets out the duties of the BoD which include organizing the accounting, financial control and financial planning systems as required for the management of the company and compiling the annual report. Article 6 of the BA sets the requirements for the bank to prepare an annual report for each financial year, consisting of the annual accounts; the management report; and the consolidated financial statements. Interim financial statements should be prepared at least every six months. Together with the Swiss Government, FINMA is the accounting standard setter for the Swiss banking industry. FINMA's accounting rules as set out in the Accounting Ordinance (AO) must be applied for entity-level financial statements. At the consolidated level, banking financial groups may apply IFRS or US GAAP (without any carve out or deviation) instead of FINMA's rules. Six banks use IFRS for their consolidated accounts and only one uses US GAAP. Circular 2017/1 Margin No.12 states that the BoD is responsible for approving and signing off the bank's annual report and interim financial statements. The Board audit committee is responsible for monitoring and assessing the financial reporting and the integrity of the financial statements. This includes discussing these topics with the member of the executive board who is responsible for finance and accounting, the lead auditor of the financial audit, and the head of internal audit (Margin No.36). Article 958f of the Swiss Code of Obligations stipulates that accounting books and records including signed copies of the annual reports and audit reports must be retained for ten years.
EC2	The supervisor holds the bank's board and management responsible for ensuring that the financial statements issued annually to the public bear an independent external auditor's opinion as a result of an audit conducted in accordance with internationally accepted auditing practices and standards.
Description and Findings re EC2	Under Article 18 of the BA, banks, financial groups and financial conglomerates must commission an audit firm approved by the Federal Audit Oversight Authority to carry out an audit of their annual accounts.

[112] In this essential criterion, the supervisor is not necessarily limited to the banking supervisor. Responsibility for ensuring that financial statements are prepared in accordance with accounting policies and practices may also be vested with securities and market supervisors.

	Auditing of the financial statements prepared in accordance with FINMA's rules must be carried out in compliance with the Swiss audit standards, which are a local implementation of the International Standards on Auditing (ISA).
EC3	The supervisor determines that banks use valuation practices consistent with accounting standards widely accepted internationally. The supervisor also determines that the framework, structure and processes for fair value estimation are subject to independent verification and validation, and that banks document any significant differences between the valuations used for financial reporting purposes and for regulatory purposes.
Description and Findings re EC3	See EC1. Banks must report under FINMA'a accounting rules; IFRS; or US GAAP. FINMA's accounting rules are closely aligned with the classification and valuation concepts set out in the former IFRS accounting standard IAS 39 'Financial Instruments: Recognition and Measurement.' The main differences are: • available-for-sale (AFS) instruments are valued according to the LOCOM principle (lower of cost or market value) in contrast to the former IAS 39 which required all AFS assets to be measured at fair value; • the use of the fair value option for financial instruments outside of trading book is only permitted in limited cases for eliminating accounting mismatches; • specific credit loss provisioning approach. FINMA Circular 2008/20 'Market risks' Mn32-48 sets out specific provisions for the prudent valuation of fair value exposures for the trading book and banking book. Circular 2017/07 'Credit risks' Mn 486includes additional guidelines for prudent valuation for banking book exposures. Compliance with these requirements is assessed as part of the regulatory audit and financial audit. Article 23 and Article 24 of the FINMA Accounting Ordinance (AO) set out the requirements for impairment and doubtful exposures. Article 25 sets out the requirements for exposures that are not impaired. New rules introduced in 2019 set out the requirements for valuation adjustments with different rules depending on the bank category and whether the bank uses Swiss GAAP or IFRS/US GAAP. Category 1 and 2 banks are required to apply an expected credit loss approach (ECL), aligned with IFRS if that is the accounting framework used, or the ECL approach set out in Article 25 of the AO. Category 3 banks are required to follow different requirements based on their business model. Banks which undertake traditional lending apply the approach for inherent default credit risks. All other Category 3,4 and 5 banks must follow the approach for latent default credit risks. The requirements reflect a proportionate approach based on the categorization of banks as set out in appendix 3 of the banking ordinance. Banks in categories 1 and 2 are forced to apply an approach for expected credit losses. UBS in category 1 uses IFRS and therefore applies the expected credit loss provisioning requirements in IFRS 9. The domestic SIBs in category 2 apply the expected credit loss provisioning approach in art. 25 FINMA accounting ordinance. The banks in category 3 are split with regard to the requirements on credit loss provisioning based on their business model. Banks, which are primarily active in the traditional lending business apply the approach for inherent credit risks. All other Banks apply the approach for latent credit risks.

	In 2022 FINMA undertook an ex-post evaluation of the new requirements and concluded that they were effective. The evaluation observed that banks are recognizing credit loss provisions at an earlier stage due to the new requirements and that credit loss provisions on unimpaired exposures had increased as a result.
EC4	Laws, regulations or the supervisor set out the scope of external audits of banks and the standards to be followed in performing such audits. These should be aligned with internationally accepted standards and require the use of a risk- and materiality-based approach in planning and performing the external audit.
Description and Findings re EC4	The Federal Audit Oversight Authority (FAOA) is responsible for the supervision of audit firms with regard to their financial audit activities. Auditing of the financial statements must be carried out in compliance with the Swiss audit standards, which are a local implementation of the International Standards on Auditing (ISA). If FINMA has specific concerns about the quality of the audit conducted by the audit firm it may engage a different mandated auditor to conduct additional work.
EC5	Supervisory guidelines or local auditing standards determine that audits cover several areas, including but not limited to the loan portfolio, loan loss provisions, non-performing exposures, asset valuations, trading and other securities activities, derivatives, asset securitizations, consolidation of off-balance sheet vehicles and other involvement with such vehicles, and the adequacy of internal controls over financial reporting.
Description and Findings re EC5	The financial audit of individual and consolidated statements must be carried out in line with the principles of the regular audit as defined in the Swiss Code of Obligations which are based on the International Standards on Auditing (ISA). The adequacy of internal controls are assessed as part of the regulatory audit (see Principle 26).
EC6	The supervisor has the power to reject and rescind the appointment of an external auditor who is deemed to have inadequate expertise or independence or who is not subject to or does not adhere to established professional standards.
Description and Findings re EC6	Under Article 28a of FINMASA, in justified cases, FINMA may require a bank to change auditor. It must notify the Federal Audit Oversight Authority before doing so. However, FINMA has highlighted that the bar for removing an auditor is very high. If FINMA has concerns about the independence or expertise of an auditor, it may refer the matter to the FAOA, as it has done in the past. It is then up to the FAOA to pursue the matter further if it deems that appropriate. The financial audit must be carried out by lead auditors who are authorised in accordance with Article 9a of the Audit Supervision Act of 16 December 2005. Article 7 of the Audit Ordinance sets out a number of conditions which are viewed as incompatible with providing audit services to a bank, including conducting internal audit or advising, reviewing or assessing transactions that are to be approved or authorised by FINMA. Circular 2013/3 Mn. 44.1 also includes conditions that would be considered incompatible with providing audit services. On independence, it should be noted that there is no requirement for the financial audit firm and the regulatory audit firm to be different and the practice, even among SIBs, is that the same audit firm is used. The same lead audit partner and audit team may also be used for

	both the regulatory and financial audit. FINMA may, however, require that the lead audit partner and/or the audit team is different for the regulatory and financial audit (Circular 2013/3 'Auditing' Margin No.46). At least one of the systemically important banks has the same lead auditor for the regulatory and financial audit. All of the systemically important banks use, at least partially, the same audit teams. Margin No. 2.1 of Circular 2013/3 'Auditing' only requires a bank to notify FINMA when it is changing auditor. The FAOA is responsible for the (general/prior) authorization of an audit firm, but not for approving the subsequent election of an approved audit firm by a bank. As such, there is no requirement for FINMA to be consulted before the appointment of a regulatory or financial auditor.
EC7	The supervisor determines that banks rotate their external auditors (either the firm or individuals within the firm) from time to time.
Description and Findings re EC7	Under Article 730a of the Code of Obligations the lead auditor (person) of a bank may exercise their mandate for a maximum of seven years at a time. After a minimum period of three years, they may be reappointed. This rotation requirement only applies to the person named as the lead auditor in the audit firm. There is no requirement for audit firm rotation, nor are there any limits on the amount of time that an audit firm may audit a bank. In at least one case, the same audit firm has audited a systemically important bank for more than 20 years. Furthermore, at the time of the onsite visit by assessors, the same audit firm is responsible for the financial and regulatory audit of all the systemically important (Category 1 and 2) banks in Switzerland.
EC8	The supervisor meets periodically with external audit firms to discuss issues of common interest relating to bank operations.
Description and Findings re EC8	Under Article 29 of FINMASA supervised entities and their audit firms must provide FINMA with all information and documents that it requires to carry out its tasks; and must also immediately report to FINMA any incident that is of substantial importance to supervision. In addition to the financial audit, the bank's auditor acts as FINMA's 'extended arm' for the purposes of supervision by undertaking regulatory audit work (2013/3 Margin No. 1). As noted in EC6, the same audit firm is used for the regulatory and financial audit. There is therefore regular dialogue between FINMA and the audit firm. In addition, an annual high level meeting takes place between the supervisor and the auditors in order to communicate general feedback, findings and risk evaluation in financial markets per audit firm.
EC9	The supervisor requires the external auditor, directly or through the bank, to report to the supervisor matters of material significance, for example: failure to comply with the licensing criteria or breaches of banking or other laws; significant deficiencies and control weaknesses in the bank's financial reporting process; or any other matters that they believe are likely to be of material significance to the safety and soundness of the bank. Laws or regulations provide that auditors who make any such reports in good faith cannot be held liable for breach of the duty of confidentiality.
Description and Findings re EC9	As set out in FINMASA Article 27 if the audit firm identifies violations of supervisory provisions or other irregularities, it shall give the audited supervised person or entity an appropriate period to restore compliance with the law. If the period is not complied with, it

	informs FINMA. In the case of a serious breach of supervisory rules and irregularities, the audit firm shall notify FINMA immediately (FINMASA Art.27(3)). Under Article 29 of FINMASA supervised entities and their audit firms must provide FINMA with all information and documents that it requires to carry out its tasks; and must also immediately report to FINMA any incident that is of substantial importance to supervision. As set out in Circular 2013/3 the auditor must also report any criminal act to FINMA immediately (Margin No.78). Any breaches or deficiencies must be identified and classified within the audit report with the audit firm's recommendation for remediation.
Additional Criterion	
AC1	The supervisor has the power to access external auditors' working papers, where necessary.
Description and Findings re AC1	Under Article 29 of FINMASA supervised entities and their audit firms must provide FINMA with all information and documents that it requires to carry out its tasks.
Assessment of Principle 27	**LC**
Comments	In the Swiss system, FINMA uses the work of the regulatory audit to determine whether elements of CP15 have been met. The function performed by the regulatory auditor and the related concerns are discussed and graded in CP9. Given the effective 'dual mandate' of audit firms, whereby they provide both regulatory and financial audit services to banks, it is right that greater scrutiny is placed on their independence. There is currently no requirement for external audit firm rotation for the financial audit. In line with international best practice, mandatory audit firm rotation should be introduced. Given that the same external audit firm currently audits all Category 1 and 2 banks, the introduction of mandatory rotation may need to be phased in. However, in an already concentrated audit market, the risks of reliance on one audit firm for all systemically important banks in Switzerland cannot and should not be ignored. Furthermore, at a minimum, for Category 1-3 banks, there should be a requirement for a different lead audit partner to oversee the regulatory and financial audits.
Principle 28	**Disclosure and transparency**.[113] The supervisor determines that banks and banking groups regularly publish information on a consolidated and, where appropriate, solo basis that is easily accessible and fairly reflects their financial condition, performance, risk exposures, risk management strategies and corporate governance policies and processes (including compensation practices). At least for internationally active banks, disclosure requirements are not less stringent than the applicable Basel standards.

[113] Reference documents: BCBS, High-level considerations on proportionality, July 2022; BCBS, Corporate governance principles for banks, July 2015; FSB, Enhancing the risk disclosure of banks, October 2012; BCBS, Enhancing bank transparency, September 1998; [DIS10], [DIS20], [DIS21], [DIS25], [DIS26], [DIS30], [DIS31], [DIS35], [DIS40], [DIS42], [DIS43], [DIS45], [DIS50], [DIS51], [DIS60], [DIS70], [DIS75], [DIS80], [DIS85], [DIS99].

Essential Criteria	
EC1	Laws, regulations or the supervisor require periodic public disclosures[114] of information by banks on a consolidated and, where appropriate, solo basis that adequately reflect the bank's true financial condition and performance, and adhere to standards promoting comparability, relevance, reliability and timeliness of the information disclosed.
Description and Findings re EC1	As set out in Article 6 of the Banking Act, a bank must prepare an annual report for each financial year, consisting of annual accounts; a management report; and consolidated financial statements. Under Article 32 of the BO, a bank must make its annual report available to the public within four months and the interim financial statements within two months of its business year-end. Annual reports and interim financial statements must also be submitted to FINMA. The structure of the annual report is set out in Appendix 1 of the BO and includes a balance sheet and quantitative and qualitative explanations about the bank's risks and financial situation. Private banks are exempt from the obligation to publish if their only activities are as asset managers or securities dealers and do not include deposit-taking. There is no small banks exemption. The largest banks also make quarterly disclosures on a voluntary basis. Circular 2016/1 'Disclosure' sets out the Pillar 3 disclosure requirements. The final Basel III standard including the related Pillar 3 disclosures will come into force with effect from 1 January 2025. As set out in Margin No. 9 the Pillar 3 disclosure requirements are, in principle, to be satisfied on a consolidated basis. For banks in supervisory categories 4 and 5 an annual "partial disclosure" is sufficient, with the exception of those banks that apply model approaches to calculate the minimum required capital or engage in securitization transactions involving foreign assets (Margin No.15).
EC2	The supervisor determines that the required disclosures include both qualitative and quantitative information on a bank's financial performance, financial position, risk management strategies and practices, risk exposures (including information that will help in understanding a bank's risk exposures during a financial reporting period), aggregate exposures to related parties, transactions with related parties, accounting policies, business models, management, governance (including major share ownership and voting rights) and compensation practices. The scope and content of the information provided and the level of disaggregation and detail are commensurate with the risk profile and systemic importance of the bank. At least for internationally active banks, disclosure requirements are not less stringent than the applicable Basel standards.
Description and Findings re EC2	See EC1. Article 961(c) of the Federal Act on the Amendment of the Swiss Civil Code sets out the requirements for the Management Report including that it presents the business performance and the economic position of the undertaking and, if applicable, of the corporate group at the end of the financial year from points of view not covered in the annual accounts. The structure of the annual report is set out in Appendix 1 of the BO and includes quantitative and qualitative explanations about the bank's risks and financial situation; disclosures to related parties; accounting and valuation principles. Circular '2020/1

[114] In this essential criterion, the disclosure requirement may be found in applicable accounting, stock exchange listing or other similar rules, instead of or in addition to directives issued by the supervisor.

	Accounting' and Circular 2010/1 'Remuneration schemes' set out further disclosure requirements. Circular 2016/1 'Disclosure' sets out the Pillar 3 requirements including the bank's risk management approach; significant shareholders; composition, professional history and education of the individual members of the board of directors and executive board; the bank's strategy and how the business model interacts with the overall risk profile. As described in EC1 certain proportionality measures apply.
EC3	Laws, regulations or the supervisor require banks to disclose all material entities in the group structure.
Description and Findings re EC3	Annex 2, Table 1 of 2016/1 requires that banks disclose the following semi-annually: • The description of the scope of consolidation relevant to the calculation of capital adequacy, specifying the material differences compared with the scope of consolidation for accounting purposes; • The names of the significant group companies included in the scope of accounting consolidation but not in the scope of regulatory consolidation, and vice versa. The total assets and capital are also to be disclosed, and a description given of the main activities; • The names of the significant group companies that are fully or proportionally consolidated. Any differences between the methods used for accounting consolidation and regulatory consolidation are to be disclosed and reasons given; • The names of significant participations that are not fully or proportionally consolidated, specifying their treatment for capital adequacy purposes (deduction or weighting); • Information on material changes in the scope of consolidation compared with the previous year; • Information on any restrictions preventing the transfer of funds or capital within the group.
EC4	The supervisor or another authority effectively reviews and enforces compliance with disclosure standards.
Description and Findings re EC4	The annual report ais audited as part of the financial audit. Per Margin No. 54 of FINMA circular 2016/1, the Pillar 3 disclosures are reviewed as part of the regulatory audit although to the extent that figures included in the Pillar 3 disclosures are also included in the financial statements, they will also be captured by the financial audit. FINMA may perform ad hoc checks if errors are identified in the electronic supervisory reporting. Currently the Pillar 3 disclosures are not loaded automatically on to the FINMA supervisory system. As such, there is no automated checking that these disclosures align with supervisory data, although some supervisors do manual checks for consistency. However, as noted above, these disclosures are reviewed as part of the regulatory audit. 'SIX Exchange Regulation' the body that regulates and monitors exchange participants and issuers on the Swiss Stock Exchange also performs additional reviews of financial statements of listed companies which apply IFRS, US GAAP or Swiss GAAP for banks. FINMA has no visibility of this work although in the past there has been agreement between both regulators to exchange information on any breach of rules on financial reporting.

	The FAOA also reviews the work of audit firms and is responsible for any enforcement actions.
EC5	The supervisor or other relevant authorities regularly publish information on the banking system in aggregate to facilitate public understanding of the banking system and the exercise of market discipline. Such information includes aggregate data on balance sheet indicators and statistical parameters that reflect the principal aspects of banks' operations (balance sheet structure, capital ratios, income earning capacity and risk profiles).
Description and Findings re EC5	SNB publish aggregated banking data including on balance sheet structure, capital ratios, income earning capacity. Different data sets are published annually, quarterly and monthly. Data on risk profiles is not published. Since 2016, FINMA also publishes key metrics for banks annually on its website using publicly available data.
Assessment of Principle 28	C
Comments	In the assessors' view, the disclosure and transparency provisions are deemed compliant. FINMA should follow up with 'SIX Exchange Regulation' in relation to their reviews of the financial statements of listed banks which apply IFRS, US GAAP or Swiss GAAP to ensure that they are aware of any discrepancies found. The inclusion of Pillar 3 disclosures in the FINMA supervision system would also assist in the identification of any inconsistencies between the regulatory data reported to FINMA and the banks' public disclosures.
Principle 29	**Abuse of financial services**.[115] The supervisor determines that banks have adequate policies and processes, including robust and risk-based[116] customer due diligence (CDD) rules and effective compliance functions to promote high ethical and professional standards in the financial sector and prevent the bank from being used intentionally or unintentionally for criminal activities.[117]
Essential Criteria	
EC1	Laws or regulations establish the duties, responsibilities and powers of the supervisor related to the supervision of banks' internal controls and enforcement of compliance with the relevant laws and regulations regarding criminal activities.
Description and Findings re EC1	The regulatory basis for FINMA's supervision is governed in FINMASA. The basic principles of FINMA's duties, responsibilities and powers related to the supervision of financial institutions are set out in Article 24 ff. In particular, Article 24 FINMASA outlines the legal basis for

[115] Reference documents: FATF Recommendations (February 2012, as amended in November 2023); BCBS, Sound management of risks related to money laundering and financing of terrorism, July 2020; FATF, Guidance on risk-based supervision, March 2021; FATF, Guidance on correspondent banking services, October 2016; FATF, Risk-based approach guidance for the banking sector, October 2014; BCBS, Shell banks and booking offices, January 2003.

[116] Adopting a risk-based approach will enable competent authorities and banks to ensure that measures to prevent or mitigate money laundering and terrorist and proliferation financing are commensurate with the identified risks.

[117] The Committee is aware that, in some jurisdictions, other authorities, such as a financial intelligence unit, may have primary responsibility for assessing compliance with laws and regulations regarding criminal activities in banks, such as fraud, money laundering and terrorist and proliferation financing. Thus, in the context of this principle, "the supervisor" might refer to such other authorities, particularly in Essential Criteria 7, 8 and 10. In such jurisdictions, the banking supervisor cooperates with such authorities to achieve adherence with the criteria set out in this principle.

	FINMA's mandate to perform reviews, carried out either by itself, or by auditing firms or third parties. Among the FINMA's powers, as set out in FINMASA, in addition to FINMA's duty to restore compliance with the law if a supervised person or entity violates provisions of any financial market act, including the AMLA (Art. 31), are FINMA's power: • to issue a declaratory ruling if a supervised person or entity has seriously violated supervisory provisions but there is no longer a need to order measures to restore compliance with the law (Art. 32), • to issue a prohibition from practicing a profession or performing an activity (Art. 33 and Art. 33a), • to publish a supervisory ruling and disclose relevant personal data (Art. 34), • to confiscate profits (Art. 35), • to appoint an independent agent to investigate or to implement supervisory measures that it has ordered (Art. 36), or • to revoke licenses, withdraw the recognition or cancel the registrations of a supervised person or entity (Art. 37). As noted under the FATF standard (see footnote 88) and for completeness, Recommendation 27 under the FATF expects FINMA to have the power to impose a financial sanction, which FINMA is not able to do, as discussed above in the context of CPs 1 and 11. Further relevant rules are set out in the BA and BO. The BA includes, besides requirements for the authorization of banks through FINMA (Art. 3ff.), FINMA's duties and powers with regard to systemically important banks (Art. 7ff) and also rules with regard to the supervision through FINMA. These rules supplement the FINMASA regulations on FINMA's mandate to perform reviews, carried out either by itself, or by auditing firms or third parties (FINMASA Art, 24, BA Art. 23), the institution's duty to provide information and to report (FINMASA Art. 29, BA Art. 23bis) and defines further powers (BA Art, 23ter and Art. 23quinquies). The BO supplements and/or details these regulations. In particular, under Art. 1 para. 1 let. f FINMASA, FINMA is empowered to supervise compliance with the Anti-Money Laundering Act (AMLA) in which the specific duties, responsibilities, and powers regarding the supervision of financial intermediaries' obligations towards the prevention of ML/TF are set out, notably in Art. 12 and Art 17. Additionally, AMLA Art 16 Art. 16 AMLA states that FINMA (and other relevant authorities) shall immediately submit a report (SAR/STR) to the Reporting Office (MROS) if a report has not already been filed by the financial intermediary or SRO and they have a reasonable ground to suspect that: a. criminal offence under Article 260ter, 305bis or 305ter SCC has been committed; b. assets are the proceeds of a felony or an aggravated tax misdemeanor under Article 305bis number 1bis SCC; c. assets are subject to the power of disposal of a criminal or terrorist organization; or d. assets serve the financing of terrorism (Art. 260quinquies para. 1 SCC).

	Furthermore, Art. 12 establishes that FINMA shall supervise, compliance by financial intermediaries with the duties under Chapter 2, which includes their duties in the event of a suspicion of money laundering. AMLA Art. 17 para 1. Let a requires FINMA to specify the duties of due diligence for certain financial intermediaries in an ordinance, which FINMA has issued: Anti-Money Laundering Ordinance FINMA, (AMLO-FINMA). The ordinance itself defines certain duties, responsibilities and powers with regard to FINMA's supervision (e.g., Art. 3, which sets out scope of application, a risk based approach to implementation of due diligence obligations and disclosure of FINMA's practice in that regard), Art. 9 (that violation of the provisions of the Ordinance or of a self-regulation recognized by FINMA may call into question the guarantee of irreproachable business conduct required of the financial intermediary, and that grave violations may lead to a prohibition from practicing a profession (Art. 33 FINMASA) or confiscation of profits (Art. 35 FINMASA).), Art. 11, para. 5 (waiver of due diligence obligations provided that the applicant has demonstrated that AML/CFT risk is low as stated in Art. 7a AMLA). FINMA has, also issued the circular 2011/1 specifying the requirements of the Anti-Money Laundering Ordinance (AMLO) on the applicability of the AMLA and further AML circulars, as authorised by FINMASA Art. 7, para. 1, let. b. Further, FINMA also communicates important information to supervised institutions with the aim of providing regular updates on financial crime risks and regulatory developments at the national and international level, including sanctions and embargoes. Additionally, FINMA provides financial intermediaries with guidance on regulatory matters. For example, FINMA has recently published the guidance on the money laundering risk analysis pursuant to Article 25 para. 2 AMLO-FINMA. Please see also EC 13. In practice, adherence to laws, ordinances and circulars are mostly assessed through regulatory audits by external auditors. Standard operating procedures require regulatory audits to review the issue annually and audit at least once in every three years. (Also see CP8)
EC2	The supervisor determines that banks have adequate policies and processes that promote high ethical and professional standards and prevent the bank from being used intentionally or unintentionally for criminal activities. This includes the monitoring, detection and prevention of criminal activity, and reporting of such suspected activities to the appropriate authorities.
Description and Findings re EC2	The broad standards are covered in the BA that states that the persons responsible for the administration and management of the financial institution must enjoy a good reputation, guarantee proper business conduct as well as compliance with their duties in accordance with the BA (Art. 3, para. 2, let. c and Art. 3f, para. 1 BA). These requirements apply to Directors and senior management as discussed in CP3 above. Additionally, as noted above in EC1, Art. 9 AMLO-FINMA provides that violations of AML regulations may call into question the guarantee of irreproachable business conduct. Banks, incl. group of banks and financial conglomerates, are required to be organized in a way that they can identify, manage and monitor all relevant risks. They must define their risk management framework as well as processes and responsibilities for approving risk bearing

	business within internal policies and guidelines and are responsible for an effective internal control system (Art. 3f, para. 2 BA, Art. 12, para. 2 and 4 BO). FINMA circular 2017/1 "Corporate governance – banks" specifies the requirements regarding risk management processes and the internal control system in general. More specific standards are addressed in the AMLA and AMLO-FINMA. The general and enhanced due diligence duties (including the verification of the identity of the customer, establishing the identity of the beneficial owner, the nature and purpose of the business relationship and clarifications regarding the economic background and the purpose of a transaction or of a business relationship) are set out in AMLA (Arts 3 to 6). AMLO-FINMA elaborates on the details on general (Art. 9a – 12) and enhanced (Art. 13 – 21) due diligence duties, covering the identification, monitoring and handling of business relationships with increased risks, including PEP, as well as transactions with increased risks (Art. 9a – 21). Banks are also required to follow the Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB 20) for the verification of the identity of the contracting partner and establishment of the identity of the beneficial owner (Art. 35 AMLO-FINMA). In other words the aspects of CDB 20 which cover due diligence are binding for banks as these sections are, as indicated in CDB 20 Art 2 para 1, intended to specify certain due diligence obligations regulated in the Anti-Money Laundering Act (AMLA) (Articles 3 to 5 AMLA) as well as the concept of "due diligence required by the circumstances" when receiving assets in accordance with Article 305ter of the Swiss Criminal Code (SCC). Measures that banks are required to take to prevent ML/TF and ensure that their staff receive adequate training and that checks are carried out are specified in AMLA Art. 8. Banks must set up a AML specialist unit (Arts. 24 and 25 AMLO-FINMA). Banks must designate one or more qualified persons as the specialist unit. Among the AML specialist unit's responsibilities is establishing internal policies and guidelines, planning and supervising internal training and supervising adherence to AML/CTF requirements. Financial intermediaries are also required to establish internal policies and guidelines on combating ML/CF (Art. 26). AMLO-FINMA (Art. 27) further states that the combating of money laundering and terrorist financing requires adequately qualified employees who act with integrity. The AMLO-FINMA also specifies that financial intermediaries may not maintain business relationships with companies and persons, that it knows or must assume finance terrorism or form a criminal organization, belong to such an organization or support such an organization, and may not accept any assets which he knows or must assume to be the proceeds of a felony or an aggravated tax misdemeanor, even if the crime or offence was committed abroad (Arts. 7 and 8). Duty to report in the event of a suspicion of money laundering is governed in Art. 9 of the AMLA. A financial intermediary must immediately file a report with the Money Laundering Reporting Office Switzerland (MROS) (as defined in Article 23 AMLA) if it knows or has reasonable grounds to suspect that assets involved in the business relationship are connected to an offence (in terms of Art. 260ter (criminal or terrorist organization) or 305bis (money laundering) of the Swiss Criminal Code (SCC)), are the proceeds of a felony or

	3aggravated tax misdemeanor, are subject to the power of disposal of a criminal or terrorist organization or serve the financing of terrorism. If a bank cannot dispel suspicion despite further checks it must make a report. Over the last ten years, the number of reports filed to MROS has increased by approximately 20-30 percent per year, rising from 1,753 in 2014 to approximately 21,400 in 2023 (11,876 reports filed). Since 2020, the number of filed reports has more than doubled (total of 5,334 reports filed in 2020 vs. total of 11,876 reports filed in 2023). In 2023 alone the number of filed reports increased by 56 percent from total 7,639 reports filed in 2022 to total 11,876 reports filed in 2023 (of which 90.5 percent comes from the banking sector). The most recent annual report of the financial intelligence unit (FIU) (the Money laundering Reporting Office of Switzerland (MROS)) remarks on the high incidence of reporting and suggests that there are a range of reasons behind the increase. One is the continuous expansion of regulatory due diligence and reporting requirements since 2013 which it observes has resulted in a significant tightening of financial market supervision and enforcement. Additionally, there have been high profile corruption and money laundering incidents involving the Swiss banking sector which have heightened awareness of the importance of effectively combating money laundering among financial intermediaries. The MROS also noted that many banks have increased staffing in their compliance and financial crime departments and have been supported by technological progress, including the switch away from paper-based reporting over the period. More information can be found in the most recent annual report of 2023 of MROS: Publications of the Money Laundering Reporting Office Switzerland (MROS). When FINMA goes onsite they explained they check educational background, the training the bank provides, the seniority of the person in the AML/CFT specialist unit, whether the individual is fit and proper, and whether AML training is carried out by the unit. Lately the focus has been on sanctions. There is a conduct survey carried out by FINMA that covers some aspects of the AML work and the control checks on the control environment are carried out by the auditors. The auditors are expected to check that training takes place regularly. Furthermore, FINMA collects information on AMLA training from all banks on an annual basis. Where it carries out on-site inspections itself, it also checks the training requirements. For other institutions, the audit is carried out as part of the audit by the regulatory audit firms. FINMA noted that the mechanics of conduct supervision differ from prudential supervision. In the conduct area, FINMA supports its supervision with data-based risk assessments. To this end, it collects over 100 data points on conduct risks every year. These are weighted and analyzed to identify the banks with the highest inherent risks. This data is supplemented with additional data points from ongoing supervision, on-site audits and supervisory audits by the audit firms. The high-risk institutions are then identified as part of a dedicated process and placed on the so-called “high-risk list”. The institutions on this list are informed that they are on the high-risk list and each institution is treated with specific supervisory measures. Internal guidelines define which measures FINMA takes (e.g., on-site audits, additional audits, desk-reviews, etc.). FINMA thought that the experience of high-profile banks being subject to enforcement by FINMA due to AML/CFT failures had been salutary for the Swiss market. Banks had changed substantially since 2017, if not in every area. While acknowledging that it

	will take some years to change behaviour on risk appetite, FINMA has taken the initiative on both the regulatory and business conduct side to address banks' business models and risk tolerance. Banks must submit risk analyses as well as the risk tolerance statement of the Boards and FINMA observed that they were challenging the banks as they were finding laxity in respect, for example of inappropriate risk analysis and lack of definition in the risk tolerance statements. The aim is to address the tone from the top and FINMA has published supervisory guidance to support such risk analysis and clarify what they expect in terms of such risk tolerance in the banks. It is one of the avenues through which FINMA is seeking to address the banks' risk culture and represents a substantial investment of FINMA resources.
EC3	In addition to reporting to the financial intelligence unit or other designated authorities, banks report suspicious activities and incidents of fraud to the banking supervisor if such activities/incidents are material to the safety, soundness or reputation of the bank.[118]
Description and Findings re EC3	FINMASA creates a duty to provide information and to report. Under Article 29 para. 2 of the FINMASA, supervised persons and entities "must also immediately report to FINMA any incident that is of substantial importance to supervision." This includes any incidents related to fraud and other activities/incidents that are material to the safety, soundness or reputation of the bank. Further, under Article 22a AMLO-FINMA, the banks must inform FINMA of reports filed with MROS which concern business relations with significant assets or where it can be assumed that, based on the circumstances, the events giving rise to such a report could affect the reputation of the financial intermediary and that of the Swiss financial center. Additionally, AMLO-FINMA defines specific situations which could ultimately lead to having a material impact on the safety, soundness or reputation of the bank, where bank is required to inform FINMA: • if local requirements of a foreign jurisdiction where it operates a subsidiary or branch conflict with Swiss AML/CFT regulations (Art. 5, para. 3); and • if access to information on the contracting partner, controlling person or beneficial owners are restricted in certain countries where it operates a subsidiary or branch (Art. 6, para. 3).
EC4	If the supervisor becomes aware of any additional suspicious transactions, it informs the financial intelligence unit and, if applicable, other designated authorities of such transactions. In addition, the supervisor directly or indirectly shares information related to suspected or actual criminal activities with relevant authorities, in a timely manner.
Description and Findings re EC4	The AMLA (Art 16) places an obligation on FINMA to inform MROS if there are reasonable grounds to suspect that a criminal offence under Art. 260ter, 305bis or 305ter SCC has been committed or assets are the proceeds of a felony or an aggravated tax misdemeanor, are subject to the power of disposal of a criminal or terrorist organization or serve the financing of terrorism. This duty applies only if the bank has not already reported the transaction to MROS.

[118] In accordance with international standards, banks are to report suspicious activities involving cases of potential money laundering, terrorist financing and proliferation financing to the relevant national center, which is established either as an independent governmental authority or as a department within an existing authority or authorities that serves as a financial intelligence unit.

	FINMA and MROS may provide each other any information or documents required for the enforcement of the AMLA under Article 29. Also, prosecution authorities may provide the supervisor with any information and documents that it requires to fulfil its duties (Art. 29a AMLA). FINMASA provides the legal basis for mutual and administrative assistance between the supervisor and the prosecution authorities of the Confederation and the cantons or other domestic authorities (Arts. 38 and 39). The authorities coordinate their investigations as far as it is practicable and required. Where the supervisor obtains knowledge of common law felonies and misdemeanors or of offences against FINMASA or the financial market acts, it shall notify the competent prosecution authorities. The Federal Act on the Implementation of International Sanctions (Embargo Act, EmbA), enables the responsible authorities of the Confederation together with the cantonal and communal police authorities to disclose data to each other and to the relevant supervisory authorities in the area of sanctions and proliferation financing provided that this is necessary for the implementation of the EmbA and related ordinances.
EC5	The supervisor determines that banks establish CDD policies and processes that are well documented and communicated to all relevant staff. The supervisor also determines that such policies and processes are integrated into the bank's overall risk management and include appropriate steps to identify, assess, monitor, manage and mitigate the risks of money laundering, terrorist financing and proliferation financing with respect to customers, countries and regions, as well as to products, services, transactions and delivery channels on an ongoing basis. The CDD management programme, on a group-wide basis, has as its essential elements: (a) a customer acceptance policy that identifies business relationships that the bank will not accept (or will be terminated) based on identified risks; (b) an ongoing customer identification, verification and due diligence programme, which encompasses verification of beneficial ownership, understanding the purpose and nature of the business relationship, and risk-based reviews to ensure that CDD information is updated and relevant; (c) policies and processes to monitor transactions on an ongoing basis and identify unusual or potentially suspicious transactions as well as those individuals or entities subject to the United Nations sanctions related to terrorism and proliferation financing; (d) enhanced due diligence on high-risk accounts (eg escalation to the bank's senior management of decisions on entering into business relationships with these accounts or maintaining such relationships when an existing relationship becomes high-risk); (e) enhanced due diligence on politically exposed persons (including their family members and close associates) encompassing, among other things, escalation to the bank's senior management of decisions on entering into business relationships with these persons; and (f) clear rules on what records must be kept on CDD and individual transactions and their retention period. Such records have at least a five-year retention period.

Description and Findings re EC5	Risk control and risk management requirements are set out in the BA, BO as well as FINMA circular 2017/1 "Corporate governance – banks" (Art. 3f, para. 2 BA, Art. 12, para. 2 and 4 BO). The risks banks identify, mitigate and monitor, include in their risk management framework, their processes and responsibilities internal policies and guidelines include risks related to money laundering and terrorist financing. The group-wide programs against ML/TF apply to all branches and majority-owned subsidiaries of the financial group (Art. 5 AMLO-FINMA, in particular Art. 5 para. 1 AMLO-FINMA). Requirements for the provision, at group-level compliance, audit, and/or AML/CFT functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes are covered under Art. 6 para. 2 let. a and b AMLO-FINMA. Safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off are addressed under the Circular 2023/1 Operational risks and resilience – banks (in particular Margin no. 71 – 82 which covers Critical Data Risk Management and is expressed in high level principles). Also, under AMLA the author of a suspicious transaction report (STR) may not be prosecuted for a professional or commercial breach of confidentiality or be held liable for breach of contract if the STR is made in good faith (Art. 11 para. 1). This exclusion applies to financial intermediaries, their directors, officers and employees. Furthermore, the AMLA sets out the principle that financial intermediaries must not inform either the persons concerned or any third party that they have made an STR (Art. 10a para. 1) or disclosed information to MROS (Art. 11a para. 4). The banks' customer due diligence (CDD) duties are set out in Chapter 2 of the AMLA. These include: verification of the identity of the customer, establishing the identity of the beneficial owner, ascertaining the nature and purpose of the business relationship and additional clarifications regarding the economic background and the purpose of a transaction or of a business relationship. FINMA specifies these duties and stipulates how they must be fulfilled in the AMLO-FINMA which includes details on general (Art. 9a – 12 AMLO-FINMA) and enhanced due diligence duties (Art. 13 – 21 AMLO-FINMA). Enhanced due diligence covers the identification, monitoring and handling of business relationships with increased risks, including politically exposed persons (PEPs) (as well as their family members and close associates), and transactions with increased risks. As noted in EC2 above, Art. 35 AMLO-FINMA imposes the obligations of the Agreement on the Swiss banks' code of conduct with regard to due diligence (CDB 20). In terms of internal policies, as noted in EC 2, banks must establish a specialist unit for combating money laundering and the financing of terrorism, which is responsible, amongst other duties, for establishing internal policies and guidelines (Arts. 24 and 25 AMLO-FINMA). Banks are also required to establish internal policies and guidelines on AML/CFT (Art 26). Among other requirements, these internal policies must include: the criteria used in identifying and detecting business relationships and transactions with increased risks, the basic principles for monitoring, when the AML/CFT specialist unit must be involved and the senior executive body notified, the company policy on PEPs, the banks' method for recording, limiting and monitoring increased risks as well as the thresholds set for business relationships and transactions with increased risks. Banks must conduct a risk analysis covering ML/TF risks on a periodic basis (Art. 25, para. 2 AMLO-FINMA). This analysis needs to be in the context of the bank's business activities and

types of business relationships. It needs to cover customer segments, countries and regions as well as products and services. Banks are supported by FINMA's "Guidance 05/2023 – Money laundering risk analysis pursuant to Article 25 para. 2 AMLO-FINMA. The Guidance covers the supervisor's expectations on AML specific risk analysis.

In terms of how the risk analysis is conducted, a bank is required, (Article 3 para. 2 let. a BA in conjunction with Article 12 para. 2 BO and Article 8 AMLA) to capture, limit and monitor, among other things, its money laundering risks (including combating terrorist financing). The bank must also define the basic features of risk management (margin no. 10 FINMA Circ. 17/1,) and, pursuant to Article 19 AMLO-FINMA, the responsibility and procedure for approving transactions involving risks in internal regulations or guidelines is allocated to the most senior level of management.

FINMA expects financial intermediaries to take into account the findings of the National Risk Analysis (which also significantly incorporates the findings of the FIU) and the findings of the FINMA Risk Monitor into their money laundering risk analysis, provided that the corresponding risks are relevant to the bank's business activities. FINMA noted that they regularly saw the FINMA Risk Monitor as well as the National Risk Analysis referenced in the banks' money laundering risk analysis.

It should be noted that the AML framework is in the process of being further strengthened at the time of the FSAP, to reflect changes made to the FATF Framework in 2020 (Recommendations 1 and 2). A bill has been drafted that includes planned changes to Art. 8 AMLA which aim to strengthen the instruments to prevent proliferation financing. The amendments focus on requirements for banks to identify, measure and assess the risk of violating, circumventing or not effectively implementing sanctions to combat proliferation financing as well as implementing measures to manage and mitigate these risks (dispatch on strengthening anti-money laundering framework, page 75, chapter 4.1.2.4.).

In terms of group risks, banks with foreign branches or which control a financial group with non-Swiss group companies, are required to identify, mitigate and monitor the legal and reputational risks associated with money laundering or the financing of terrorism at the global level (Art. 6 AMLO-FINMA). Therefore, banks forming part of a financial group, either from Switzerland or abroad, shall allow the group's internal control bodies and audit company of the group to access any information which may be required concerning specific business relations, provided that such information is essential for the management of legal and reputational risks at the global level. Furthermore, banks shall ensure that their branches or group companies abroad operating in the financial sector comply with the core principles of AMLA and AMLO-FINMA (Art. 5 AMLO-FINMA).

(a) Customer Acceptance Policy

If doubts arise concerning the accuracy of the customers declaration or whether the controlling person or the beneficial owner are still the same, procedures concerning the identification of the contracting partner, the determination of the controlling person and the beneficial owner must be repeated (Art. 5 AMLA, Art. 46 CDB 20). If doubts cannot be dispelled or if the bank determines that it was deceived or that false information was deliberately provided, the bank must refuse to establish the business relationship or to execute the transaction or it must terminate the existing business relationship (unless the

	requirements for the reporting duties in accordance with Art. 9 AMLA are fulfilled) (Art. 46 CDB 20). Banks must ascertain the nature and purpose of the customer's business (Art. 6, para. 1 AMLA). The extent of the information that must be obtained, the hierarchical level at which the decision to enter into or continue a business relationship must be taken and the regularity of checks are determined by the risk represented by the customer. Banks are not allowed to accept assets that they know, or are expected to know, are proceeds of criminal activities, neither are banks permitted to maintain business relations with shell banks or with any individuals or undertakings of which they know or must assume constitute a terrorist or criminal organization, or which are affiliated to, or support or finance such an organization (Art. 7 and 8 AMLO-FINMA). *(b) Ongoing CDD* Requirements regarding the initial verification of the identity of the customer and identity and verification of the beneficial owner are set out in Art. 3 and 4 AMLA. If the contracting partner is not the same as the beneficial owner, or if this is in doubt, if the contracting partner is a domiciliary company or an operating entity or if a cash transaction of considerable financial value with a customer, whose identity has not yet been identified, is being carried out, the banks must require the contracting partner to provide a written declaration of the identity of the beneficial owner. If doubt arises in the course of the relationship as to the identity of the customer or of the beneficial owner, the verification of identity or establishment of identity in terms of Articles 3 and 4 respectively must be repeated (Art. 5 AMLA). The value of cash transaction considered to be of considerable financial value is CHF 15'000 (Art. 51 para. 1 let. b AMLO-FINMA, Art. 4 para. 2 let. g CDB 20). It should be noted that verification of identity is always required (independent of the transaction amount) if there are any indications of money laundering or terrorist financing (Art. 51 para 3 AMLO-FINMA). However, there are circumstances under which a financial intermediary can waive or benefit from simplified due diligence requirements. These are set out under Arts. 11 and 12 AMLO-FINMA and relate to: long-term business relationships with contracting parties in the field of means of payment for cashless payment transactions that are used exclusively for cashless payment of goods and services and issuers of means of payment. For credit cards, debit cards and pre-paid cards of low value, general due diligence requirements apply. The AMLA requires banks to periodically check the required records to ensure that they are up to date and update them if need be. The periodicity, scope and type of checking and updating are based on the risk posed by the customer (Art. 7, para. 1bis AMLA). A bank may instruct a third party to identify the contracting partner, or determine the controlling person and the beneficial owner under Art. 28 and 29 AMLO-FINMA although the bank remains responsible for the fulfilment of the tasks carried out by the third party. *(c) Monitoring Transactions* AMLO-FINMA requires banks to provide for an effective monitoring of the business relationships and transactions to ensure that increased risks are identified (Arts. 13 and 20

	AMLO-FINMA). Senior management is required to establish processes for a periodic review of business relationships with increased risks (Art. 19 para. 1 AMLO-FINMA). Monitoring includes the following criteria:– amount, location the transaction goes to, dynamic status, comparison to other clients and other banks. There is a broad set of criteria including both dynamic and static elements. FINMA is not only looking for amount but patterns. FINMA noted that they saw AI is being employed more and more by banks' own monitoring systems. AMLO-FINMA Art. 14 and Art. 15 further specifies in this regard that the financial institution must define criteria which indicate higher risks and performs additional clarification in the case of higher risks. Banks must have internal guidelines, adopted by the Board, with the basic principles for monitoring transactions as well as the criteria to identify transactions with increased risk (Art. 14 para 1 and Art 26 para 2 let b AMLO-FINMA) Further to Art 20 of AMLO-FINMA which addresses the supervision of banks' business relationships and transactions banks must ensure an effective transaction monitoring, operate an IT-supported system to assist in identifying the transactions with increased risks and assess the identified transactions within an adequate timeframe (Art. 20, paras. 1-3 AMLO-FINMA). The bank's AML/CFT specialist unit must define the parameters for identifying the transactions with increased risks and initiating the analysis (Art. 25 AMLO-FINMA). The appendix to AMLO-FINMA outlines transactions to be classified as transactions with increased risks in addition to Art. 14 AMLO-FINMA. FINMA is responsible for monitoring the supervisory organizational provisions in the area of financial market law. These provisions require banks to adequately identify, limit and monitor all risks, including legal and reputational risks, and to establish an effective internal control system. In addition to ensuring compliance with Swiss sanctions, this also includes limiting the risks associated with violations or circumventions of foreign sanctions. *(d) Enhanced Due Diligence on High-risk Accounts* AMLO-FINMA sets out detailed requirements regarding enhanced due diligence in Arts. 13 – 21: The bank is required to establish criteria for the identification of business relationships with increased risks. Banks must identify and label any business relationships involving higher risk (Art. 13). The article outlines certain criteria which always lead to increased risks, e.g., foreign PEPs (including their family members and close associates), correspondent banking relationships or relationships with persons domiciled in a country classified by FATF as "high risk" or not cooperative. It further outlines potential criteria and requires the financial intermediary to determine based on its AML/CFT risk analysis which criteria are applicable in the context of its business activities and customer structure. For business relationships or transactions with increased risks the financial intermediary is required to perform additional clarifications with regard to the nature and purpose of the business relationship or transaction (Art. 15 AMLO-FINMA). The additional clarifications under Art. 15 AMLO-FINMA may also lead to the termination of the business relationship or to a report to the FIU. AMLO-FINMA (Art 16) defines potential means the bank has to use for its additional clarifications and clarifies that the results need to be checked for their plausibility. It also

	emphasizes (Art. 17) that as soon as increased risks are recognizable, the additional clarifications have to be initiated immediately and conducted as quickly as reasonable. Establishing business relationships with increased risks requires the approval of a senior person or body or the executive management (Art. 18 AMLO-FINMA). In accordance with Art. 19, para. 1, let. a AMLO-FINMA, the senior executive management, or at least one of its members, is required to approve the establishment of certain business relationships with increased risks (e.g., correspondent banking relationships or relationships with persons domiciled in a country classified by FATF as "high risk" or not cooperative). Art. 19, para. 1, let. b AMLO-FINMA requires senior executive management to establish processes for a periodic review of business relationships with increased risks. The specialist unit for combating money laundering and the financing of terrorism is responsible for initiating or conducting additional clarification in accordance with Art. 15 on business relationships with increased risks as well as ensuring that the responsible management body obtains an adequate information basis to decide on the acceptance or continuance of a business relationship in accordance with Art. 19 (Art. 25 AMLO-FINMA). Under Art. 26 AMLO-FINMA, banks must issue internal guidelines which define, among other items, the criteria to be applied in identifying business relationships with increased risks, the cases in which the internal AML/CFT specialist unit must be involved and the senior executive body notified, the method in which the bank records, limits and monitors the increased risks as well as the threshold amounts pursuant to business relationships with increased risks. The directives must be adopted by the board of directors or the senior executive management. *(e) Enhanced Due Diligence on Politically Exposed Persons (PEPs)* Based on Art. 13 AMLO-FINMA, the financial intermediary is required to establish criteria for the identification of business relationships with increased risks. Art. 13, para. 3 outlines that foreign PEP (including their family members and close associates) are, in all cases, deemed to be business relationships with increased risks. Business relationships with domestic PEPs (including family members and close associates) are deemed to be business relationships with increased risks in combination with one or more additional risk criteria (Art. 13, para. 4 AMLO-FINMA). Therefore, the above outlined enhanced due diligence requirements according to Art. 13, para. 5 and 6 as well as Art. 15 – 17 and Art. 19, para. 1, let. b AMLO-FINMA apply also for PEPs (including their family members and close associates). FINMA noted that Arts 13-14 of AMLO-FINMA cover heightened risks. If there is a high risk relationship, including a PEP FINMA would ask for much more sophisticated KYC information than retail client. FINMA's view is that if the bank cannot contain the risk then they cannot take the clients. FINMA has focused on the risk appetite of the bank. In practice this means that Boards are expected to determine which clients they are willing to take and which are deemed to be too risky and will be prohibited. The senior executive body, or at least one of its members, must decide on the acceptance of business relationships with PEPs, and, on an annual basis, the continuation of such relationships (Art. 19, para. 1, let. a AMLO-FINMA). *(f) CDD Retention*

	Banks must keep records of transactions carried out and CDD clarifications required in such a manner that other specially qualified persons are able to make a reliable assessment of the transactions and business relationships and of compliance with the AMLA provisions (Art. 7 para. 1 AMLA). The financial intermediary must periodically check the required records to ensure that they are up to date and update them if need be (Art. 7 para. 1bis AMLA). Records must be maintained in such a manner as to be able to respond within a reasonable time to any requests made by the prosecution authorities for information or for the seizure of assets (Art. 7 para. 2 AMLA). Under Article 7 para. 3 AMLA, banks must retain records for a minimum of ten years after the termination of the business relationship or after completion of the transaction. Art. 22 AMLO-FINMA details the requirements of record retention and specifies that the bank is required to prepare, organize and retain it documentation in such a manner that – within a reasonable period of time – FINMA, audit or investigating agents appointed by FINMA, auditors or supervisory organizations are able to form an opinion on the adherence with the AML/CTF requirements and it can respond to any requests made by the prosecution authorities or another empowered authority for information or for the seizure of assets. Additionally, Art. 22a, para. 2 AMLO-FINMA requires the bank to document the reasons for not reporting a transaction or business relationship to MROS in the case that the initially existing reasonable grounds were cleared based on additional clarifications in line with Art. 6 AMLA. In the case of use of third parties (Art. 28 AMLO-FINMA), the financial intermediary is required to obtain copies of the documents required to fulfil its AML/CFT requirements (Art. 29, para. 2 AMLO-FINMA). Banks are also obliged to organize their documentation at least such that they are capable of providing information within a reasonable period of time on the identity of the originator of an outgoing payment order and whether a company or a person is the contracting party or beneficial owner, has placed a cash transaction that requires the identification of the related person, possesses an ongoing power-of-attorney over an account or safekeeping account provided that the company or person is not already listed in a public registry (Art. 39 AMLO-FINMA).
EC6	The supervisor determines that banks have specific policies and processes regarding correspondent banking and other similar relationships, in addition to normal due diligence. Such policies and processes include: (a) gathering sufficient information about their respondent banks to understand fully the nature of their business and customer base, their reputation, how they are supervised and whether they have been subject to money laundering, terrorism financing or proliferation financing investigations or regulatory actions; (b) prohibitions on establishing or continuing correspondent banking relationships with those banks that do not have adequate controls to manage the risk of criminal activities, that are not effectively supervised by the relevant authorities, or that are considered to be shell banks; and

	(c) senior management approval for entering into new correspondent banking relationships.
Description and Findings re EC6	Correspondent business relations with foreign banks must be classified as business relationships with increased risks (Article 13 para. 3 AMLO-FINMA). Foreign correspondent banking relationships are thus subject to enhanced due diligence procedures and the bank is required to perform additional clarifications with regard to the economic background and the purpose of the business relationship in accordance with Art 6 AMLA and Art. 15 AMLO-FINMA as noted in EC5. Specific further clarifications in case of correspondent bank relationships with foreign banks are also required (Article 37, para. 3 AMLO-FINMA): The bank must ascertain which controls for the prevention of money laundering and the financing of terrorism are carried out by the contracting party. The extent of clarification depends on whether the contracting party is subject to adequate supervision and rules relating to the prevention of money laundering and the financing of terrorism. While AMLO-FINMA requires (Art 37) that the bank must consider if a respondent bank is subject to adequate supervision, it does not require or propose any prohibition on business relationships or transactions if a negative finding is made. Given the general weaknesses around determination of practice—e.g., limited scope for FINMA's inspections – unless it is a control check in a regulatory audit, FINMA would not be able to determine this criterion in practice. There is a category of prohibited relationships under AMLO-FINMA (Article 8) but this relationship is not one of them. Banks may not enter into business relationships with shell banks (Art. 8 let. b AMLO-FINMA). The ordinance further clarifies that where a bank settles transactions for a foreign bank it must also ensure that the respondent bank is also prohibited from entering into business relations with shell banks (Art. 37, para. 2). Establishing a business relationship with a respondent bank requires the approval from the senior executive body, or at least one of its members (Art. 19, para. 1, lat. a AMLO-FINMA).
EC7	The supervisor determines that banks have sufficient controls and systems to prevent, identify and report potential abuses of financial services, including money laundering, terrorism financing and proliferation financing.
Description and Findings re EC7	In terms of the regulatory framework, at a general level, the BA and the BO state the fundamental requirements for banks to ensure an adequate supervision of their business activities (Art. 3, para. 2, let. a BA) incl. adequate risk management processes in order to identify, mitigate and monitor its risks, including, among other, reputational, operational and legal risks (Art. 12, para. 2 BO). The bank has to ensure an effective internal control system in order to fulfil these requirements and adherence to applicable laws (Art. 12, para. 4 BO). Financial groups or conglomerates must be organized in a way that all material risks are identified, mitigated and monitored at group level (Art. 3f, para. 2 BA). FINMA circular 2017/1 "Corporate governance – banks" specifies the requirements with regard to risk management processes and the internal control system in general. In the context of AML/CFT, Art. 6 AMLO-FINMA requires a financial group to identify, mitigate and monitor the related risks also for foreign group entities and/or branches. Art. 8 AMLA specifies that a financial institution must take the measures that are required to

	prevent ML/TF. As discussed, notably in ECs 2 and 5 there is an iterated framework of supervisory expectations around systems and controls. The annual regulatory audit, conducted at all banks, covers broad compliance issues, and is better suited to issues related to abuses of financial services. Unlike the prudential areas, the category 4 and 5 banks are not exempted and are thus not subjected to lighter standards in conduct review or examination. The AML team is trying to expand their direct onsite coverage as much as resources allow.
EC8	The supervisor has adequate powers to take action against a bank that does not comply with relevant laws and regulations regarding criminal activities.
Description and Findings re EC8	FINMA follows up information it receives on suspected violations of supervisory law and takes action to restore compliance, making use of administrative measures under supervisory law where necessary as discussed in CP 11. As observed in CP 11 EC5, FINMA can open enforcement proceedings against individuals for violations of supervisory law if it finds that a person is responsible for a serious violation of supervisory provisions. For example, FINMA may prohibit this person from acting in a management capacity in the banking sector for a period of up to five years (Art. 33 FINMASA). That said the requirements in relation to AML/CFT apply to institutions or to the Board of the institutions and therefore determining that an individual should be held to account may be problematic. Article 9 AMLO-FINMA specifies that a violation of AMLO-FINMA may call into question the proper business conduct of financial intermediaries and that serious violations may trigger enforcement measures (prohibition from practicing a profession, confiscation of profits, etc.). FINMA is not, though, the responsible authority for defining criminal prosecution measures in the case of criminal activities, as based on Art. 38 para. 3 FINMASA, FINMA must notify the competent prosecution authorities should it obtain knowledge of common law felonies and misdemeanors or of offences against this Act or of the other financial market acts. In terms of the power to impose financial penalties—the last Mutual Evaluation Report for Switzerland identified this as a gap—FINMA noted that the financial market acts have two aspects: supervisory and criminal. FINMA covers the supervisory dimension while the relevant prosecution authority covers the criminal. If FINMA receives or observes indications of any breach of criminal law, they notify the other authorities, which might be Cantonal or Federal. FINMA indicated they are in close connection with both and have regular exchange of information in both direction with both, but it is their discretion to act. FINMA has no powers to impose financial penalties in the event of AML/CFT breaches. The importance of an effective disciplinary framework is illustrated by the growing scale of corporate misconduct. Swiss banks have been implicated in multiple and significant cases of AML in recent years, underlining the importance of a meaningful deterrence at the parent bank.
EC9	The supervisor determines that banks have: (a) requirements for internal audit and/or external experts to independently evaluate the relevant risk management policies, processes and controls. The supervisor has access to their reports;

	(b) effective policies and processes to designate a compliance officer at the bank's management level to manage the financial crimes compliance programme, and a dedicated officer to whom potential abuses of the bank's financial services (including suspicious transactions) are reported; (c) a compliance function with adequate powers, reporting independence, staff and other resources; (d) adequate screening policies and processes to ensure high ethical and professional standards when hiring staff or when entering into an agency or outsourcing relationship; (e) ongoing training programs for their staff, including on CDD and methods to monitor and detect criminal and suspicious activities; and (f) policies and processes to report criminal activities by staff to competent authorities.
Description and Findings re EC9	(a) The B0 (Art. 12) requires the Bank to implement an adequate risk management framework (para. 2) and also, explicitly an independent internal audit function (para. 4). FINMA has access to all documents through FINMASA Art 29. For further details on the general requirements to establish an internal audit function, please see BCP 26, in particular EC4. (b) Each bank must designate one or more qualified persons to form a specialist unit for AML/CFT (Art. 24 AMLO-FINMA). The AML/CFT specialist unit is responsible, as noted above, for establishing internal policies and guidelines, planning and supervising internal trainings and supervising adherence to the established requirements in relation to AML/CFT. Detailed responsibilities are set out in Art. 25 AMLO-FINMA including the responsibility of the specialist unit for AML/CFT in consultation with internal audit to ensure effective implementation of the internal policies and guidelines on AML/CFT. The specialist unit for AML/CFT must ensure that reports of heightened business risks as identified under AMLO-FINMA Art 25 para 1 let e are reported as required to management under AMLO-FINMA Art 19. The AMLO-FINMA (Art 26 para 1) requires that AML/CFT internal guidelines be issued and adopted by the Board or senior management. Furthermore, Art. 26, para. 2 AMLO-FINMA defines the minimum content of the internal policies and guidelines on AML/CFT, which includes, amongst other, the escalation to the specialist unit for AML/CFT and senior management as well as the definition of roles and responsibilities for the reporting to MROS (let. d and g). The AMLA (Art 9) imposes a duty to report AML/CFT suspicions or knowledge upon a bank. The Swiss Criminal Code (Art 305ter para 2) confirms the entitlement to make a report to the Money Laundering Reporting Office (MLRO) in the Federal Office of Police any observations that indicate that assets originate from a felony or an aggravated tax misdemeanor in terms of Article 305bis number 1bis. AMLO-FINMA (Art. 25a) allows for delegation of the communication of reporting duties to MROS under Art. 9 AMLA or Art. 305ter, para. 2 SCC by "senior management" to the AML/CFT specialist unit, or to a majority independent service. It is therefore clear from the regulatory framework that a bank must establish a specialist AML/CFT unit; have internal guidelines adopted by the Board/Executive Management; that a

	bank has the duty to report relevant AML/CFT suspicions or knowledge; the ability to make reports to the Federal MLRO is confirmed; and that the Board/Executive Management must adopt internal AML/CFT guidelines which include the establishing when Management must be notified and consulted and also establishes the competence to communicate with the MLRO. Despite this range of obligations, however, the regulatory framework falls short in two respects. First, there is no obligation for a member of the Executive Management or Board of Directors to manage compliance with the AML/CFT obligations, Secondly, there is no requirement for an individual to be responsible, e.g., a dedicated officer to whom potential abuses of the bank's financial services (including suspicious transactions) are reported within the bank. Although the law and ordinances ensure that there is Board/Executive Management awareness and generalized responsibility for AML/CFT and that suspicious activities and transactions must be reported, the requirements are not sufficiently specific. Thus, while the function and relevant skill set appears to be required under the law, there is no attempt to ensure either executive responsibility on the part of the bank or individual executive responsibility in the bank. (c) In addition to the broad requirements set out under the BA (Art 3) and BO (Art 12), FINMA circular 2017/1 Margin number (Mn) 62 states that institutions are required to have a compliance function as an independent control body next to the risk control function. Mn. 77 stipulates the duties and responsibilities of the compliance function, like conducting an annual compliance risk assessment and defining an activity plan, and defines requirements with regard to reporting and escalation to the executive board and/or board of directors. The directors are responsible (Mn 13) for ensuring adequacy of personnel and resources to conduct the work. Please see also CP 26, EC3 (d) As an overarching standard, the BA requires that the persons responsible for the administration and management of the financial institution must enjoy a good reputation, guarantee proper business conduct as well as compliance with their duties (Art. 3, para. 2, let. c and Art. 3f, para.1). Art. 8 of the AMLA states that banks must ensure that their staff receive adequate training as part of their requirement to take the measures that are required to prevent money laundering and terrorist financing. Art. 27 of the AMLO-FINMA further states that the AML/CFT requires adequately qualified employees who act with integrity. To achieve this, the bank must ensure proper selection of employees and adequate internal relevant training. When outsourcing business activities to a third party, applicable requirements in general are defined in FINMA circ. "2018/3 Outsourcing". Although ethics are not specifically mentioned, Mn 16 requires "a risk analysis that takes account of the main economic and operational considerations as well as the associated risks. Also, under Mn. 17 the service provider must be chosen with due regard to, and subject to checks of, its professional capabilities as well as its financial and human resources. The institution remains accountable in the same way as if it performed the outsourced function itself. For further details on outsourced services, please see CP 25.

	Art. 28 and 29 AMLO-FINMA defines the rules around involvement of third parties (specifically the delegation of certain due diligence activities, like the identification of the contracting partner, establishment of the controlling person and beneficial owner as well as additional clarifications). The involvement of third parties needs to be agreed in written and the third party is to be selected carefully, needs to be instructed and the financial institution needs to monitor the service provided by the third party. The bank remains responsible for the activities performed by the third party and is required to obtain copies of the documents needed to fulfil its AML/CFT requirements. (e) Art. 8 AMLA requires banks to take measures that are required to prevent money laundering and terrorist financing. It specifies in this context that a bank must in particular ensure that their staff receive adequate training. Also Art. 27 AMLO-FINMA states that AML/CFT requires well trained staff and obliges the bank, besides careful selection of its staff, to ensure periodic training. The specialist unit for AML/CFT is responsible for planning and monitoring the internal training (Art. 24 AMLO-FINMA). It also needs to set out the basic features of the training framework within the relevant internal policies and guidelines (Art. 26, para. 2, let. e AMLO-FINMA). (f) Art. 9 of the AMLA creates the bank's duty to report in the event of a suspicion of money laundering. AMLO-FINMA governs the details around the reporting of suspicious activities: • If the bank does not submit a report to MROS because it has been able to rule out any suspicion itself after making further clarifications pursuant to Article 6 AMLA, it must still document the reasons. (Art. 22a, para. 2 AMLO-FINMA) • Senior management is responsible for deciding on reporting of suspicious transactions to MROS under Art. 9 AMLA or Art. 305ter, para. 2 SCC. (Art. 25a AMLO-FINMA) • The minimum content of the AML/CFT internal policies and guidelines is defined, including the escalation to the specialist unit and senior management as well as the definition of roles and responsibilities for the reporting to MROS (Art. 26, para. 2 let. d and g AMLO-FINMA).
EC10	The supervisor determines that banks have and follow clear policies and processes for staff to report any issues related to the abuse of the banks' financial services to local management and/or the relevant dedicated officer. The supervisor also determines that banks have and utilize adequate management information systems to provide the banks' boards, management and dedicated officers with timely and appropriate information on such activities.
Description and Findings re EC10	FINMA circular 2017/1 "Corporate governance – banks" specifies that the basic features of the institution-wide risk management includes reporting on these risks (mn. 59, 61, 69, 75, 76 and 79 – 81). Further, FINMA circular 2017/1 (mn. 50) states that senior management is – as well as being responsible for developing and maintaining effective internal processes, an ICS and the

	necessary technological infrastructure - also responsible for developing and maintaining an appropriate management information system (MIS) In the specific context of AML/CFT, and as noted above, AMLO-FINMA requires that there is a specialist unit for AML/CFT responsible for establishing internal policies and guidelines on AML/CFT (Art. 24, para. 2) as well as monitoring effective implementation (Art. 25, para. 1, let. a). These guidelines must include clear rules on escalation to the AML/CFT specialist unit and to senior management (Art. 26, para. 2 let. d).
EC11	Laws provide that a member of a bank's staff who reports suspicious activity in good faith either internally or directly to the relevant authority cannot be held liable.
Description and Findings re EC11	According to Art. 11 AMLA, any person who in good faith files a report under Art. 9 AMLA or 305ter para. 2 SCC (or indeed to any person who freezes assets in accordance with Art. 10 AMLA) may not be prosecuted for a breach of official, profession or trade secrecy or be held liable for breach of contract.
EC12	The supervisor, directly or indirectly, cooperates with relevant domestic and foreign financial sector authorities or exchanges information with them regarding suspected or actual criminal activities present in banks, where this information is for supervisory purposes.
Description and Findings re EC12	Please see CP3 for overarching and general exchange of information with domestic and foreign supervisors. FINMASA Art. 42ff. governs the cooperation with foreign bodies. In terms of AML/CFT, AMLA (Art 30) governs information exchange between the Swiss and any foreign Reporting Office. Some provisions are added including the requirement that information is provided subject to guarantees that the foreign authority will use the information solely for the purpose of analysis in the context of combating money laundering and its predicate offences, organized crime or terrorist financing; reciprocation of information exchange; of official and professional secrecy; that information will not be passed onto third parties without the express consent of the Reporting Office; and that the foreign reporting office will comply with the conditions and restrictions imposed by the Swiss Reporting Office. Information that is particularly noted as covered by AMLA includes; the name of the financial intermediary or the dealer, provided the anonymity is preserved of the person making the report or who has complied with a duty to provide information under this Act; account holders, account numbers and account balances; beneficial owners; and details of transactions. Gateways for the Swiss domestic authorities to exchange information to fulfil their duties in particular relation to AML/CFT have been established under AMLA: • Art. 27 AMLA permits the exchange of information between FINMA and the self-regulatory organizations (SROs) • Art. 29 and 29a AMLA governs the cooperation among domestic authorities in the context of AML/CFT under which, for example, the supervisors and MROS may provide each other any information or documents required for the enforcement of the AMLA and fulfilling their duties. • Art. 29b governs the exchange of information between MROS and supervisory organizations (SO) as well as SROs to the extent necessary for the application of the AMLA.

	Federal, cantonal and communal authorities shall pass on all data required for the analysis in relation to combating money laundering, its predicate offences, organized crime or the financing of terrorism to MROS if requested. MROS may provide to those authorities information on a case-by-case basis provided the authorities use the information exclusively for combating money laundering, its predicate offences, organized crime or the financing of terrorism. Also, MROS may provide information from foreign FIUs with their express consent to the supervisors or federal, cantonal or communal authorities provided the authorities use the information exclusively for combating money laundering, its predicate offences, organized crime or the financing of terrorism. According to the most recent annual report of MROS from 2023, the exchange of information between MROS and other Swiss authorities has been increasing steadily. In 2023 MROS received 696 information requests from other Swiss authorities (up 4.3 percent from 2022) and provided information in 200 cases to Swiss supervisory authorities (up 13 percent from 2022).
EC13	Unless another authority is responsible, the supervisor has in-house resources with specialist expertise for addressing criminal activities detected in banks. In this case, the supervisor regularly provides information on the risks of money laundering, terrorism financing and proliferation financing to the banks.
Description and Findings re EC13	FINMA maintains a money laundering and financial crime unit which participates in national risk and threat assessments, supervises financial institutions in the area of AML/CFT as well as supervising SROs, observes international developments, participates in law-making projects at the federal level and specifies the AML/CFT regulation within their area of responsibility as delegated by the law. As part of these tasks, FINMA regularly updates financial institutions on generic financial crime risks as well as regulatory developments at the national and international level, also with regard to sanctions and embargoes. FINMA uses a variety of channels: Annually • The Risk Monitor. It includes money laundering / terrorism financing and sanction related risks. • FINMA annual report - which contains information on FINMA's supervisory practice including in AML/CFT • AML/CFT conference where developments of current risks and insights from FINMA's AML/CFT supervisory activity are discussed FINMA also ensures that it publishes and, as necessary, provides comment on important international development including • International sanctions and independent freezing measures • Financial sanctions against terrorism • FATF statements - regarding deficiencies in AML/CFT in certain countries and necessary countermeasures to be taken FINMA also communicates important information to supervised institutions, by providing them with guidance on regulatory matters within the so called "FINMA Guidance," which are

	targeted at specific groups of supervised institutions, to focus on topical regulatory issues and raise awareness on current risks. Additionally, FINMA collates various publications on selected topics in so called "dossiers" and has a specific dossier on money laundering prevention where all relevant publications are collated. When information on particular criminal cases is provided by law enforcement agencies and not by FINMA, FINMA publishes results of enforcement proceedings on its website. FINMA itself publishes selected rulings on an anonymized basis as well as anonymized summaries of its enforcement actions and anonymized data about court rulings that concern its enforcement decisions in a specific database. FINMA additionally explained that it has internal resources with expertise in combating criminal activities (e.g., lawyers with forensic experience, employees of public prosecutors' offices or auditing firms). These resources are not concentrated in the AML/CFT unit. Most of these resources are in the Enforcement department. As part of its supervisory activities, the AML/CFT unit works closely with these experts on a case-by-case basis as required. The AML/CFT unit currently consists of 11 full-time equivalents.
EC14	The supervisor determines that banks have in place group-wide programs to address money laundering, terrorist financing and proliferation financing, including policies and procedures for sharing information within the group for these purposes.
Description and Findings re EC14	General requirements for groups are covered in the BA which requires that, financial groups or conglomerates must be organized in a way that all material risks are identified, mitigated and monitored on group-level (According to Art. 3f, para. 2). These general requirements for a group-wide risk management framework are also specified in the FINMA circular 2017/1 mn. 89 and 99. In respect of AML/CFT, requirements are further specified in Arts. 5 and 6 AMLO-FINMA. Art. 5 AMLO-FINMA requires a financial group to ensure that foreign group entities and branches adhere to the Swiss anti-money laundering legislation and specifies the requirements of the law which need to be adhered to in foreign locations. It stipulates that the financial intermediary informs FINMA if local requirements of a foreign jurisdiction, where it operates a subsidiary or branch, stand in conflict with the Swiss regulations on combating money laundering and terrorist financing. Art. 6 AMLO-FINMA requires a financial group to identify, mitigate and monitor the legal and reputational risks in the context of AML/CFT risks also for foreign group entities and/or branches. Para. 1 sets out the detailed minimum requirements in this context, according to which the financial intermediary is required to: • Periodically prepare a risk analysis on group-wide (consolidated) level • Obtain at least annually a reporting with adequate quantitative and qualitative information from the foreign group entities and branches in order to assess the risks on consolidated level • Ensure that foreign group entities and branches inform the head office proactively and timely on the acceptance and continuance of business relationships and transactions which are globally deemed as most important from a risk perspective as

	well as on other material changes in the legal and reputational risks, especially if related to material assets or PEP business relationships • Regularly conduct risk-based on-site inspections, including sample tests on individual business relationships, at the group entities and branches To fulfil these requirements, banks forming part of a financial group, either from Switzerland or abroad, shall allow the group's internal control bodies and audit company of the group to access any information which may be required concerning specific business relations, provided that such information is essential for the management of legal and reputational risks at the global level (Art. 6, para. 2 AMLO-FINMA). The financial intermediary needs to inform FINMA if access to information on the contracting partner, controlling person or beneficial owners are restricted in certain countries where it operates a subsidiary or branch (Art. 6, para. 3 AMLO-FINMA).
Assessment of Principle 29	LC
Comments	FINMA has put increasing emphasis on the supervision of AML/CFT conduct risks (NB please note that this term is FINMA usage) and there was a strong awareness of the relevance of conduct risk across the supervisory units. Although category 4 and 5 institutions can be given a lighter touch from a number of prudential obligations provided that they meet stronger regulatory thresholds, there are no waivers for conduct risks and the onsite inspection plan covers all categories of banks. Some of the general weaknesses identified across the assessment affect the supervision of AML/CFT also, despite the obvious dedication of the unit. Most critically, the staff resources are too few to ensure adequate coverage and review. Inevitably this factor also means that FINMA staff are heavily reliant on the regulatory audit work to deliver AML/CFT supervision. Although some aspects of this principle fit well with an audit/compliance check, many do not and the overall robustness of the AML/CFT supervisory effectiveness is affected. The Law and Ordinances set out key standards but there are some gaps and--although the AML/CFT related Ordinances are somewhat more detailed than other Ordinances—do not make it clear that requirements are always in place. For example, whether AMLO-FINMA (Art 37) requires a prohibition on relationships with a correspondent bank if it is not subject to adequate supervision. In practice banks ought to understand that the prohibitions in AMLO-FINMA (Art. 8) apply but there is scope for confusion in correspondent banking relationships. In some circumstances, a robust on-site regime can provide assurance that supervisory expectations that might not be as clearly expressed as possible in the regulations (e.g., Art 8) are in fact being met. In this case, absent thorough onsite inspection practices (which cannot be guaranteed under current staffing limitations) FINMA would be unable to determine this standard is met. Also, and importantly, ancillary standards that are necessary to support effective AML/CFT practices are expressed at a very high level (for example the Operational Risk Circular on Critical Data Management). Although such standards are not designed to target AML/CFT risk explicitly, the better they are met, the better the overall conditions for effective AML/CFT will be.

	One illustrative gap in the regulatory framework relates to the fact that the Executive Management or Board must adopt AML/CFT guidelines and also that banks must make reports. However, the requirement for individual responsibility to oversee AML/CFT compliance at Executive Management level is missing. Also missing is the denomination of a single person within a bank to be responsible to receive reports of suspicions activities or transactions. It may be likely that such individuals are routinely appointed, as this would be an efficient manner of meeting the legal requirements. Also, where the specialist AML/CFT unit is one person, again it is likely this person will receive the reports. However, the BCP standard aims at creating individual responsibility in order to enhance accountability and effectiveness of the requirements. This is not achieved in the Swiss approach although only moderately minor amendments would be needed to remedy the gap. Finally, it should be noted that unlike peer authorities, FINMA may not impose financial sanctions for AML/CTF deficiencies. The importance of an effective disciplinary framework is illustrated by the growing scale of corporate misconduct. Swiss banks have been implicated in multiple and significant cases of AML in recent years, underlining the importance of a meaningful deterrence at the parent bank.

SUMMARY COMPLIANCE WITH THE BASEL CORE PRINCIPLES

Core Principle	Grade	Comments
1. Responsibilities, objectives and powers	MNC	FINMA's lacks a broad range of legal powers, including, but not limited to, effective early intervention. As the supervisory authority in an advanced systemically important jurisdiction, responsible for the oversight of one, recently two, G-SIBs, these limitations invite risks to financial stability and spillovers. FINMA's power to carry out direct supervision, e.g., onsite inspection is technically constrained. FINMA's ability to issue supervisory guidance or standards in risk areas has a very weak legal basis and has led to deficiencies noted throughout the assessment. FINMA's mandate includes a competitive objective which is not suitable for a prudential authority, and which ought to be clearly subordinated to prudential concerns. FINMA's legal mandate needs to be amended so that this premise is also unmistakably and directly clear from the legal text and does not emerge from other sources or potentially controversial interpretations.
2. Independence, accountability, resourcing and legal protection for supervisors	MNC	FINMA is formally independent, and its supervisory staff enjoy legal protection. Nevertheless, and despite budget autonomy, and notwithstanding ten percent annual growth in its total staffing since 2022, FINMA remains significantly under resourced for its supervisory tasks. The supervisory oversight of non-SIBs is low despite efforts to increase in recent years through off-site and onsite techniques. All risks are affected, but none more so than the oversight of cyber risk and resilience. Cybersecurity in the financial sector is only as strong as its weakest link and

Core Principle	Grade	Comments
		focusing mostly on more significant institutions may not serve the cause of securing the financial sector fully. FINMA is required to submit its strategic objectives to the Federal Council for approval every four years, which represents an imposition on FINMA's autonomy rather than an act of accountability. The Small Bank Regime is a broadly successful application of proportionality, but its entry criteria need to be strengthened to include a positive assessment of quality of governance and risk management.
3. Cooperation and collaboration	C	The frameworks for cooperation and coordination are in place. FINMA has actively participated in both multilateral and bilateral configurations. The effectiveness of the arrangements was clearly proven in the March turmoil of 2023.
4. Permissible activities	LC	The Fintech license opens deposit taking to non-banks and these deposits are neither covered by deposit protection nor segregated in case of bankruptcy as FINMA has stressed to the legislative authorities. While client asset protection will be remedied this is not expected for several years.
5. Licensing criteria	C	FINMA has maintained a strong gatekeeping role on the banking sector. FINMA is encouraged to move forward with instituting a requirement that a wind-down plan should be in place in the event that milestones cannot be met.
6. Transfer of significant ownership	C	The high-level principle means that there is no clear distinction between a significant interest and a controlling interest. There is, however, a clear threshold for a "qualified" holding, where approval standards apply, and there is a consistent requirement for UBOs to be identified.

Core Principle	Grade	Comments
7. Major acquisitions	C	The design of FINMA's powers allow it to scrutinize the suitability of major acquisitions and the ability of a bank to manage and absorb a significant change.
8. Supervisory approach	LC	FINMA's analytical approach has strengthened and deepened since 2019. However, it is at risk of inconsistent policy and analytical approaches and needs to harness best practices across the organization. Despite high quality work, even prior to the implementation of the new supervisory systems planned for 2025, work of uneven quality and on occasion poorly prioritized was in evidence.
9. Supervisory techniques and tools	MNC	FINMA is currently unable to deliver sufficient direct engagement with sufficient firms across all categories due to the current arrangements of use of regulatory auditors (dual system) and the conditions present in Art 23 FINMASA. Contact with non-systemic banks is too low, even allowing for the safety margins for the institutions participating in the Small Banks Regime. The regulatory audit function is not a suitable substitute for supervisory contact. The regulatory audit is not a supervisory process and cannot be used as such. It is a distinct and different tool and must be used and understood correctly in order not to give false comfort. For the benefit of the firms, the supervisor and the professional auditors, FINMA should be granted the power to mandate directly the work of the regulatory "audit" so that it can be directed in the manner to yield the greatest utility and value to all those engaged in the tripartite arrangement.
10. Supervisory reporting	C	There is a discernible shift into stronger data approaches in FINMA's supervision and to support more granular analysis than before. FINMA is paying particular attention to the data needs surrounding the G-SIB. Enhanced

Core Principle	Grade	Comments
		data collection is one way to strengthen supervisory reach without going onsite. Similarly, the supervision of the smaller category 4 and 5 banks is also planned to be more data driven but it is noted that data obligations for these categories of banks is starting from a low level.
11. Corrective and sanctioning powers of supervisors	MNC	FINMA has not been able to demonstrate an effective track record of using its currently limited corrective powers, which is the key test of this principle. This situation is driven by FINMA's lack of effective and complete early intervention powers. FINMA does not have powers to impose fines. FINMA's formal powers are triggered due to breach of law or regulation or "other irregularities" (Art 31 FINMASA) or at points of non-viability (Art 26 Banking Act). Despite the technical ability to act upon "other irregularities" the legal provision is articulated at such high level that it is unclear whether it could be a solid basis for enforcement. Furthermore, there is no track record that FINMA has been able to use this provision against banks. In practice, FINMA's ability to act is pushed to a late stage at which effective solutions for the bank may no longer be achievable. Furthermore, the bank retains the ability to appeal FINMA's actions, as it should, but the appeal has a suspensive effect. While FINMA can revoke the suspensive effect, the court may reinstate it based on the bank's application. This makes it difficult for FINMA to immediately put early intervention measures into effect.
12. Consolidated supervision	C	There are weaknesses in relation to consolidated supervision including ability to engage in sufficient onsite activity, effective coverage of institutions beyond the systemic

Core Principle	Grade	Comments
		banks and, albeit soon to be remedied, lack of guidance to firms on supervisory expectations on consolidated supervision. In terms of supervisory powers, FINMA's powers to intervene at group or individual entity level, while seemingly positive on paper, suffer from the weaknesses discussed in CP1 and 11. Equally, there are very limited powers with respect to the holding company of a consolidated group, even though the powers are augmented compared with the 2014 FSAP. All these factors have already been graded in CPs 1, 2, 9 and 11 regarding limitations on legal power, limitations on resource, and appropriate use of supervisory tools and scope for intervention.
13. Home-host relationships	C	The core college relationships for the G-SIBs stood FINMA in good stead in the March turmoil of 2023 and the subsequent restructuring of the major banks. While other colleges are less developed, FINMA has been responsive in the context of building bilateral relationships which may be more relevant for the authorities involved in respect of a number of the other group structures in place.
14. Corporate governance	LC	Limitations on FINMA's resources mean that CP14 is currently not met with consistency beyond the systemic banks. FINMA has powers under the Banking Act to take actions against an individual. The threshold for a successful enforcement action is very high, however, so it must be concluded that FINMA's powers to change the composition of a Board if one or more members are failing in their duty is likely to be weak or missing in any other than the most clear cut of cases. The introduction of a Senior Mangers Regime concept is an important reform.

Core Principle	Grade	Comments
15. Risk management process	MNC	Because of the weakness of the legislative underpinning, FINMA has no explicit legal basis to set binding standards for risk management, set general requirements for banks to undertake stress tests, require banks to prepare ICAAPs, or require banks to ensure that the CRO is a standalone position that should be elevated to executive board level. Guidance is therefore very high level. There is also no comprehensive supervisory manual covering all risks in place to guide supervisors. Work to embed climate-related financial risks into supervision is at an early stage.
16. Capital adequacy	MNC	The current capital framework has serious weaknesses and deficiencies such that prudent and appropriate capital adequacy requirements for all banks that reflect the risks undertaken and presented by a bank in the context of the markets and macroeconomic conditions in which it operates have not been in place. The risk weighting of participations rather than the application of a prudent deduction permits a parent bank's participations in its subsidiaries to only be partially backed by capital. Pillar 2 powers are not articulated clearly enough, making them weak and open to legal challenge. The legal framework also means that FINMA has no explicit legal basis to set general requirements for banks to undertake stress testing or prepare an Internal Capital Adequacy Assessment Process (ICAAP). There may be inconsistent treatments in prudential calculations when different accounting frameworks are used.
17. Credit risk	LC	Credit risk particularly in relation to mortgages are a key area of focus for FINMA. However, there is no clear legislative requirement to allow FINMA to require detailed and sound

Core Principle	Grade	Comments
		credit risk management practices and consequently guidance is high level. While there has been some work on banks' consideration and incorporation of climate-related financial risks into their risk management, these considerations are not yet embedded into FINMA's supervisory processes. There is scope for FINMA to enhance and improve data collection and analysis in this area.
18. Problem assets, provisions, and reserves	LC	FINMA regularly analyzes data on impaired loans, non-performing loans, and provisions. However, FINMA does not have the specific power to require a bank to increase its level of provisioning. Furthermore, because FINMA's powers are not clearly set out in legislation, there is a lack of detail in FINMA's circulars on sound credit practices.
19. Concentration risk and large exposure limits	LC	There are supervisory gaps regarding concentration risks and large exposures. The Basel RCAP assessment in 2023 rated LEX regulations in Switzerland as largely compliant which is one notch below the highest overall grade. The matters giving rise to this assessment have not yet been addressed. The concessions applied to Category 4 and 5 banks may also give rise to additional risk. Guidance for banks and regulatory auditors in this area is high level. The integration of climate-related financial risks into assessments of concentration risk is at a very early stage.
20. Transactions with related parties	MNC	The definition of related parties and the transactions that should be monitored by banks is not comprehensively defined in legislation and regulation.

Core Principle	Grade	Comments
		Guidance for banks and regulatory auditors in this area, with the exception of some intra-group exposures, is high level. There is no dedicated reporting of related party transactions to the supervisor.
21. Country and transfer risks	MNC	FINMA can and does send out ad hoc surveys to banks to gather information on potential risks in response to specific global developments. However, FINMA does not capture country and transfer risk data from banks in any systematic way. The SBA Guidelines do not include a requirement for a bank to define a country risk appetite and have not been updated since 1997. Country and transfer risk is not the subject of supervisory focus beyond the Category 1 bank.
22. Market risk	C	As market risk is not a material risk for Category 2-5 banks, FINMA's main focus on this area is on the Category 1 bank. The assessors view the current framework as compliant with this principle.
23. Interest rate risk in the banking book	C	IRRBB is an area of focus for FINMA across all bank categories. The assessors consider the current framework as compliant with this principle.
24. Liquidity risk	LC	FINMA considers liquidity to be one of the most important risks facing banks. RCAP NSFR in from 2023 rated implementation 'largely compliant.' Proportionality provisions may not all be appropriate. Data analysis capabilities would enhance supervision. FINMA should also ensure that banks identify and quantify climate-related financial risks and incorporate them into their internal liquidity adequacy assessment

Core Principle	Grade	Comments
		processes, including their stress testing programs where appropriate.
25. Operational risk and operational resilience	LC	New Circular on operational risks and resilience still in transitional phase. There is pressing need for additional resources. Category 3-5 banks not getting supervisory attention. Data analysis should be enhanced.
26. Internal control and audit	C	The importance of strong internal audit in banks makes it appropriate for FINMA to take a more direct role in assessing the adequacy of this function. The current audit standard of negative assurance should be raised to positive assurance for internal control and audit. The Head of Internal audit should be subject to a fit and proper review.
27. Financial reporting and external audit	LC	Audit firms provide both regulatory and financial audit services to banks, it is right that greater scrutiny is placed on their independence. There is currently no requirement for external audit firm rotation for the financial audit. The same external audit firm currently audits all Category 1 and 2 banks. In an already concentrated audit market, the risks of reliance on one audit firm for all systemically important banks in Switzerland cannot and should not be ignored. There is also no requirement for a different lead audit partner for the financial and regulatory audit.
28. Disclosure and transparency	C	The disclosure and transparency provisions are deemed compliant. FINMA should follow up with 'SIX Exchange Regulation' in relation to their reviews of the financial statements of listed banks to ensure that they are aware of any discrepancies found. The inclusion of Pillar 3 disclosures in the FINMA supervision system would also assist in the identification of any inconsistencies

Core Principle	Grade	Comments
		between the regulatory data reported to FINMA and the banks' public disclosures.
29. Abuse of financial services	LC	FINMA has put increasing emphasis on the supervision of AML/CFT conduct risks and there was a strong awareness of the relevance of conduct risk across the supervisory units. There are no waivers for conduct risks in the Small Banks Regime. Some of the general weaknesses identified across the assessment affect the supervision of AML/CFT: resource limitations affecting frequency, depth and range of inspections. Also, the valuable ancillary guidelines (e.g., Operational Risk Circular) are articulated at a very high level. Some regulatory gaps appear to exist. One is the missing requirement for individual responsibility to oversee AML/CFT compliance at Executive Management. FINMA also lacks the power to impose financial sanctions for AML/CFT breaches, unlike the majority of its peer supervisory authorities.

RECOMMENDED ACTIONS AND AUTHORITIES' COMMENTS

A. Recommended Actions

Recommended Actions to Improve Compliance with the Basel Core Principles and the Effectiveness of Regulatory and Supervisory Frameworks	
Reference Principle	**Recommended Action**
Principle 1	Ensure FINMA has the full suite of supervisory powers including: • Early intervention powers, without suspensive effect unless a defined, high threshold such as clear illegality is met– see CP11 for minimum list that should be available in context of early and corrective action. • Removal of any and all restriction to direct supervision/on-site examination (Article 23 Banking Act) • Establish clear legal basis for FINMA to issue supervisory standards, guidance and expectations on risk areas. The power should be comprehensive in order to be forward looking and address the potential for future emerging risks.
Principle 2	Ensure that FINMA's staffing and resources are increased to a level commensurate with the ability to conduct its supervisory activities as required by an authority of a systemic jurisdiction that seeks to maintain and augment its role as an international financial center. The requirement for FINMA's strategic objectives, FINMA's Personnel Ordinance and FINMA's annual report to be approved by the Federal Council should be removed. Additionally, FINMA should be allowed to issue its Fees and Levies Ordinance. To ensure codification of good practice, legislation should be amended to include a requirement that the reasons for dismissal (termination) of any member of the Board of Directors and Executive Board are made public, FINMASA and other relevant regulations should also be reviewed and amended as necessary to improve codification of FINMA's practice around governance and conflict of interest. Ensure better specification and transparency of the qualifications to be a member of the Board of Directors. The Chair of the Board's emergency power to take decisions on behalf of the Board should be reviewed in the light of advances in communications technology. The condition in FINMASA (Article 9) preventing the Chair of FINMA's Board the Chair from holding any federal or cantonal office unless it is in the interest

Recommended Actions to Improve Compliance with the Basel Core Principles and the Effectiveness of Regulatory and Supervisory Frameworks	
Reference Principle	**Recommended Action**
	of the fulfilment of the tasks of FINMA should be amended to apply to all FINMA Board members. Although the Federal Council has issued Conditions for Membership of the FINMA Board which have been approved by the Bundesrat which applies this condition to the remaining members of the Board of Directors, the condition should be stated in legislation for all members of the Board. The conditions for entry to the FINMA Small Bank Regime need to be augmented to include a qualitative standard so that a candidate bank is known to have good governance and risk management standards and practices.
Principle 4	The legal ability to segregate fiat deposits in the event of bankruptcy of a fintech license holder should be accelerated.
Principle 5	Put in place, as already considered, a requirement that a wind-down plan should be in place for newly authorized institutions in the event that milestones cannot be met.
Principle 8	FINMA should create a comprehensive internal policy handbook for supervisory staff. FINMA needs to develop additional tools and techniques to foster internal knowledge transfer and innovation.
Principle 9	FINMA should be granted the ability to directly mandate the regulatory audit. The work that the auditors should do in the banks should be specified according to clear standards set out by FINMA. Over time FINMA should bring all onsite supervisory activity in-house.
Principle 10	FINMA should consider introducing an explicit requirement for banks' Executive level committee to certify the accuracy of the supervisory returns. In conjunction with a senior managers regime, a single senior manager should do this.
Principle 11	FINMA needs to be provided with actionable corrective and intervention powers which are not suspensive and that apply to all banks. In keeping with the international standards, e.g., with CP11 EC4 as the reference point, these powers should, at a minimum, allow FINMA to act at an early moment, before breach of regulation or law, to carry out one or more of the following: • restricting the current activities of the bank, • imposing more stringent prudential limits and requirements, withholding approval of new activities or acquisitions,

Recommended Actions to Improve Compliance with the Basel Core Principles and the Effectiveness of Regulatory and Supervisory Frameworks	
Reference Principle	**Recommended Action**
	• restricting or suspending payments to shareholders or share repurchases, • restricting asset transfers, • barring individuals from the banking sector, • replacing or restricting the powers of managers, board members or controlling owners • impose fines/sanctions Ensure the ability to impose fines at the same time as other corrective measures.
Principle 12	FINMA should issue its Circular on Consolidated Supervision in final. Extend enforcement powers for ongoing activities when insolvency is not envisaged to group holding companies and group companies which perform significant functions for activities requiring authorization.
Principle 14	A senior manager's regime needs to be introduced for all banks.
Principle 15	Supervisory standards for risk management must be brought up to the international level. An expansion of the supervisory manual and more detailed risk requirements including for regulatory auditors should be advanced. Consideration of climate-related financial risks should be integrated into supervisory processes. FINMA should ensure that banks have a new product or new initiative approval process; appropriate transfer pricing for all relevant transactions; and FINMA should ensure it has a more regular process to assess whether banks appropriately account for risks in their internal pricing, performance measurement and new product approval process for all significant business activities.
Principle 16	At the parent level, participations should be deducted rather than risk weighted. FINMA's Pillar 2 powers; powers to set general requirements for banks to perform stress tests; and powers to require banks to prepare an ICAAP should be strengthened and put on a solid legal footing. There should be consistency in prudential calculations irrespective of the accounting framework used, e.g., treatment of software costs. FINMA should enhance its resources and capacity to run supervisory stress tests.

Recommended Actions to Improve Compliance with the Basel Core Principles and the Effectiveness of Regulatory and Supervisory Frameworks	
Reference Principle	**Recommended Action**
	D-SIBs should not automatically have a gone concern capital requirement so much lower than a G-SIB and also lower than their EU peers.
Principle 17	FINMA should develop more detailed guidance for banks, supervisors and auditors to more clearly set out expectations in this area. FINMA should integrate the consideration of climate-related financial risks into supervisory processes and ensure, in a more systematic way, that banks are appropriately considering the impact of climate-related risk drivers on their credit risk profiles; and incorporating them into credit risk management systems and processes as appropriate. FINMA should enhance data collection and analysis in this area.
Principle 18	FINMA should develop more detailed guidance for banks, supervisors and auditors to more clearly set out expectations in this area. FINMA should be given the specific power to require a bank to increase its level of provisioning, through requiring changes in the provisioning policy.. FINMA should enhance data collection and analysis in this area. FINMA should ensure that banks are identifying, measuring, evaluating, monitoring, reporting and managing the concentrations within and between risk types associated with climate-related financial risks.
Principle 19	Address the points raised in the Basel RCAP assessment in 2023 that gave rise to the largely compliant grade. Consider the appropriateness of the concessions applied to Category 4 and 5 banks. Develop more detailed guidance for banks, supervisors and auditors to more clearly set out expectations in this area. FINMA should also ensure that banks are identifying, measuring, evaluating, monitoring, reporting and managing the concentrations within and between risk types associated with climate-related financial risks.
Principle 20	The definition of related parties should explicitly define all of the parties that should be in scope. Transactions monitored should not be limited to transactions involving credit risk. Develop more detailed guidance for banks, supervisors and auditors to more clearly set out expectations in this area. Implement dedicated reporting of related party transactions to the supervisor.

Recommended Actions to Improve Compliance with the Basel Core Principles and the Effectiveness of Regulatory and Supervisory Frameworks	
Reference Principle	**Recommended Action**
	Consider a thematic review on related party transactions.
Principle 21	Should enhance supervisory focus and develop regular reporting. Update guidance on country and transfer risk. FINMA should consider undertaking a thematic review on country and transfer risk to gain an overview of exposures and practices across the banking sector.
Principle 24	RCAP NSFR findings from 2023 have not been addressed. Proportionality provisions should be assessed to ensure they are appropriate. Data analysis should be enhanced. FINMA should ensure that banks identify and quantify climate-related financial risks and incorporate them into their internal liquidity adequacy assessment processes, including their stress testing programs where appropriate.
Principle 25	More supervisory resources should be made available. Data analysis should be enhanced. Address regulatory gaps and put more supervisory focus on Category 3-5 banks required.
Principle 26	FINMA should take a more direct role in assessing the adequacy of the internal audit function. Internal controls and internal audit should be audited to the standard of positive assurance rather than negative assurance. The Head of Internal audit should be subject to a fit and proper assessment.
Principle 27	Implement mandatory audit firm rotation for the financial auditor. Require a different lead auditor for the financial and regulatory audit, at least for Category 1-3 banks.
Principle 28	FINMA should follow up with 'SIX Exchange Regulation' in relation to their reviews of the financial statements of listed banks to ensure that they are aware of any discrepancies found. Include Pillar 3 disclosures in the FINMA supervision system to assist in the identification of any inconsistencies between the regulatory data reported to FINMA and the banks' public disclosures.

Recommended Actions to Improve Compliance with the Basel Core Principles and the Effectiveness of Regulatory and Supervisory Frameworks	
Reference Principle	**Recommended Action**
Principle 29	Ensure there is a requirement for there to be dedicated officer to whom potential abuses of the bank's financial services (including suspicious transactions) are reported. Ensure there is a prohibition on relationships with correspondent banks for whom adequate supervision does not exist.

B. Authorities' Response to the Assessment

93. While the authorities acknowledge staff's efforts in conducting the Detailed Assessment against the Basel Core Principles, they cannot relate to key results and gradings. Critically, the assessors fail to demonstrate how revisions to the standard and the assessment methodology, or changes to the regulatory framework and supervisory practice, can lead to substantial differences compared to previous exercises. To recall, the 2014 assessment against the BCP found a high level of compliance with the Basel Core Principles, and the 2019 FSAP noted the authorities' commitment to high standards of regulation and supervision. Since then, various amendments have further strengthened, not weakened, the Swiss regulatory and supervisory framework. The current assessment does not provide the Swiss authorities with a consistent appraisal of the quality of banking supervision in relation to the Basel Core Principles.

94. The authorities are receptive to the recommendations that will improve the current framework, although staff overstate some of the identified shortcomings and did not correct some errors, resulting in gradings that are inconsistent with the underlying facts. The authorities entirely agree that FINMA's powers need strengthening. To this end, the Swiss government will submit a proposal to Parliament shortly. However, the grading of FINMA's powers does not reflect the factual reality of the generally substantial set of powers currently available. FINMA has specific means for early intervention, acts upon them within its power and can revoke the suspensive effect of any appeal against corrective action. Under the proposed legislation, the suspensive effect of appeals is abolished for certain decisions while, in line with the fundamental principles of procedural law, the right to legal recourse will be retained. In general, courts rely heavily on FINMA's technical expertise and rule in FINMA's favor, as is proven also by precedents that were brought to the knowledge of the staff. Regarding capital, while there is a critical need to strengthen capital requirements in the specific area of participation in foreign subsidiaries, overall Switzerland has a robust capital adequacy framework, as acknowledged in previous assessments. The capital framework for systemically important banks was, counter to what is implied by the assessors, strengthened since the 2014 BCP assessment. Notably, the changes in the capital adequacy ordinance introduced in 2019 led to higher requirements for systemically important banks. Also, Switzerland fully implemented the Basel III standard. While some significant errors by the assessors could be addressed and corrected, corrections made remained without reflection on the overall original grading, despite these corrections being material. This further impairs coherency

and consistency with previous assessments and does not allow the authorities to clearly identify the improvements that might in fact be needed.

95. The quality of the assessment would have benefitted from a more faithful reflection of the authorities' comments, concerns and factual corrections, as called for under the BCP Assessment Framework. This would have clarified some of the misconceptions of the regulatory and supervisory system. Switzerland's legal and institutional framework for financial sector oversight reflects its federal structure and long-standing tradition of legal certainty and adherence to the rule of law, and the separation of powers. As a civil law jurisdiction, Switzerland relies on comprehensive codification, with legislation – rather than case law – providing the primary source of legal authority. The system provides for a clear separation between legislative, executive and judicial functions and ensures a high degree of predictability and legal certainty.

96. Financial market regulation is built on these principles, with clear statutory mandates at the federal level and detailed implementing ordinances. Supervision is entrusted primarily to the Swiss Financial Market Supervisory Authority (FINMA), an independent public-law institution with its own legal personality. FINMA operates under the Federal Act on the Swiss Financial Market Supervisory Authority and is mandated to protect creditors, investors, and policyholders, as well as to ensure the proper functioning and stability of financial markets. The Swiss National Bank (SNB) plays a complementary role with respect to financial stability and macroprudential oversight, particularly through its task of contributing to the stability of the financial system in accordance with the National Bank Act.

97. FINMA does have leeway to regulate and establish practice. FINMA may enact legislative provisions (FINMA-ordinances) where superordinate law enables FINMA to do so. The FINMA-ordinances contain provisions of supervisory law (e.g., supervisory standards), and are binding. In addition, FINMA issues circulars to describe how it interprets financial market law. Circulars allow FINMA to formulate supervisory expectations and are binding insofar as they are based on overarching legislation. Furthermore, FINMA communicates important information to supervised institutions, providing them with guidance on regulatory matters. Interpretation and application of financial market law are in the sole competence of FINMA, subject to judicial review. FINMA has the obligation to clarify any ambiguities that may arise at the statutory level.

98. Standalone capital requirements are essential, but there is no international standard on such requirements. Swiss authorities fully agree with the assessment's conclusion that capital requirements for participation in subsidiaries should be strengthened, and the Swiss government will submit an according proposal to Parliament. However, the weak grading of the current Swiss capital framework, which was materially influenced by the appraisal of capital requirements for participation in subsidiaries, is neither appropriate nor in line with the principle of evenhandedness when compared against international standards and best practices. Participation in subsidiaries is not contained in the consolidated balance sheet, to which the BCPs apply. Switzerland is relatively advanced in international comparison by setting capital requirements on a standalone basis, including for parent banks. By contrast, few jurisdictions have transparency requirements regarding the capital treatment of participations on a standalone level.

99. Finally, the assessment does not give due consideration to the significant progress made with regard to the abuse of financial services. Switzerland's efforts in strengthening measures to tackle money laundering, terrorist financing and proliferation financing were recognized by the FATF, the leading and competent international body on combatting money laundering and terrorist financing, in its follow-up reports in 2018, 2019, 2020 and 2023. Switzerland's ratings on 6 recommendations were upgraded and Switzerland duly exited the FATF enhanced follow-up process.