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TECHNICAL NOTE ON FINANCIAL SAFETY NET AND CRISIS MANAGEMENT ARRANGEMENTS

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October 24, 2025

TECHNICAL NOTE

FINANCIAL SAFETY NET AND CRISIS MANAGEMENT ARRANGEMENTS

Prepared By

Monetary and Capital Markets Department

This Technical Note was prepared by IMF staff in the context of the Financial Sector Assessment Program in Switzerland. It contains technical analysis and detailed information underpinning the FSAP's findings and recommendations. Further information on the FSAP can be found at http://www.imf.org/external/np/fsap/fssa.aspx

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Glossary

AT1	Additional Tier 1
BA	Federal Act on Banks and Savings Banks
BIO-FINMA	FINMA Ordinance on the Insolvency of Banks and Securities Dealers
BO	Ordinance on Banks and Savings Banks
CAO	Capital Adequacy Ordinance
CET1	Core Equity Tier 1
CS	Credit Suisse
CMG	Crisis Management Group
COAG	Cross-border Cooperation Agreement
CP	Core Principle
DIA	Deposit Insurance Agency
DIS	Deposit Insurance System
D-SIB	Domestically Systemic Important Bank
EBA	European Banking Authority
ELA	Emergency Liquidity Assistance
ELA+	Additional Emergency Liquidity Assistance
FCRBS	Federal Council Report on Banking Stability
FDF	Federal Department of Finance
FMIA	Financial Market Infrastructure Act
FINMA	Swiss Financial Market Supervisory Authority
FINMA-FMIO	FINMA Financial Market Infrastructure Ordinance
FINMASA	Financial Markets Supervision Act
FMIO	Financial Market Infrastructure Ordinance
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
GB-R	FINMA’s Recovery and Resolution Division
GDP	Gross Domestic Product
G-SIB	Global Systemically Important Bank
HQLA	High-Quality Liquid Assets
IADI	International Association of Deposit Insurers
KA	Key Attribute (FSB’s Key Attributes of Effective Resolution Regimes)
LACS	Lending Against Collateral Securities
LAMC	Lending Against Mortgage Collateral
LSFF	Liquidity-Shortage Financial Facility
MOU	Memorandum of Understanding
NCWO	No Creditor Worse Off
NBA	National Bank Act
RAP	FSB Resolvability Assessment Process
RRP	Recovery and Resolution Planning

RWA	Risk Weighted Assets
SIB	Systemically Important Bank
SNB	Swiss National Bank
SPOE	Single Point of Entry
SIX	SIX Swiss Stock Exchange
TBTF	Too Big To Fail
TLAC	Total Loss-Absorbing Capacity
TPA	Third-Party Argents

EXECUTIVE SUMMARY

A strong legal framework and a well-coordinated financial safety net are of critical importance for the stability of the Swiss financial system. The Swiss National Bank (SNB), the Swiss Financial Market Supervisory Authority (FINMA), and the Federal Department of Finance (FDF) play vital roles in overseeing monetary policy, supervising financial markets, and implementing financial stability policies and measures. Their efforts for a coordinated approach to preventing and containing future crises need to be stepped up and be backed by a stronger legal framework.

The Credit Suisse (CS) crisis surfaced critical areas of improvement. The events surrounding the CS crisis in 2023 revealed vulnerabilities in the Swiss financial safety net that merit attention. While authorities took decisive measures to preserve financial stability, the authorities decided not to implement a resolution of CS based on the TBTF framework. The crisis exposed significant gaps in the early intervention powers and framework. Additionally, the case emphasized the importance of robust resolution frameworks and the need for enhanced resolution and crisis management preparedness, whereby authorities interact effectively in exercising their respective responsibilities, with the aim of restoring public and market confidence and ensuring financial stability.

Early intervention and recovery planning have substantial gaps. The existing legal early intervention powers of FINMA are severely constrained and hinder timely supervisory actions. Furthermore, a well-defined early intervention framework is necessary to empower the authorities to act decisively. Mandating all banks in the system to prepare proportionate recovery plans will also ensure that they prepare themselves to handle financial distress effectively. This proactive approach can significantly mitigate systemic risks and enhance the resilience of the banking sector.

Increasing the scope of resolution planning and resolvability assessments and further improving resolution tools are imperative. Resolution plans are crucial not only for systemically important banks (SIBs) but also for any banks that could threaten financial stability in case of failure. Currently, only category 1 and 2 banks must have resolution plans, which is an important gap, given that many category 3 banks are large and could generate systemic distress. Therefore, category 3 banks should be subject to resolution planning and FINMA should expedite the development of resolution plans for all category 2 and 3 banks to enhance preparedness for potential crises. Integrating emergency plans into the resolution planning process is needed to clarify responsibilities in the resolution planning process. Authorities should place utmost importance on a rigorous assessment of the resolvability of UBS due to the risks it poses to the Swiss financial system. Resolution powers need to be clarified and expanded in full alignment with international standards.

Staffing of FINMA’s recovery and resolution unit should be substantially increased. The unit currently operates with limited staff, significantly fewer than peer authorities, which can be a material impediment in effective crisis preparedness and management. Expanding the unit's staff will enhance its ability to conduct thorough assessments of banks' preparedness, and establish robust recovery and resolution plans, to help bolster the resilience of the Swiss financial system.

Crisis preparedness and coordination should be further improved. FINMA should develop internal procedures for crisis management, with alternative scenarios and combinations of resolution powers. It should also conduct regular simulations exercises internally, nationally (in collaboration with SNB and FDF), and cross-border. In the case of cantonal banks backstopped by their cantons, mechanisms should be in place to minimize the risks of disorderly failures and taxpayer losses.

A sufficiently flexible emergency liquidity assistance (ELA) is imperative. The SNB's existing ELA framework primarily caters to SIBs. While the SNB has recently signaled to all banks the access for ELA, this came mainly from the perspective of broadening of the collateral framework. Key elements of a full-fledged framework, including the forward-looking assessment of solvency (supplied swiftly by FINMA) and remedial measures, are currently missing or not transparently disclosed, limiting the effective application. The SNB should be prepared to provide ELA to a wider range of counterparties, under clear conditions. A more comprehensive ELA framework should be established, providing clear guidance and transparency regarding main access parameters. The SNB should develop a holistic communication strategy to manage counterparties' expectations, while preserving the SNB's discretion to act in the interest of preserving financial stability. The SNB should prioritize collateral preparation with banks, targeting wide-ranging asset classes, to facilitate the mobilization of collateral through flexible approaches.

Adopting a Public Liquidity Backstop (PLB) is critical to ensure the credibility of the ELA and resolution frameworks and reinforce the overall safety net. The crisis of 2023 highlighted that significant deposit outflows can challenge the capacity of central bank to deploy ELA and jeopardize its balance sheet. Therefore, a formal agreement should be established to clarify the Federal Council's role in backstopping ELA, as necessary to preserve financial stability. If adopted, the PLB would address that issue for SIBs. Comparable agreement should be established, possibly via an MOU between the SNB and Federal Council, for other banks that could be systemic in failure, and therefore subject to resolution. Finally, incorporating cross-border collateral mobilization into the SNB's framework will further enhance collateral availability in times of crisis.

The Swiss Deposit Insurance Scheme (DIS) is not compliant with international best practices. Switzerland's DIS currently covers deposits up to CHF 100,000. However, it should be improved to address modern banking crises and enhance confidence in the financial system. It is essential to remove the cap on bank contributions to esisuisse and to provide for their ex-ante contributions by banks, to strengthen the effectiveness of the DIS and ensure timely payouts to depositors. A public Deposit Insurance Agency (DIA), with a broader mandate and an expanded role in crisis management, would increase the robustness of the system.

The financial safety net lacks a resolution fund to cater for capital needs not covered by bail-in. The reliance on government support during crises highlights the need for a dedicated resolution funding mechanism that can act as a fallback if in a resolution there is no additional loss absorbing capacity. Implementing an ex-post funding mechanism will align with Financial Stability Board (FSB) standards and allow for public funds to be used for resolution, with subsequent recovery from banks.

Table 1. Switzerland: Main Recommendations

No.	Recommendation	*	**
	Early Intervention and Recovery Planning		
1.	Develop an early intervention framework based on sufficiently early and forward-looking triggers (FDF, FINMA ¶17).	ST	H
2.	Remove any potential automatic suspensive effect of an appeal by the bank or other stakeholders to FINMA's early intervention, recovery, resolvability, and resolution's measures or decisions (FDF, ¶17).	ST	H
3.	Adopt a statutory requirement in an Act that all banks must submit annual recovery plans to FINMA, on a proportionate basis (FDF, ¶19, 21).	ST	H
4.	Publish guidance to banks for their recovery plans and adopt internal assessment guidance for FINMA staff (FINMA, ¶23).	ST	M
	Resolution Planning and Resolvability Assessment		
5.	Accelerate the resolution planning and resolvability assessment process to adopt resolution plans for all Category 2 banks by end-2025 and rollout resolution planning for the three most significant banks in Cat. 3 during 2025 (FINMA, ¶35).	ST	H
6.	Adopt a statutory obligation for FINMA to prepare annual resolution plans and assess resolvability for all category 3 banks and above, on a proportionate basis, and grant FINMA statutory authority to remove impediments to resolution, including the powers currently provided in the law for the remediation of deficiencies of emergency plans (FDF, ¶28, 37, 44).	ST	H
7.	Amend the law to formally integrate what is currently the emergency plan into the resolution plan to be prepared by FINMA (FDF, ¶34).	ST	M
8.	Grant FINMA statutory authority to determine, on a case-by-case basis, the gone concern capital requirements for all D-SIB not subject to any legal limit set a priori. Expand such power to all category 2 and 3 banks, irrespective of the classification as systemically important institution. (FDF, ¶43).	ST	H
9.	Strive to ensure high likelihood of effective write down and conversion of liabilities issued in other jurisdictions, both by leveraging relevant multilateral organizations or not accepting gone concern capital securities issued on jurisdictions that don't guarantee the recognition of decisions by Swiss authorities (FINMA, ¶41).	MT	H

Table 1. Switzerland: Main Recommendations (Continued)			
10.	Publicly articulate the capabilities that banks must have to effectively support their orderly resolution, as planned by FINMA, and adopt internal guidance for FINMA staff detailing the resolution planning procedures and criteria to assess resolvability and remove impediments (FINMA, ¶45).	MT	M
	Resolution Framework and Crisis Preparedness		
11.	Expand the resolution power toolkit to include or explicitly provide for all resolution powers listed in item 3.2 of the FSB Key Attributes, including at a minimum (i) the power to establish an asset management company for the transfer of assets; (ii) to ensure the continuity of critical functions; (iii) the power to carry a full or partial wipe out of creditors and shareholders; (iv) the power to use bail-in powers to support a sale in resolution; and (iv) the power to convert (fully or partially) creditors of the resolved bank into equity holders of bridge banks and asset management companies (FDF, ¶56, 57).	ST	H
12.	Remove from the law the power given to creditors of banks not declared as SIB to refuse the implementation of resolution measures (FDF, ¶58).	ST	H
13.	Provide in the law that any decision to write down liabilities should be permanent and not grant the holder a claim on the resolved entity if the NCWO (No Creditor Worse Off) principle is breached (FDF, ¶59).	ST	H
14.	Enhance resolution preparedness by (i) developing comprehensive internal resolution manuals for all tools, not just preferred strategies, and (ii) conducting annual crisis simulations to test crisis preparedness (FINMA, ¶64, 67, 68).	ST	H
15.	Provide the liquidator in a bankruptcy procedure the power to carry-out a transfer of assets and liabilities, mainly insured deposits, without the need of creditor consent (FDF, ¶62).	MT	M
16.	Under the Steering Committee for Crisis Management, enhance crisis preparedness by (i) adopting a national contingency plan, including crisis communication and (ii) conducting regular multi-agency crisis simulations, including cross-border exercises with CMG members (FDF, FINMA, SNB, ¶71).	MT	H
17.	Adopt statutory changes to improve the process for recognizing resolution measures taken by foreign resolution authorities, including an expedited recognition process with minimal formal requirements, while ensuring legal certainty and due process (FDF, FINMA ¶74, 75).	MT	M
	Deposit Insurance and Resolution Funding		
18.	Review the payout legal deadlines and enhance the operational requirements of banks allowing for a speedier payout procedure with the objective of granting insured almost immediate access to their insured deposits (FDF, FINMA ¶86).	ST	H

Table 1. Switzerland: Main Recommendations (Concluded)			
19.	Remove the cap of 1.6 percent of insured deposits on banks' contributions to esisuisse from the law and introduce an ex-ante fund with a minimum target level sufficient to cover at least the simultaneous payout of the largest three non-systemic banks in the system that can pose more risk to financial stability, supplemented by back-up funding from the government (FDF, ¶86).	MT	H
20.	Provide a pay box plus mandate to the DIS to finance a purchase and assumption of a bank in liquidation with the objective of providing insured depositors immediate access to their deposits, under least cost test. (FDF, ¶86)	MT	M
21.	The Deposit Insurance Agency (DIA) should be a public entity with a statutory mandate, excluding active bankers and industry representatives from management and the Board (FDF, ¶86).	MT	M
22.	Require the two exempted deposit-taking institutions to become members of the DIA (FDF, FINMA ¶86).	MT	M
	SNB Bilateral Liquidity Support (ELA and Collateral Policy)		
23.	The SNB should better distinguish the ELA within its instrument toolkit, formulate a comprehensive ELA regulation and disclose it (SNB, ¶97, 98).	ST	H
24.	The SNB should communicate that solvency and viability for the purpose of granting ELA is evaluated in a forward-looking manner, and the FINMA should be able to provide such an assessment swiftly (SNB, FINMA, ¶100, 101).	ST	H
25.	The Public Liquidity Backstop (PLB) should be enacted, and a comparable guarantee of the Federal Council to the SNB for ELA purpose should be established, possibly via an MoU, for other counterparties that could be systemic in failure (SNB, FDF, ¶107, 108, 109).	I	H
26.	The SNB should discuss with banks about collateral preparation, targeting a wider range class of assets and ensuring flexible collateral mobilization approaches and develop an appropriate communication strategy (SNB, ¶102, 104, 120, 121).	C	M
27.	The cross-border mobilization of non-standard collateral should be a key component of the SNB's international agenda (SNB, ¶122).	C	M
	Cantonal Banks		
28.	Operationalize the potential enforcement of the guarantee provided by the Cantons to the Cantonal Banks to ensure resolvability (FINMA, ¶49).	MT	M
	Organization and Resources		
29.	Substantially increase the staffing level of the Recovery and Resolution Unit (FINMA, ¶129-134).	I	H

* Timing: C: Continuous; I: Immediate (<1 year); ST: Short Term (1–2 years); MT: Medium Term (3–5 years)

** Priority: H: High; M: Medium; L: Low

INTRODUCTION

1. **This technical note examines the Swiss financial safety net and crisis management framework, including bank resolution mechanisms.** It summarizes findings from the FSAP mission conducted between October 28 and November 11, 2024[1]. The focus is on the authorities' capacity to address failing and potentially failing banks swiftly and effectively, as well as their preparedness for financial distress. The assessment draws on an analysis of existing legislation, policies, responses to a pre-mission questionnaire, and discussions with authorities and the private sector. The current framework was evaluated against relevant FSB Key Attributes and IADI Core Principles for Effective Deposit Insurance Systems. This note does not constitute a detailed compliance assessment with either standard.

2. **The main sectorial focus is on the banking sector.** The banking sector is a key driver of the Swiss economy, contributing 5 percent of Swiss GDP and employing over 100,000 people in 2022. Total banking assets reached CHF 3,400 billion in 2023, about 4.3 times Swiss GDP, with the five largest banks accounting for 60 percent of that total. By the end of 2023, the largest bank—UBS (post CS acquisition) had assets exceeding CHF 1,400 billion (180 percent of Swiss GDP), which make it the largest G-SIB relative to the size of its home country's economy. The sector has a significant international focus, though mainly UBS operates globally. Besides UBS, there are three designated domestic systemically important banks (D-SIBs): PostFinance, Raiffeisen Group, and Zürcher Kantonalbank, with total assets of CHF 626 billion, roughly 79 percent of Swiss GDP. Additionally, -risk by FINMA, alongside 200 small regional banks focusing there are 24 category 3[2] banks deemed significant and high on traditional retail activities[3]. The assessment will consider the entire banking sector, not just systemic banks, as medium-sized and clusters of small banks can also pose systemic risks, necessitating a financial safety net to mitigate potential threats.

3. **Since the 2019 FSAP, the Swiss banking sector faced a massive shock.** CS, the second largest Swiss G-SIB, had a long history of recurrent scandals, poor governance and risk management, and persistent losses, which steadily eroded its reputation and market confidence and led it to the brink of failure in March 2023, when the Swiss government decided to facilitate its acquisition by its closest market competitor—UBS Group AG (Box 1). The Swiss authorities intervened to facilitate the acquisition, a measure aimed at preserving financial stability and

[1] This note was prepared by Joao Marques, IMF Senior Financial Sector Expert. The Section on SNB Bilateral Liquidity Support was prepared by Meguy Kuete Ngougning, IMF Financial Sector Expert.

[2] Category 1 designates the G-SIBs, with UBS being the sole entity in this category following its absorption of CS in March 2023. Category 2 includes Zurich Kantonalbank, Raiffeisen Group, and PostFinance, identified as D-SIBs. Category 3 encompasses primarily cantonal and regional banks, recognized for their domestic and regional relevance, as well as wealth management banks and private banks with focus on the international business with (ultra) high net worth individuals as customers. In pursuit of proportional and risk-orientated supervision, Categories 4 and 5, constitute the majority of Swiss institutions and represent the smaller and less riskier banks.

[3] FINMA keeps lists of all authorized institutions in its webpage: https://www.finma.ch/en/finma-public/authorised-institutions-individuals-and-products/.

preventing global spillovers in a time of already heightened banking turmoil in the US. On March 19, 2023, UBS agreed to buy Credit Suisse for approximately $3.3 billion in an all-stock deal. The Swiss National Bank (SNB) provided $168billion in liquidity support to Credit Suisse for a smooth transition. Additionally, the Swiss government offered a guarantee to cover potential losses up to CHF 9 billion[4]. This acquisition marked the end of Credit Suisse, with UBS integrating its activities.

4. Switzerland's "Too Big to Fail" (TBTF) regime, existent at the time of CS's crisis, was not used to resolve the banking group, the authorities addressing the failure outside of the framework in place. This regime is Switzerland's adaptation of international guidance to mitigate risks posed by Systemically Important Banks (SIBs) after the global financial crisis. It comprises two main components: stricter capital and liquidity requirements to enhance resilience, and a resolution framework that equips FINMA with the necessary tools to manage the orderly resolution of SIBs. Additionally, SIBs must possess loss-absorbing capacity from a gone concern perspective, ensuring that no public funding is required during a crisis. However, the regime failed to prevent CS's failure being addressed outside of the resolution framework. This outcome highlights the necessity for authorities to reassess the national implementation of post-financial crisis reforms. The 2019 FSAP[5] and the recent FSB Peer Review[6] identified persistent gaps in the system that should be addressed.

5. UBS has an outsized weight in relation to the Swiss GDP. Considering the size and importance of UBS after the acquisition of CS, a potential failure of UBS would have lasting effects in the Swiss financial system and would severely undermine Switzerland's its status as an international financial center. Authorities will have, therefore, to enhance the credibility of all components of the financial safety net and invest in increasing their legal and operational readiness to act preemptively and decisively well ahead of a crisis and be appropriately equipped should another crisis emerge.

6. Previous FSAPs have provided numerous recommendations in this area, but implementation has been limited. From the 23 recommendations in the 2019 Technical Note, covering a wide range of issues from early intervention, resolution, to deposit insurance, at least 15 have not been implemented. Nevertheless, after the CS failure, the authorities are considering implementing selected outstanding recommendations, which is a tardy, although welcome measure, which should proceed urgently. Such efforts would also contribute to enhancing the credibility of the authorities in Switzerland as the home authority of a G-SIB, in the aftermath of the 2023 crisis.

7. The failure of CS will be a key theme in this Note since it offers critical insights into the Swiss financial safety net operation and TBTF framework. However, the FSAP will draw conclusions pertinent for the effectiveness of the overall recovery and resolution framework, rather than opine on this individual case. The Note will also provide a high-level assessment of FINMA's current resources related to recovery and resolution functions and specific elements of the Cantonal

[4] The first CHF 5 billion of losses would be supported by UBS.

[5] https://www.imf.org/en/Publications/CR/Issues/2019/06/26/Switzerland-Financial-Sector-Assessment-Program-Technical-Note-Financial-Safety-Net-and-47055

[6] https://www.fsb.org/2024/02/peer-review-of-switzerland/

Banks system, as well as an assessment of the lender of last resort function of SNB and crisis coordination arrangements.

Box 1. Credit Suisse Failure and Actions Taken by the Authorities

The crisis at Credit Suisse in March 2023 culminated years of poor governance, aggressive risk taking, and scandals, which eroded investor and customer confidence. After substantial liquidity outflows in late 2022, Credit Suisse struggled to meet profitability forecasts and faced increased scrutiny over its governance. Despite stabilization efforts, such as issuing long-term debt and rebuilding its liquidity buffer, the situation worsened in March. The failure of several U.S. banks, including Silicon Valley Bank and Signature Bank, heightened global financial uncertainty. On March 9, 2023, Credit Suisse postponed its annual report due to unresolved issues with the U.S. Securities and Exchange Commission, further damaging its credibility. A March 15 statement from the Saudi National Bank shareholder ruling out further investment exacerbated the crisis, leading to a significant decline in the bank's stock market value and liquidity.

Measures Taken by the Swiss Authorities

On March 15, 2023, a joint statement was released by FINMA and SNB, confirming that Credit Suisse met the necessary capital adequacy and liquidity requirements. The statement indicated that the SNB would provide liquidity assistance if required.

In response to liquidity concerns, the SNB implemented several support measures. On March 16, 2023, the SNB provided CHF 38 billion under the Emergency Liquidity Assistance (ELA) framework, along with CHF 10 billion through the liquidity-shortage financing facility (LSFF). The following day, the SNB granted an additional CHF 20 billion under the ELA+. By March 20, 2023, the SNB extended further support of CHF 30 billion under ELA+ and CHF 70 billion through the Public Liquidity Backstop (PLB).

On March 16, 2023, the Federal Council enacted emergency legislation, which included the issuance of the Public Liquidity Backstop Emergency Ordinance (PLB-EO). This ordinance allowed the SNB to provide liquidity support loans with federal default guarantees, up to CHF 100 billion. The legislation also permitted UBS to make merger decisions without the need for shareholder approval.

The Federal Department of Finance (FDF) provided federal guarantees for the SNB's liquidity assistance loans, which included a federal guarantee of up to CHF 9 billion on a specific portfolio of hard-to-value assets held by Credit Suisse, applicable if UBS incurred losses exceeding CHF 5 billion.

Acquisition by UBS (March 19, 2023)

UBS and Credit Suisse agreed on a merger by absorption, supported by extraordinary state measures. The Federal Council approved the necessary emergency ordinance to facilitate the merger. Credit Suisse shareholders received UBS shares in exchange.

AT1 Write-Down

All AT1 instruments were fully written down, resulting in bondholders losing their entire investment, with the write-down amounting to approximately CHF 16 billion, thereby increasing the bank's equity. The write-down of these AT1 bonds was based on contractual clauses, but it faced criticism as shareholders received UBS shares while AT1 bondholders lost everything."

INSTITUTIONAL FRAMEWORK

8. Switzerland's framework for crisis management and financial safety nets consists mainly of three institutions: the SNB, FINMA, and the FDF. esisuisse plays a limited role as a private deposit insurance scheme, with a narrow mandate. Law and regulation define the roles, responsibilities, and information sharing. The SNB, FINMA, and FDF have a Memorandum of Understanding (MoU) for information exchange and crisis management cooperation. esisuisse has a bilateral memorandum with FINMA. A bilateral MoU facilitates regular meetings and information sharing between the SNB and FINMA.

9. The SNB serves as the monetary authority and lender of last resort, mandated to contribute to financial stability. The SNB designates systemically important banks and applies to the Federal Council for the activation, adjustment, or deactivation of the countercyclical capital buffer. The SNB also oversees systemically important Financial Market Infrastructures (FMIs) and evaluates emergency plans for SIBs, limited to its lender of last resort function.

10. FINMA is the supervisory and resolution authority for banks and FMIs.[7] Its responsibilities include safeguarding financial markets and supervising banking, insurance, and securities sectors through a principles-based approach. FINMA has resolution powers to restructure licensed banks and FMIs. Since 2016, it has a dedicated unit for recovery and resolution planning, resolution and bank liquidation (GB-R division)[8], which currently has 30 full-time equivalents (FTEs). The division is responsible for recovery and resolution planning and international cooperation thereon, and the approval of the SIB's emergency plans. It intervenes and accompanies restructuring efforts of a problem bank, manages resolutions and conducts (or monitors if delegated to a third person) the liquidation of banks under the bank-specific bankruptcy regime of the BA (Art. 25, 33 et seq. of the BA). It is also responsible for several tasks concerning the Swiss DIS, approving the self-regulatory actions of the banking industry, and overseeing the payout of uninsured deposits[9.]

11. The Federal Department of Finance (FDF) is responsible for financial stability policies and relevant laws. The head of the FDF is a member of the Swiss Federal Council, which can use broad emergency powers during a financial crisis. The State Secretariat for International Finance

[7] FINMA is also the supervisory and resolution authority of (i) companies holding a FinTech-License pursuant to Art. 1b of the Banking Act ("BA; SR 952.0); (ii) securities firms and fund management companies pursuant to the Financial Institutions Act (SR 954.1; "FinIA"); (iii) central mortgage bond institutions pursuant to the Mortgage Bond Act ("MBA"; SR 211.423.4); (iv) insurance companies pursuant to the Insurance Supervision Act ("ISA"; SR 961.01) to the extent these are subject to supervision by FINMA; (v) certain collective investment schemes (licensed investment companies with variable or fixed capital [SICAVs and SICAFs] as well as limited partnerships for collective investments) pursuant to the Collective Investment Schemes Act ("CISA"; SR 951.31) The resolution of all these type of financial companies is out of the scope of the present assessment.

[8] This division also has the power to apply "protective measures" according to the law (cfr. Paragraph 15).

[9] Cfr. Section below on Deposit Insurance.

represents Switzerland's interests in financial matters and implements the Federal Council's financial market policy.

12. esisuisse, a private self-regulatory body, provides funding for deposits booked in Switzerland up to CHF 100,000 per depositor and per bank. It has a narrow mandate to finance the payout of deposits under a hard cap and is ex-post financed, activated only when the failed bank's liquidity is insufficient to pay insured depositors. The payout is executed by the liquidator under FINMA's supervision.

EARLY INTERVENTION AND RECOVERY PLANNING

A. Early Intervention

13. FINMA faces severe legal limitations in addressing issues with problem banks. Article 31 of the Financial Markets Supervision Act (FINMASA) authorizes action to ensure a bank's compliance with supervisory requirements upon detecting violations. However, the broad nature of this provision lacks a detailed list of actionable options, rendering it more a statement of intent than an effective authority, especially in rapidly escalating situations. Furthermore, the fact that this provision is mainly used when a breach was already identified[10], significantly restricts FINMA's capacity to act decisively and at an early stage.

14. FINMA has the authority to appoint an investigating agent in cases of legal breaches (Art. 36 FINMASA). This agent can implement supervisory measures, explore restructuring options, or replace management bodies. While beneficial in certain situations, this option is not preferred for early corrective actions due to potential reputational damage to the affected bank.

15. FINMA can impose protective measures under the Banking Act (Art. 26 BA), though these cannot be classified as early intervention measure. Such measures include issuing instructions to governing bodies, appointing an investigator, stripping governing bodies of their power to legally represent the bank or removing them from office dismissing auditors, restricting business activities, prohibiting payments, ordering a deferment of payments, or closing the bank. These measures are triggered when reasonable grounds exist to believe that the institution is over-indebted, has serious liquidity problems, or fails to meet capital adequacy requirements after a deadline set by FINMA. These triggers are very narrow and show that such measures are to be only used when resolution or liquidation are being prepared and protective measures work as supporting powers.

[10]According to the authorities this provision can also be triggered by the circumstances underpinning specific legal provisions allowing for measures such Articles 4 para. 3 Banking Act in conjunction with Article 45 CAO (capital surcharges) or Art. 14 and 25 Liquidity Ordinance (liquidity surcharges). In any case, these are very specific tools that cannot be considered as early intervention measures.

16. The failure of CS highlighted the need to improve the early intervention framework. Despite difficulties for several years prior to its collapse, little to no corrective or early intervention measures were implemented.[11] Although a recovery plan existed, FINMA did not mandate the bank to execute these measures. The bank, however, implemented some of the measures on its own initiative. Reports indicate that the lack of early action stemmed from lack of sound legal basis and the belief that the bank was taking all possible measures.

17. As recommended in the previous FSAP, establishing an explicit early intervention framework in law is essential. FINMA currently does not have an explicit early intervention framework with powers that are timely, decisive, and immediately enforceable, which strongly limits its capacity to deal with crisis while the problems are only starting to show. A legal framework with clear early and qualitative triggers and comprehensive options would enhance timely intervention, if also coupled with adequate enforcement powers in case of not compliance with FINMAs decisions. The current law's ambiguity hampers FINMA's ability to act decisively, increasing the risk of legal challenges. The two main elements—triggers and measures—should balance FINMA's discretion with legal certainty. Triggers should be established as early and forward-looking as possible, with less intrusive measures applied initially and more intrusive measures introduced as the bank nears breaches of prudential requirements. The toolkit must also be comprehensive, drawing on examples from peer jurisdictions. The range of options should empower FINMA to prevent situations like that of CS in the future.[12] Moreover, the legal framework should not allow appeals to automatically suspend supervisory measures, as this undermines FINMA's powers and mandate.

B. Recovery Planning

18. Only banks formally classified as SIBs are required to maintain recovery plans. According to Swiss law (Art. 64 BO), only the four SIBs are legally required to prepare and maintain these plans. However, the FSB Key Attributes (KA 11.1) specify that jurisdictions should establish an ongoing process for recovery and resolution plans, covering at a minimum, banks that could be systemically significant or critical if they fail. This scope is broader than just SIBs designated in advance, as any bank, regardless of its size, may become systemic in failure, depending on the circumstances. Therefore, based on the requirements of the Key Attributes, at least all category 3[13] banks should be included in the scope of recovery plans.

[11] While Pillar 2 measures, including capital and liquidity surcharges, were applied to CS, they should not be regarded as corrective or early intervention measures but rather as standard supervisory tools for ongoing risk management.

[12] For example, at least the following measures should be included in a future early intervention framework: (i) require the bank to implement the recovery options laid down in the recovery plan or to additional options to implement; (ii) request the bank to convene a shareholder meeting to take decisions on specific issues; (iii) remove or replace one or more of the members of the management body; (iv) request the bank to prepare and negotiate a debt restructuring plan; (v) require the bank to change its business strategy and to stop or limit the activity of business lines; (vi) require changes to legal and operational structure of the bank.

[13] Category 3 comprises of middle-size cantonal banks and larger regional banks, in total 29 banks. Category 1 and 2 comprise one G-SIB and the three domestically focused SIBs.

19. The framework would greatly benefit from extending the requirement to prepare recovery plans to all banks in the system. Recovery planning is a tool of significant supervisory importance that should be owned by the bank's management and integrated into its risk management framework. For any bank, whether systemic or not, having management to prepare for situations where extraordinary measures may be needed is considered good practice. This approach can mitigate the risk of failure by equipping the bank and its supervisors with the necessary tools to address potential problems in a timely manner. Therefore, authorities should expand the scope of recovery planning to include all banks, in a proportionate basis Category 4 and 5 banks especially, cannot be expected do provide the same level of detail than banks in categories 1,2 and 3.

20. FINMA has approved four recovery plans for its SIBs with the involvement of the supervision division and has been reviewing the plans annually. According to the authorities, the assessment is informed by international guidance from organizations such as the FSB, European Banking Authority (EBA), and Bank of England. However, there is no policy document detailing FINMA's general recovery planning expectations and requirements, apart from individual guidance provided to the four SIBs. The review of earlier recovery plans found that some large banks' recovery plans include early 'orange' triggers at a CET1 level less than half their current level, which makes a recovery plan of little worth as it is already too late to execute credible recovery actions. In the case of CS, the recovery plan was not formally activated by the bank, which demonstrates the challenges of FINMAs approach to recovery planning. After the CS failure, FINMA has requested SIBs to recalibrate the early warning and recovery triggers of their recovery plans.

21. Recovery plans are insufficiently regulated, and their legal foundation should be strengthened. The requirement for preparing recovery plans is established in an ordinance rather than an Act, which may affect the enforceability of the framework by FINMA. Furthermore, Article 64 of the Banking Ordinance (BO) does not substantively regulate the content of these plans or the criteria for their assessment, nor does it grant FINMA explicit authority to outline these requirements in an ordinance or circular. According to FINMA, this limitation has diminished its ability to ensure that banks comply with the necessary improvements on an annual basis. Consequently, authorities should reassess the legal basis for mandating recovery plans and provide FINMA with a clear legal framework that empowers it to enforce compliance and implementation of necessary enhancements to these plans. This recommendation also applies to the legal base of resolution plans.

22. FINMA must enhance the credibility of the recovery plans and make sure these plans can be implemented. FINMA should, in addition to assessing compliance of recovery plans with requirements of the law, place more focus on outcomes. Banks should be expected to integrate their recovery plans with contingent funding plans and other contingency plans, and to trigger activation of the plans well before regulatory minima are reached. Recovery options should include radical options, which would imply major changes to firms' strategies or are not easily implementable, such as disposals of major material entities.

23. FINMA should establish its own recovery plan guidance. As the scope of recovery plans expands, it is crucial to have policy guidance that ensures the impact of recovery planning scenarios is consistent across banks, while allowing the scenarios to be firm specific. The guidance should also detail how FINMA assesses proportionality criteria based on banks' size, complexity, and interconnectedness. Very small banks with simple business models should be permitted to prepare simplified recovery plans. FINMA is currently undergoing a process of revision of its existing guidance, by making a gap analysis of current recovery plans with the goal of improving its overall quality. Nevertheless, the lack of explicit regulation powers to FINMA limits the enforcement of current of new guidance.

24. Recovery plans should place greater emphasis on liquidity issues. Liquidity is crucial for a bank's ability to successfully navigate recovery plans and address potential deposit outflows. Therefore, FINMA should provide clear guidance on what is expected from banks. This preparation should encompass a comprehensive list of liquidity-generating options, as well as the identification of all assets that can be mobilized and collateralized within the framework of central bank facilities. For these purposes, banks should communicate with the SNB. This includes not only assets currently meeting eligibility criteria but also those that may be considered during times of financial stress. Due to the discretion of the SNB in determining conditions under which liquidity could be provided for financial stability, quantitative targets cannot be set ex ante for collateral only eligible for ELA. However, the FINMA (or SNB) could promote collateral prepositioning and contractual practices that facilitate collateral mobilization and transferability. [14] Such focus should also be applied by FINMA for resolution planning.

25. The significant expansion of the scope of recovery plans will require additional resources for FINMA. The current staffing levels are insufficient to support existing workload[15], let alone any increase. Currently, only four recovery plans are reviewed annually. Increasing this number to approximately 250 plans will necessitate a substantial increase in staff dedicated to this function and could be phased over a longer period. However, the marginal cost of reviewing each plan, particularly those from less complex banks, will be much lower than the initial cost for the four systemically important banks (SIBs).

[14] Central bank operational discretion in providing ELA is discussed in the section of the SNB Bilateral Liquidity Support below. While counterparties should be able to factor in the liquidity they could obtain from the central bank's standard operations in their liquidity management strategy, this is not the case for ELA liquidity for several reasons, including (i) the case-by-case decision-making nature of ELA—as opposed to the "on-demand" nature of standard facilities, and (ii) the nature of ELA collateral, which should be broad enough to be effective, compared to collateral for "on-demand" facilities—generally narrow and of good quality. The lesser quality of some ELA collateral might preclude central bank pre-commitment on collateral parameters such as haircuts for those assets. Haircuts are however critical to assessing the amount of liquidity the counterparty can obtain under ELA. Finally, the central bank may discretionarily resort to overcollateralization during an ongoing ELA case.

[15] See Section on Resources and Organization.

RESOLUTION PLANNING AND RESOLVABILITY ASSESSMENT

A. Emergency Plans and Resolution Planning

26. Banks formally declared as systemically important (SIBs) are subject to both Emergency and Resolution Plans requirements. According to Article 60 BO, emergency plans are to be prepared by banks detailing how their critical functions in Switzerland would be preserved if the bank failed. The resolution plans, according with Article 64(2), are prepared by FINMA and apply to the group, detailing how FINMA would resolve the group in case of failure. While in the case of internationally active banks the scope of the plans does not coincide in full, in the case of exclusively domestic banks there is an almost total overlap between the plans, the difference being that one should be drafted by the banks and the other by FINMA.

27. Since the requirement to prepare resolution plans entered into force more than 10 years ago, only resolution plans for the two G-SIBs were prepared. One G-SIB (CS) failed in 2023. Currently only UBS has a resolution plan. However, even this plan has not been prepared by FINMA, but rather by the bank itself, according to the documentation the FSAP mission consulted. FINMA is in the process of establishing formally its own resolution plan for UBS in the aftermath of the integration of Credit Suisse and is starting to prepare resolution plans for two other D-SIBs in 2024, while for the other D-SIB, only the emergency plan is being assessed as it is not deemed implementable yet. Based on limited experience with the two plans, FINMA has provided guidance to the banks preparing a resolution plan, including information requests. Banks provide data and resolution options, while FINMA should be the one preparing and controlling the content of the plan. Annually, banks must submit information for resolution planning or when requested by FINMA.

28. All banks that can become systemic under certain circumstances should be subject to resolution planning. KA 11.1 specifies that jurisdictions should have an ongoing process for recovery and resolution plans, covering banks that could be systemically significant if they fail. In Switzerland, this KA has been implemented narrowly, where only formally declared SIBs are subject to resolution planning. However, the scope should include banks that may become systemic depending on circumstances. While not all banks have the potential to become systemic in failure, Category 3 banks (based on the categorization provided for in the BO), which according to information provided in FINMAs website are "large and complex" and pose "significant risk" should be included. Given the complexity and resource intensity for both authorities and banks of preparing resolution plans, the law should allow FINMA to prepare simplified resolution plans for banks posing a small risk to the system.

29. In addition to resolution plans prepared by FINMA, the four SIBs must submit emergency plans for their Swiss operations to FINMA. These plans outline how to maintain the operation of systemically important functions during insolvency. For internationally active banks like

UBS, the emergency plan acts as a fallback if the preferred Single Point of Entry Bail-in strategy cannot be executed. FINMA is responsible for assessing and approving the emergency plans, examining whether: (i) continuation of systemically important functions is ensured; (ii) legal and financial relations within the group do not obstruct the continuation of these functions; (iii) capital and liquidity planning foresee sufficient resources; (iv) suitable processes, infrastructure, and human resources are in place; (v) intra-group agreements are recorded; and (vi) the emergency plan complies with relevant foreign laws. Emergency plans must be updated annually. FINMA has spent the last decade assessing feasibility and collaborating with banks to remove obstacles to implementation of emergency plans.

30. Three of the four SIBs have an approved emergency plan. Two plans correspond to domestic D-SIBs and were approved in 2023. One emergency plan for a D-SIB remains unapproved due to "implementability" (resolvability) considerations related with how the bail-in powers would be executed under a specific corporate structure. Until recently, FINMAs policy was to only start preparing resolution plans for SIBs with approved and implementable emergency plans. As a result, no resolution plans were prepared for any SIBs, even though FINMA is currently starting the process to prepare plans for these banks.

31. FINMA can require banks to change their legal and operational structures based on deficiencies in their emergency plans. When assessing the emergency plans of SIBs, FINMA conducts an "implementability" (resolvability) assessment. If a plan is deemed not "implementable," FINMA requests changes within a specified deadline. If the issues are not addressed, FINMA can use special enforcement powers (Art. 10(2) BA, Art. 62(1)(2) BO), including creating an independent legal entity in Switzerland for transferring systemically important functions or adjusting the bank's structure. Banks can appeal FINMA's decisions, but FINMA transmitted that it has not exercised these powers as UBS and CS made necessary changes to their structure by founding a dedicated legal entity for Swiss systemically important to benefit from a rebate on its gone concern capital requirements in place until end 2022 (Art. 65 and 66 BO old version)[16]. The SIB for which the emergency plan is not yet considered implementable is in the process of making the necessary changes and removing the relevant impediments.

32. FINMA's preferred resolution strategy for UBS is the Single Point of Entry (SPOE) bail-in at the group holding level. To facilitate this strategy, UBS is required to maintain additional funds in the form of bailinable bonds. To qualify as additional funds, these bonds must be issued by the group holding company, adhere to Swiss law and jurisdiction, and be subordinate to any other liabilities of the issuer. The resolution strategy for domestic SIBs also includes a recapitalization process involving the conversion of gone-concern capital. However, the D-SIBs have a substantial

[16] After the maximum rebate potential had been exhausted, the rebate system for improvements has been replaced as of 1 Jan. 2023 by a penalty system in case of hindrances to resolvability (i.e. a possibility to undo rebates if resolvability expectations are not met).

lower gone-concern capital (60 percent discount) than UBS, which raises substantial concerns regarding the resolvability of such banking groups.

33. The relationship between resolution plans and emergency plans is complex and fraught with overlaps. Although there is a geographical distinction—emergency plans focus on Swiss functions while resolution plans encompass all bank functions—this distinction mainly pertains to internationally active banks. For most retail banks, this dual planning complicates and slows down the resolution process. The complexity arises from having two plans with similar objectives: one that should be drafted by FINMA based in information provided by the bank (though in in the case of UBS it was prepared by the bank itself) and the other by the banks themselves. While FINMA can issue guidance for consistency, it would be more efficient to establish a single process under FINMA's control. Furthermore, the resolution planning process is delayed as FINMA begins only after an emergency plan is approved. It would be more effective for FINMA to prepare a resolution plan for each bank, regardless of the emergency plan's status. Given the significance of the Swiss financial center, emergency plans alone may lack credibility in a crisis. Implementing such plans, which could involve allowing the failure of all international functions to preserve Swiss banking operations, risks harming the entire banking system and undermining foreign authorities trust in the Swiss authorities.

34. Emergency plans and resolution planning should merge into a single process. Authorities should review existing legislation and streamline the crisis planning framework. Resolution plans should be at the core of this unified process, drafted by FINMA and not by the banks themselves. FINMA should develop these plans in collaboration with banks, which would provide quantitative and qualitative information and assist in drafting sections of the plan. What is currently assessed under emergency plans for all banks, except G-SIBs, is equivalent to a resolution plan in what concerns Swiss local activities and critical functions. Even for G-SIBs, the content of emergency plans as a fallback plan could be formally integrated into only one plan, named "resolution plan" prepared by FINMA under a single set of rules. FINMA should prepare policy guidance to clarify expectations from banks and criteria for assessing resolution plans.

35. FINMA should accelerate the resolution planning process. Since only one resolution plan currently exists, FINMA should focus on finishing the first iteration of the resolution plans for all D-SIBS by end-2025. These plans should be prepared by FINMA and not by the banks, even though it is expected the banks to provide information and draft elements that FINMA finds necessary (including playbooks to execute resolution measures). Furthermore, FINMA should start in 2025 the resolution planning process for at least the three most significant non-SIBs. While there is no legal requirement to prepare plans to these banks, FINMA should bilaterally articulate with these banks and voluntarily involve these banks in the resolution planning process. If banks refuse, FINMA should work with whatever supervisory information it has and prepare a simplified resolution plan even without the participation of the bank.

B. Resolvability Assessment

36. FINMA only assesses the G-SIBs' resolvability. According with the law (Art. 65a BO), only G-SIBs are formally subject to resolvability assessment. For the D-SIBs, their "resolvability" is assessed under the emergency plan framework, creating an overlap of plans and assessment sometimes difficult to reconcile. For the existing G-SIB, FINMA conducts resolvability assessments per the agreed FSB process (Resolvability Assessment Process). FINMA uses the FSB Resolvability Assessment template and asks G-SIBs to establish a self-assessment. Then, FINMA scrutinizes these assessments to inform its conclusions for the RAP letters to the FSB chair. Before the CS failure, both G-SIBs had implemented several organizational measures to improve resolvability, including a non-operational holding company. This structure would support a Single Point of Entry bail-in strategy. However, the CS failure was addressed by Swiss authorities outside of any established framework, resolution or otherwise, but rather through emergency legislation.

37. Substantial progress is needed to improve the resolvability of Swiss banks. Any bank that is subject to resolution planning requirements, which should include category 3 banks, needs to be subject to a formal resolvability assessment procedure. This assessment should be proportional and tailored to the preferred resolution strategy that FINMA selects in the resolution plan. The law should be revised and include an explicit provision giving the power to FINMA to assess the resolvability of all banks for which it prepares a resolution plan, as well as powers to remove impediments to resolvability. As recommended above, the merger of both emergency plans and resolution in a single resolution plan would streamline the resolvability assessment process and make it more efficient.

38. The resolvability of UBS should be specially monitored. In the case of CS, authorities opted not to use resolution powers or execute the resolution plan, which was based on a single point of entry open bank bail-in. Instead, they deemed selling the bank to UBS the best option, a sale conducted outside a resolution process. This outcome indicates that resolution impediments were not addressed prior to the crisis sufficiently enough to provide confidence that the resolution can be executed without endangering financial stability. This serves as an important lesson in carefully preparing the resolution plan for UBS and ensure that impediments to resolvability can be addressed effectively ahead of time. This lesson is more relevant now than before, as the option for a domestic sale of UBS is close to impossible.

39. While uncertainties will always challenge the execution of the preferred path for resolution, second best scenarios should always be considered and tested in advance. Given that UBS shares the same preferred resolution strategy, FINMA should further enrich its resolvability assessment of UBS, address impediments similar to those faced by CS, and prepare alternative resolution strategies should the preferred approach prove unfeasible. Importantly, resolution plans should be based on the premise that no extraordinary government support would be needed. The activation of the envisaged PLB (see section on the SNB Bilateral Liquidity Support) should be triggered only in exceptional cases where this measure would be necessary to secure financial stability, and the resolution plan should focus on the assessment of the conditions to maximize the usability of collateral for SNB lending if there is a need for it. The gist of the KA framework is that systemically important institutions become resolvable without taxpayer exposure to loss from solvency support, while maintaining continuity of their vital economic functions.

Box 2. Recognition of Bail-In Decisions by the U.S. Authorities

When a foreign bank issues debt under its own jurisdiction's laws, but these instruments are held by US investors, the conversion of these debts to equity during a bail-in must comply with U.S. securities laws. This includes the requirement to register the new equity with the SEC or qualify for an exemption. The most likely exemption, under section 3(a)(9) of the 1933 Securities Act, has stringent conditions that may not always be met[1]. This creates uncertainty and potential delays, as the registration process is lengthy and complex. The requirements include:

- The issuing entity does not change.
- The holders of the instruments do not change.
- There is no solicitation payment or requirement for bondholders to contribute anything other than their instruments.

This legal complexity can hinder the swift execution of a bail-in, which is typically intended to be completed over a short period.

Many global banks issue a significant portion of their debt in the U.S. market due to its depth and liquidity. This means that a substantial amount of their gone-concern capital (TLAC, MREL) is subject to aspects of US law even if the governing law is foreign. The saturation of national markets forces banks to seek deeper markets like the US, where they can issue billions in debt securities. This reliance on the US market exposes banks to U.S. securities regulations, which can be challenging for authorities. Because it has been proven difficult to get an ex-ante exemption for bail-in scenarios, resolution authorities have been relying on legal opinions by US counsel. This uncertainty creates challenges for effective resolution planning and execution. Banks must prepare for the possibility that their bail-in plans may not be recognized or could be challenged in US courts, adding a layer of legal risk to the resolution process. Effective resolution of global banks requires coordination between multiple jurisdictions. The lack of explicit legislative provisions in the US (as in other jurisdictions) to recognize foreign resolution actions, as was recognized in the 2020 FSAP,[2] is an additional challenge. Authorities must navigate differing legal frameworks and regulatory requirements, which can lead to delays and increased costs in the resolution process. Consequently, bilateral and multilateral cooperation is crucial to provide global authorities with the legal certainty needed to prepare their operational procedures and execute a bail-in of debt securities. This cooperation ensures that the outcome is not hindered by a lack of recognition from foreign authorities.

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[1] Cfr. Speech by SEC Chair Gary Gensler in September 10, 2024 (https://www.sec.gov/newsroom/speeches-statements/gensler-remarks-peterson-institute-091024).

[2] https://www.imf.org/en/Publications/CR/Issues/2020/08/07/United-States-Financial-Sector-Assessment-Program-Technical-Note-Financial-Crisis-49654.

40. The feasibility of solvent wind-down should be assessed. Although authorities advocate for new tools in the resolution toolkit, such as an orderly solvent wind-down of banks or their parts, FINMA should evaluate the credibility of these tools, as due to the maturity mismatch in bank's balance sheets winding down the activity of bank mainly funded with short and medium term liabilities will create funding needs the bank may be unprepared to meet, posing a significant impediment to resolvability.

41. Impediments to the bail-in of securities traded and placed in foreign markets are a source of concern. The Federal Council's TBTF report mentions issues with executing a bail-in, particularly uncertainty regarding recognition of the bail-in decision by foreign authorities. This is critical when gone-concern capital is issued under Swiss law but registered / listed under U.S. regime, triggering the need for US authorities to recognize and authorize the exchange of debt instruments with equity. This uncertainty should be resolved in cooperation with U.S. authorities. If not possible, FINMA should find alternative ways to ensure high likelihood of effective write down and conversion of liabilities issued in the US or other jurisdictions. In material impediments prevent this, authorities should consider deducting all gone-concern capital instruments held by U.S. persons from the eligible instruments pool.

42. The resolvability of D-SIBs and category 3 banks is critical to mitigate risks to financial stability. So far, no D-SIB has undergone a resolvability assessment due to the absence of a resolution plan for this category of banks, but also because the law does not provide the powers to FINMA to undertake this assessment. It should be acknowledged, however, that the Art. 61 BO provides FINMA the power to assess the "implementability" of such emergency plans, which overlaps significantly with a potential resolvability assessment. Nevertheless, if, as recommended, resolution plans are also prepared for category 3 banks, all banks with resolution as the preferred strategy should also be assessed for resolvability. Proportionality should guide this assessment, with larger and more interconnected banks facing a more intrusive resolvability assessment and measures to remove impediments.

43. Loss absorption capacity is critical for D-SIBs and Category 3 banks. The loss absorption requirement for G-SIBs is around 26 percent in relation to RWA, while D-SIBs only require 18.13-20.72 percent (12.86 percent minimum CET1 capital and between 5.27-7.86 percent of gone-concern capital), much lower than their closest EU peers.[17] Authorities should review the applicable legislation and allow FINMA to determine the gone-concern capital requirement on a case-by-case basis without a pre-decided discount. There is no substantial reason for D-SIBs to have a requirement so much lower than a G-SIB. Furthermore, all category 3 banks should also be subject to a gone-concern capital requirement if FINMA considers resolution the preferred option. Such a change is crucial to enhance the resilience of the Swiss financial sector.

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[17] In the European Union, Banking Union banks (which include many non-SIBs) have on average MREL (equivalent to TLAC) targets of 28% including the Combined Buffer Requirement (CBR). Cfr, "MREL Dashboard – Q1 2024" consulted at https://www.srb.europa.eu/system/files/media/document/2024-07-30_MREL-Dashboard-Q1-2024_0.pdf.

44. Contrary to Swiss emergency plans, there is no explicit power for FINMA to require changes in the legal or business structure of a bank to enhance resolvability. FINMA's powers should be strengthened to allow it to adopt measures to reduce the complexity and cost of resolution, which should include the power to require banks to modify their structures; restrict or discontinue specific activities; limit exposures to certain group entities or SPVs; impose additional reporting requirements; and enforce sanctions. The powers in Art. 62 BO to address deficiencies in emergency plans should also be granted to FINMA for all banks subject to resolution, including category 3 banks.

45. FINMA should improve its guidance on resolution planning and resolvability requirements. Being transparent about the expectations for banks in terms of resolution planning and resolvability is critical for the credibility of FINMA and to allow a more streamlined process if there is a need to use enforcement powers. In this sense, FINMA should publicly articulate the capabilities that banks must have to effectively support their orderly resolution as planned by FINMA, but also what is expected to support the preparation of the resolution plan by FINMA. FINMA should also adopt internal guidance for FINMA staff detailing the resolution planning procedures and criteria to assess resolvability and remove impediments. Furthermore, FINMA should enhance transparency by disclosing more comprehensively the results of its resolvability assessments and the measures banks are implementing to address potential impediments. The use of the FSB Resolvability Assessment Process template should not be used as benchmark of disclosure requirements, as it is a very high-level document not designed with the objective of being used as template for a bank-by-bank proper assessment of resolvability.

C. Cantonal Banks

46. The resolution of cantonal banks presents significant challenges due to the cantonal guarantees provided for most of these institutions. These guarantees are established in both federal and cantonal law. The Swiss Federal Banking Law of 1934 outlines the legal framework for creating cantonal banks, allowing individual cantons the option—though not the obligation—to guarantee some or all of the banks' liabilities. The specific form and extent of state guarantees are detailed in the cantonal legislation governing the establishment of these banks.

47. During the Swiss Banking Crisis of the 1990s, the guarantees from the canton of Geneva were invoked, resulting in taxpayer losses amounting to 9 percent of the canton's income. This financial burden led to the withdrawal of the guarantee for the cantonal bank of Geneva. The Cantons of Bern and Vaud followed suit after also having to provide financial support to their respective cantonal banks. Other cantons retained their guarantees albeit with varying levels of coverage and different terms related to their respective cantonal bank.

48. Some Cantonal banks benefit from an explicit and unlimited cantonal guarantee. Under these guarantees, in case of default the creditors of a cantonal bank would have a claim on the Canton itself. In some cases, this guarantee comes associated with a unique ownership structure where the Canton is the only entity entitled to be the owner of the bank. This arrangement poses challenges if the canton fails to uphold the guarantee and the bank consequently collapses, as it would not be possible to wipe out the shareholder if it is the Canton itself. Recently, changes to banking legislation have permitted FINMA to wipe out specific types of bail-in bonds issued for this purpose, but not to convert them into equity, therefore not diluting existing shareholders.[18] Before this legislative change, FINMA could not even wipe out any type of liabilities.

49. The conditions for the write-down of bail-in bonds might not be sufficient to recapitalize a cantonal bank. Under the terms and conditions of the bail-in bonds that have been issued under the new framework, the bailed-in bond holders have the right to get a compensation from the resolved bank during a period of 10 years under certain conditions, including the bank complying with capital requirements plus a buffer and the banks having an annual profit allowing the payment of compensation. This compensation entitlement, which is broader than a normal NCWO compensation, has the effect of conferring to the bailed-in creditors an equivalent status of equity holders, therefore circumventing the prohibition of converting creditors into shareholders. Nevertheless, it is unclear if the payment of the compensation is totally discretionary or not, which in case it could have the accounting consequence of classifying these bailed-in credits as contingent liabilities. Authorities should review this legislation and provide more legal clarity, by providing a clear subordinated status to these bailed-in creditors, including total discretion in providing any compensation.

50. Authorities should prepare the operational measures to deal with the potential failure of the cantonal banks in a way that takes into account the existence of cantonal guarantees. While cantonal banks have proven quite resilient in recent times and are seen as very safe, the fact is that any bank can fail, and crises have affected in the past cantonal banks. The operational challenges of executing the cantonal guarantees should be addressed during the resolution planning process and resolvability assessment of banks facing these issues. This is even more critical in the cases where the guarantees represent a very high share (more than 100 percent) of the GDP of the cantonal bank providing the guarantee. FINMA should evaluate the economic and legal challenges that such scenarios may involve and make all the operational preparations in case of potential failure of the cantonal bank. These preparations should involve the Cantons to avoid the need of the execution of the guarantee by any affected creditors, which in some cases might prove impossible considering that some guarantees represent a very high share (above 100 percent) of the GDP of the Canton providing it.

[18] However, under the terms and conditions of the bail-in bonds that have been issued under this framework, the bailed-in bond holders have the right to get a compensation from the resolved bank during a period of 10 years under certain conditions, including the bank complying with capital requirements plus a buffer and the banks having an annual profit allowing the payment of compensation. This compensation entitlement has the effect of conferring to the bailed-in creditors an equivalent status of equity holders, therefore circumventing the prohibition of converting creditors into shareholders. Nevertheless, it is unclear if the payment of the compensation is totally discretionary or not, which in case it could have the accounting consequence of classifying these bailed-in credits as contingent liabilities.

RESOLUTION POWERS AND CRISIS PREPAREDNESS

A. Resolution Powers

51. Swiss law provides FINMA with bank resolution powers. The resolution framework is established under the BA in Art. 25 to 32, and the toolkit of powers provide to FINMA is not totally compliant with the FSB KA (KA 3). According to Art. 25 BA, if a bank is failing or likely to fail,[19] FINMA may order "restructuring procedures". The initial element of such procedures is the "restructuring plan", which is prepared only if it appears likely that the bank or the banking services can be effectively restructured. This restructuring plan may contain one or more of the following measures: (i) the sale of assets and liabilities or the shares of the failing bank to a purchase; (ii)the transfer of assets and liabilities to a bridge bank; (iii) the change of the legal form of the bank; (iv) the write-down of equity and liabilities and the conversion of liabilities into equity to recapitalize the failing bank (capital measures under the BA); (v) Suspension of early termination rights in financial contracts; (vi) Appointment and dismissal of its governing bodies.

52. While shareholders cannot oppose resolution, creditors have the power to reject the restructuring plan. The power of creditors to reject the plan is only provided to creditors of banks that are not classified as systemically important. Creditors of SIBs don't have such power.[20] A rejection of the restructuring plan would result in the opening of bankruptcy liquidation proceedings.

53. Creditor's rights are adequately protected in the case of resolution. Swiss law requires that the restructuring plan for a bank in resolution is based on a prudent valuation of the bank's assets and liabilities as well as a prudent estimate of the restructuring requirements (Art. 30c para. 1 lit. a BA). However, this valuation is carried out by the bank based on valuation capabilities that FINMA sets for SIBs in the resolution planning stage.

54. FINMA's actions are subject to judicial review. The bank can appeal any FINMA measure. Creditors and owners may appeal against the approval of the restructuring plan. Appeals must be filed within 10 days (Art. 37g ^{quater} BA). Generally, appeals in resolution proceedings have no suspensory effect, except in certain cases (Art. 37g ^{quinquies} BA). The Federal Administrative Court can review the appropriateness of FINMA's decisions. Successful appeals do not revoke restructuring plans and the court may only award a compensation (Art. 37g^{bis} (1) BA), typically in shares or equity interests, options or debtor warrants (Art. 37g^{bis} (2) BA). Creditors can appeal if they conclude the restructuring left them worse off than in an immediate bankruptcy (NCWO principle). If FINMA

[19] The triggers for action include that reasonable grounds exist to expect that (i) the institution is over-indebted; (ii) has serious liquidity problems; or (iii) does not fulfill the capital adequacy requirements after a deadline set by FINMA.

[20] This determination is made by the SNB in consultation with FINMA (Art. 8 BA). According to the interpretation of the authorities, this formal classification cannot be made at the time of failure, so if a bank was not already classified as systemic, there doesn't seem to be a way to change that even if its failure would create systemic risk.

approves a restructuring plan knowing the NCWO requirement is not fulfilled, compensation must be set in the restructuring plan and be in a form other than shares or equity interests.

55. The CS failure was addressed by authorities outside the resolution framework. While the Swiss resolution framework provides measures that could have facilitated a resolution akin to the government assisted sale of CS to UBS, authorities opted against it. According to the recent "Federal Council report on banking stability", this decision stemmed from concerns about the prevailing crisis of confidence in the banking sector and the legal and implementation risks of bail-in powers[21]. Recognizing the complexities of executing an open bank bail-in during a crisis like CS's is crucial, which is why authorities on top of better preparing to apply bail-in, must also consider the full range of tools beyond bail-in alone. Other mechanisms, including transfer tools (Purchase and Assumption, Bridge Bank and Asset management Company), should enhance the resolution process.

56. Authorities should use the resolution framework to deal with bank failures of potential systemic banks and should avoid using ad-hoc solutions. If inherent legal risks exist with certain resolution tools, the framework should be reviewed to minimize these risks and ensure robust management of future crises. All stakeholders should be aware of the rules in place and should expect that in case of problems in a bank will be addressed under a legal framework that is known in advance, therefore bolstering confidence in the banking system and safeguarding broader stability.

57. The resolution toolkit should be expanded. While existing legislation provides relevant resolution measures and powers, there are notable gaps that must be addressed. The toolkit should encompass all resolution powers outlined in item 3.2 of the FSB Key Attributes or at least make clear that the legal framework explicitly provides for such tools[22]. This should include the authority to establish an asset management company for the transfer of non-performing or hard-to-value assets. Additionally, it should ensure the continuity of critical services by mandating that other companies within the same group continue providing essential services to the entity in resolution, its successors, or acquiring entities.

58. Bail-in should be usable together with transfer powers. Bail-in powers should also allow for both a full and partial write-down and conversion of liabilities.[23] Furthermore, the framework needs to allow, or make clear, that bail-in powers can be used in combination with the use of transfer powers. This would give legal certainty to FINMA in order to write down shareholders and creditors before selling the bank to an interested purchaser, therefore making possible a sale in resolution in cases where the purchaser gives a negative net asset value to the bank. Additionally, these powers would also allow to convert creditors of the resolved bank into equity holders of the

[21] Federal Council Report on Financial Stability, p. 46. This was also confirmed by authorities during the mission.

[22] It was not always clear, both form reading the law (translated) and from discussions with authorities what the law allowed or not the resolution authority to implement.

[23] While this view was not shared unanimously, authorities have indicated that the law may be interpreted as permitting only a "full" write-off of shareholders, which, in the case of Credit Suisse, for instance, was deemed unnecessary.

bridge banks and asset management companies.

59. While creditor rights must be protected, the resolution process should not hinge on the approval by the majority of a group of creditors.[24] The Banking Act (BA) grants creditors of banks not classified as systemically important the authority to reject a restructuring plan. However, this power is not extended to creditors of systemically important banks. Resolution of all banks should adhere to the same regulatory framework regarding the authority of resolution entities to execute actions. Authorities should amend the law to eliminate the possibility for creditors to reject the plan to implement resolutions for non-systemically important banks. This change is essential, as any bank can become systemic in failure, placing Swiss financial stability at the mercy of creditor decisions which do not take this into account. Furthermore, even if all the creditors agree with the plan, just the mere fact that FINMA needs to submit the plan to the creditors and set a deadline might be enough to make that option unfeasible.

60. Any compensation awarded to creditors must not impact the balance sheet of the resolved bank. While it is important that creditors receive compensation if the NCWO principle is violated, such compensation should not be a claim against the resolved bank. Allowing this would diminish the bank's equity, potentially leading to capital requirement breaches and the need of additional bail-in[25]. Authorities should legislate that any decision to write down liabilities is permanent and does not confer a claim on the resolved bank if the NCWO principle is breached. Nonetheless, an industry funded compensation mechanism should be established within the law to ensure affected creditors are adequately addressed.

61. The valuation process seems too dependent on banks. The restructuring plan for a bank in resolution requires prudent valuation, which current FINMA requirements mandate the bank to provide to the resolution authority. Authorities may differentiate between supplying information and preparing the valuation. Valuations involve discretion in assumptions and methodologies, and the resolution strategy can significantly affect outcomes. Thus, it may be beneficial for valuation to not rest solely with the bank to ensure an unbiased process and enhance the integrity of the resolution framework.

62. FINMA serves as the exclusive authority for initiating bankruptcy liquidation proceedings against Swiss banks. The Swiss Financial Market Supervisory Authority (FINMA) can revoke a bank's operating license and open bankruptcy liquidation proceedings when it determines the institution is no longer viable and if there is no prospect of restructuring. The initiation and execution of bank liquidation proceedings is facilitated through modified bankruptcy liquidation

[24] The creditors that can oppose the restructuring plan belong to the third class of unsecured creditors, which includes all unsecured claims except for some claims stemming from very specific situations. One of the exceptions are privileged deposits or claims from workers arising from employment contracts within six months before bankruptcy.

[25] Which might create a never-ending circle of bail-in, as each round of bail-in would always increase the liability side of the balance sheet on the same amount of the liabilities that were written-down due to the compensation entitlement generated, creating itself additional needs of further bail-in.

procedures established in the BA and Banking Ordinance of FINMA (BIO-FINMA), providing a structured approach to addressing financial distress in banks.

63. Upon initiating bankruptcy liquidation proceedings, FINMA appoints a liquidator to manage the liquidation process. The liquidator, typically experienced lawyers or auditors is tasked with liquidating the failed bank's assets and ensuring orderly payment of liabilities to creditors and depositors. In certain cases, FINMA may take on the liquidator's responsibilities directly when rapid action is necessary to protect stakeholders' interests. While the liquidator has the power to sell assets and liabilities, the transfer of liabilities depends on creditor's consent as per the general private law principle. This requirement makes it almost impossible for a liquidator to carry out a Purchase and Assumption transaction, as it would need to get consent from all transferred creditors. The authorities should review this requirement and provide the liquidator the power to perform a transfer of assets and liabilities without the consent of creditors.

64. FINMA maintains a supervisory role throughout the liquidation process. Once a liquidator is appointed, FINMA coordinates and oversees liquidation activities, including on-site visits and audits to monitor compliance. Additionally, FINMA can issue binding orders to the liquidator to ensure legal standards are met. Creditor involvement is key through two importance insolvency bodies: a general creditors' meeting (where all creditors are represented) and a creditors' committee (where a selected group of creditors are represented). Recent cases illustrate this process, including FlowBank SA, declared insolvent in June 2024 due to insufficient capital, and Mogli AG, which entered liquidation in 2022. FINMA ensures that insured deposits are prioritized in the liquidation process allowing timely access to funds during liquidation.

65. FINMA should enhance its operational readiness for bank liquidation procedures. Bank liquidation serves as the default option for institutions that do not pose a risk to financial stability upon failure. It is crucial that this process is conducted as orderly as possible to keep potential risks contained. Additionally, depositors of a bank entering liquidation should receive reimbursement for their insured deposits as swiftly as possible. Delays in the payout process can lead to uncontrollable ripple effects throughout the banking sector. Therefore, FINMA should develop a comprehensive procedures manual for managing banks facing insolvency, detailing the steps liquidators must follow to execute the payout of insured deposits. These procedures should be rigorously tested and simulated by FINMA in collaboration with potential liquidators and esisuisse, the funding mechanism of the Deposit Insurance Scheme (DIS).

B. Crisis Preparedness

66. FINMA faces challenges in its crisis preparedness for bank resolutions. While FINMA has prepared a set of extensive preparatory documents for the resolution of CS, this primarily focused on the single point of entry bail-in for that bank in particular and not on all resolution measures applicable to any bank. Coordination with domestic agencies occurs through existing MOUs and committees; however, the lack of a comprehensive and general procedure manual may hinder effective crisis response. Additionally, engagement with foreign agencies is contingent on specific situations, potentially leading to gaps in international coordination during a crisis.

67. The absence of crisis simulation exercises highlights a significant shortcoming in FINMA's readiness. Although plans for annual exercises are set to commence in 2024, the lack of prior testing raises concerns. Future exercises aim to simulate various scenarios, including the resolution of a domestic systemically important bank, yet the scope remains undetermined. This uncertainty, along with challenges in staff development and resource allocation, suggests significant challenges ahead for FINMA.

68. FINMA should develop comprehensive internal procedures manuals for all resolution tools to enhance its crisis preparedness. A resolution procedures manual is a crucial compilation of processes that FINMA must implement during bank resolution. It outlines legally mandated responsibilities and relevant authority, ensuring operational clarity. The manual links the statutory resolution regime and individual bank resolution plans, enabling FINMA to minimize redundancy and focus on bank-specific factors. Additionally, it serves as training material for new staff and a refresher for existing personnel. Such manuals should be living documents, continuously updated by a dedicated team. Many resolution authorities worldwide engage financial advisors to assist in drafting initial versions. By investing in these manuals, FINMA can enhance its readiness for banking crises. As a first step, FINMA could leverage on the material prepared in the run-up to crisis of CS, which might prove a good basis for further preparatory work.

69. Implementing annual crisis simulation exercises is crucial for testing the effectiveness of FINMA's procedures in managing banking crises. These exercises are vital for financial authorities to practice decision-making under simulated crisis conditions and evaluate response strategies. By participating in simulations, FINMA can gain insights into crisis management dynamics, ensuring stakeholders understand their roles during emergencies. Collaborating with external experts specializing in crisis simulations can enhance credibility and introduce best practices from other jurisdictions, allowing FINMA to refine its procedures. Additionally, these exercises help identify weaknesses in current processes, enabling FINMA to address gaps in its crisis management framework before real crises occur. By prioritizing these initiatives, FINMA can improve readiness for bank resolutions and ensure a coordinated response among stakeholders. Ultimately, regular crisis simulations are essential for fostering resilience against financial disruptions, making this recommendation a priority for Swiss authorities to maintain banking sector integrity.

C. Domestic and Cross-Border Arrangements and Cooperation

70. The FDF, SNB, and FINMA formalize their collaboration through a tripartite MoU. This MoU establishes a framework for information exchange and cooperative action during financial instability. Its primary aim is to bolster the Swiss financial system's resilience by ensuring aligned actions during a crisis, considering each authority's responsibilities. By facilitating communication, the MoU aims to allow effective coordination during critical situations, enhancing collective response capabilities. The document underscores the legal obligation for these authorities to share relevant information, including non-public data, essential for informed decision-making. Additionally, a separate bilateral MoU governs the relationship between FINMA and the SNB, specifically addressing their collaborative efforts in common areas of interest, such as the assessment of the soundness of SIBs and/or the banking system, regulations that have a major impact on the soundness of banks and contingency planning and crisis management. While this MoU has been used extensively in Switzerland, we recommend its review to add the major banks of category 3, which can potentially generate systemic risk.

71. Within the tripartite MOU framework, two key committees have been established: the Steering Committee and the Committee on Financial Crises. The Steering Committee provides strategic oversight during crises, comprising high-ranking officials from each authority, including the Head of the FDF, the SNB Chairman, and the FINMA Chairman. The Committee on Financial Crises focuses on the preparatory groundwork needed for effective crisis management. Chaired by FINMA's CEO, this committee includes senior representatives from the FDF and SNB, as well as the Director of the Federal Finance Administration for discussions involving state guarantees. In non-crisis periods, this committee meets regularly to review financial stability issues and discuss regulatory developments, ensuring all authorities remain informed and coordinated. If and when the DIA would become a public entity, it should fully participate in the crisis management and preparedness activities.

72. To enhance crisis preparedness in Switzerland's financial system, advancing a comprehensive framework under the Steering Committee for Crisis Management is crucial. This initiative should begin with creating a national contingency plan that outlines the roles and responsibilities of each agency involved in crisis response, ensuring cohesive action during financial disturbances. A national crisis communication plan is essential for establishing a unified approach to disseminating information, maintaining transparency and confidence during crises. Implementing regular multi-agency financial crisis simulation exercises will allow agencies to practice coordinated response strategies, identify weaknesses in current protocols, and foster collaboration. Cross-border exercises with Crisis Management Group (CMG) members should also be incorporated, enabling Swiss authorities to align strategies with international best practices and ensure effective responses to global financial challenges.

73. Switzerland has established cross-border cooperation arrangements for crisis management, particularly for UBS. FINMA chairs the Crisis Management Group (CMG for UBS) that includes authorities from the United States, the United Kingdom and the EU, with the SNB in an observer capacity in its role as a lender of last resort. This arrangement facilitates information exchange and coordination during financial crises. A formal agreement outlines each authority's roles and responsibilities in crisis scenarios. FINMA organizes at two three multi-day meetings annually to ensure alignment among jurisdictions on crisis response strategies.

74. In addition to the UBS CMG, FINMA cooperates with various international regulatory

bodies to address crisis management issues. This includes an agreement with authorities in the Asia-Pacific region, where UBS operates, even if those jurisdictions are not part of the CMG. Such arrangements promote effective communication and coordination on potential challenges. Furthermore, FINMA engages in bilateral discussions to facilitate information sharing and address jurisdictional complexities. These cross-border arrangements are essential for managing risks associated with international banking operations and ensuring a coordinated response during disruptions. FINMA also organizes meetings semi-annually to ensure alignment among jurisdictions on crisis response strategies.

75. The process for recognizing foreign resolution decisions in Switzerland is procedurally complex. The recognition process for foreign resolution decisions in Switzerland, governed by Article 37g of the Swiss Banking Act, requires that foreign resolution actions are not manifestly incompatible with public policy, which follows international best practices. Procedurally, the need for extensive documentation, such as official translations with an apostille, can result in delays and confusion for both Swiss financial institutions and their international counterparts regarding the implications of foreign resolutions. To enhance Switzerland's crisis management framework, it is essential to improve this recognition process by reviewing relevant legal provisions, including Article 37g, and establishing an expedited procedure with minimal formal requirements while ensuring legal certainty. Simplifying this framework will enable more efficient responses to cross-border financial crises and strengthen cooperation with foreign regulators, ultimately promoting greater financial stability.

DEPOSITOR INSURANCE AND RESOLUTION FINANCING

A. Deposit Insurance

76. The Swiss DIS has some unique characteristics, namely the existence of a cap for aggregate insured deposits, which diverges from international best practices and can threaten financial stability. The Swiss DIS aims to protect individually insured depositors in the event of bank failures. At the level of the banking system, aggregate contributions from banks are capped at 1.6 percent of all insured deposits in Switzerland which corresponds to CHF 8 billion with a minimum cap at CHF 6 billion. Within that limit, the scheme provides coverage for deposits up to CHF 100,000 per depositor and bank. The insured deposits correspond to the legal concept of "privileged deposits," but only includes funds at Swiss branches while excluding retirement assets. The main participants of the DIS are FINMA and esisuisse. FINMA has the mandate of managing and supervising the main elements of the scheme, including the appointment of the liquidators and overseeing their work, including the payout of insured deposits, but also supervising and imposing requirements on banks that facilitate their entry into liquidation and an orderly payout of insured deposit. esisuisse and FINMA are tasked with implementing the deposit insurance scheme set out by law and protects client deposits with banks and securities firms in Switzerland. Following the 2019 FSAP, some legal changes were implemented but many IMF recommendations were not adopted.

77. The payout process is carried out in several steps. The system is activated by bankruptcy or protective measures by FINMA. Initially, if a bank's liquidity is sufficient, insured deposits are paid out through the liquidator in full or pro-rata from the bank's resources, as banks must maintain collateral consisting of tangible unencumbered assets in Switzerland equivalent to 125 percent of privileged deposits. If the bank lacks liquidity, esisuisse provides the necessary additional funds for payouts. In this case, FINMA informs esisuisse of the required amount, which must be available within seven days of notification from the liquidator. This liquidator develops a payment plan and contacts depositors for instructions.

78. esisuisse operates as a privately managed deposit insurance system under the oversight of the Swiss Federal Council. Established as a Swiss association, esisuisse is mainly self-regulated, with regulations subject to FINMA approval and oversight of the Swiss Federal Council. Although under a limited role, esissuisse is the agency in Switzerland that provides deposit insurance[26]. According to the BA, it is the responsibility of esisuisse, as the self-regulation agency for depositor protection in Switzerland, to require each bank to undertake the necessary preparations in the course of its ordinary business activities to enable the investigator or restructuring agent or bankruptcy liquidator to prepare a payout plan, contact the depositors and make the payouts to insured depositors[27]. If the Swiss Federal Council considers that the self-regulation does not satisfy the legal requirements of Article 37h para (1)-(4) BA, it can regulate the deposit protection in an ordinance and designate another entity to protect deposits and define the banks' contributions.

79. The depositor protection scheme operates under a very narrow paybox model which does not meet international standards. The Swiss legal framework restricts the use of esisuisse funding to covering insured deposits, prohibiting financing for P&A transactions in liquidation or even for resolution measures, in contrast with international standards (CP 14). The system has 257 members (235 active banks, 18 active securities firms, 4 banks about to cease operations), covering all deposits made by individuals and entities in Switzerland up to CHF 100,000. There are, however, two non-bank deposit taking institutions (COOP, the second largest retailer, and the Federal Employees Savings Bank, which is part of FDF) that are not members of esisuisse.

80. esisuisse's governance structure includes a Board of Directors with 13 non-executive members, primarily active bankers from member institutions. At least four of these members must be independent individuals not connected to any bank or securities dealer. To address potential conflicts of interest, only the Executive Board, consisting of the CEO and COO, receives

[26] It is in this role that esisuisse is member of the International Association of Deposit Insurances (cfr. https://www.iadi.org/about-iadi/participants/list-of-members/).

[27] According with Article 37h of the BA, these preparations include in particular the provision of: a. an appropriate infrastructure; b. standardized processes; c. a list of depositors with the deposits secured; d. a summarized list of the other privileged deposits.

information about banks undergoing liquidation from FINMA. The articles of association, requiring FINMA approval, limit the Board's knowledge to possible payouts and anticipated contributions. After the 2014 FSAP, esisuisse separated from the Swiss Bankers Association, establishing its own offices and IT infrastructure while increasing its workforce. Nevertheless, the private legal nature of esisuisse does not allow it to be part of the financial safety net and cooperation between public authorities and esisuisse is limited.

Box 3. Recent Changes to the Legal and Regulatory Framework of Depositor Insurance

(Entered into force on January 1, 2023)

1. Payout Deadlines

The revised law establishes two new payout deadlines:

- Payments from the deposit guarantee to the investigating officer or bankruptcy liquidator must occur within seven days of receiving the bankruptcy notification. Before, esisuisse had 20 days to transfer the funds.
- The investigating officer or bankruptcy liquidator must pay depositors within seven days of receiving the payment instructions from the depositors. Before, there was no specific time limit.

These deadlines are specified in Articles 37h para. 3 let. a. and 37j of the BA.

2. Type of Financing

The framework for financing the depositor insurance scheme has changed:

- Banks are now required to deposit easily realizable high-quality securities or Swiss francs in cash with a third-party custodian for half of their contribution obligations and pledged to esisuisse.
- Alternatively, smaller institutions can provide an equivalent guarantee in the form of a cash loan to the deposit guarantee scheme.

This requirement is outlined in Article 37h para. 3 let. c. of the BA in connection with Article 42f BO.

3. Maximum Obligation

The maximum obligation of banks to contribute to the depositor insurance scheme has been revised:

- The obligation is now based on 1.6 percent of the total amount of secured deposits, with a minimum requirement of CHF 6 billion, per Article 37h para. 3 let. b. of the BA.

4. Delegation of Authority

The amendment to the Banking Act delegates the definition of privileged deposits and privileged depositors to the Federal Council, as stated in Article 37a paragraph 7.

5. Implementation of Regulations

The BO implements this delegation and, in this context, further clarifies issues related to the handling of privileged claims for vested benefits and pillar 3a foundations (Articles 42a-42d).

It furthermore contains rules on:

- The date for joining the self-regulation system (Article 42e); and
- Preparatory measures that banks must undertake as part of their ordinary business activities, focusing on IT infrastructure, personnel, standardized processes, and the maintenance of depositor lists (Articles 42g-42i).

SIBs with an emergency plan will receive adapted preparedness measures, as mentioned in Article 42h.

81. There are no ex-ante contributions collected from industry, and funds from esisuisse are capped at 1.6 percent of total insured deposits, which is less than the level of insured deposits in 11 banks. If available deposit insurance is insufficient because of the overall industry cap of 1.6 percent of total insured deposits, payouts are issued pro-rata, resulting in only partial payments to insured depositors, which would then have to wait, potentially several years, until all assets are realized. The law[28] grants priority to insured depositors in liquidation, which increases the probability of close to 100 percent recovery rates, but the timing of recoveries might still be too long to meet the objectives of deposit insurance.

82. The potential use of funds from esissuise might be partially mitigated with the 125-percent rule. Banks must hold certain type of relatively liquid assets in Switzerland amounting to 125 percent of privileged deposits, including insured deposits, potentially eliminating the need for funding from esisuisse. According to FINMA, most banks satisfy a portion of this requirement with cash deposited at the SNB, and the rest are assets located in Switzerland, especially mortgages than can be converted in cash in a relatively swift period[29]. FINMA can increase this requirement, and according to FINMA most banks already maintain levels above 125 percent. For instance, during the recent failure of a small bank, FINMA required the bank to bolster its liquid assets to 250 percent of insured deposits, enabling full payouts by the liquidator without esisuisse funds. Banks are only required to report compliance with this requirement annually; however, in cases of potential crisis, FINMA intensifies its supervision. This requirement, while not being used in other jurisdictions, seems to greatly reduce the funding needs by esissuisse in cases of payouts to insured depositors, with the funds used by the liquidator coming from the liquidity of the failed bank itself. While this mechanism and requirement is potentially implementable in a small bank, it is difficult to see how it would work on a medium size-bank for which resolution plans are also not prepared by FINMA.

83. Pay-out is still uncertain, and efforts should be made to make the payouts as seamless as possible. While esisuisse is required to transfer funds requested by the liquidator within seven days, in a recent case the payout took over a month. Deadlines for payouts have recently been reduced, however due to the several steps that need to be taken, if all the legal deadlines are used fully, the total payout period can be too long. Authorities should improve the legislation to shorten the payout period to the minimum possible. As showed by recent bank failures, deposit outflows have been increasing in speed, and depositors are highly sensitive to delays in access to their deposits. FINMA, in cooperation with esisuisse as the self-regulatory body under Swiss Law, should set necessary operational requirements to banks allowing a payout as quick as possible in case of unavailability of deposits, potentially aiming towards an almost immediate access of depositors to their insured deposits. FINMA, should also work on its operational readiness in case of liquidation of

[28] Privileged deposits (including insured deposits) are paid out as first creditor class claims in bankruptcy after secured claims (Art 35 BIO-FINMA).

[29] As mentioned by the authorities, the Swiss mortgages are relatively liquid and the liquidators are usually able to sale a sufficient share of such mortgages to, together with cash, meet the needs to payout Swiss privileged deposits.

banks to allow a payout to happen as quick as possible, including by making sure the appointed liquidator is able from an operational point of view to carry out the payout in short timeframe.

84. The maximum obligation for banks to contribute to esisuisse is capped at 1.6 percent of total insured deposits, approximately CHF 8 billion. Without a public backstop, once the cap is exhausted, insured depositors may need to wait several years to recover the full amount of their insured deposits. Recent legal changes require banks to deposit easily realizable collateral, such as high-quality securities or cash, with a third-party custodian for 50 percent of their contribution obligations. Smaller institutions may provide a cash loan as an equivalent guarantee These securities can be liquidated if the obligated bank cannot provide necessary liquidity.

85. The ex-post funding mechanism, alongside the 1.6 percent cap on total insured deposits and the lack of a formal backup, deviates from international standards. A cap on bank contributions diverges from practices in peer jurisdictions and the IADI Core Principles by not fully guaranteeing that all insured depositors up to a limit are protected and will be reimbursed (CP 9 and 15). This guarantee is a fundamental principle of a DIS. If it is to act has a promotor of confidence in the system, insured depositors need to trust that their deposits will be reimbursed in a accelerated timeline. While it should be acknowledged that the current scheme, with the 125 percent minimum requirement of Swiss assets to insured deposits, might limit the need of additional funding by esisuisse, the risk remains, and the cap creates an uncertainty that should be removed. Additionally, a deposit insurance fund should set a target level for minimum funds to accumulate over time from banks (CP9) to mitigate procyclical impacts during payouts. While recovery rates in bank liquidations appear adequate due to depositor preference, the process can take 10 to 20 years, resulting in real recovery rates lower than nominal figures, with losses ultimately borne by the banking sector. A target level can serve as equity to absorb losses and a liquidity source for immediate payouts if multiple banks face challenges. Moreover, an ex-ante "contribution" composed solely of pledged assets might be difficult to explain to the public. Such assets can also be withdrawn when banks leave the scheme, preventing the DIS from accumulating any funds independently.

86. Considering the above gaps of the DIS in Switzerland, the authorities should implement the following reforms to remedy non-compliance with international best practices:

- The payout legal deadlines should be reviewed to allow for a speedier payout process, making it compliant with the reimbursing criteria of CP15[30] at a minimum, including the 7-day limit.
- FINMA, in cooperation with esissuisse, should enhance the operational requirements of banks allowing for a streamlined payout process, with the objective of decreasing the payout period to shortest time possible, potentially making it possible for depositors to have immediate access to

[30] Essentia criteria 1 of CP15 states: "The deposit insurer is able to reimburse most insured depositors within seven working days. If the deposit insurer cannot currently meet this target, the deposit insurer has a credible plan in place to do so."

their deposits. This objective will require significant operational readiness from banks, but also from the authorities.

- There should be no DIS cap, to make the scheme consistent with the public policy objectives (CP131);
- Ex-ante funding, with a public nature, should be introduced with a target level that would be sufficient32 to payout insured depositors in the case of a simultaneous failure of three banks not classified as systemic that can pose more risk to financial stability, supplemented by back-up funding from the government. Such change would make the DIS compliant with CP9.
- The DIS should have a pay box plus mandate, allowing it to fund resolution measures, subject to safeguards (the least-cost test), in accordance with CP14;
- The Deposit Insurance Agency (DIA) should be a public entity with a statutory mandate, excluding active bankers and industry representatives from management and the Board;
- The two-exempted deposit-taking firms should become regular DIS members.

B. Resolution Financing

87. Switzerland currently lacks a dedicated resolution financing arrangement to cover potential losses associated with bank resolution. In the extreme cases where it is not possible to absorb the losses and to recapitalize it due to lack of loss absorbing capacity, there should be a backstop that could temporarily bridge that capital need. Such financing mechanism would not be earmarked for liquidity purposes, as its firepower would not be enough to be used to meet such needs. For that purposes, central bank facilities are better positioned, under specific conditions.[33] The FSB Key Attributes (KA 6.3) require a resolution financing arrangement, which could take the form of either bank-financed deposit insurance or a dedicated resolution fund, or a mechanism for ex post recovery from industry of costs incurred by providing temporary financing for resolution efforts. Although modifying esisuisse's mandate and funding models could introduce a new funding source, this would be limited, and establishing a new ex-ante fund would require time.

88. Adopting an ex-post financing mechanism appears to be the most effective way to ensure that taxpayers are not burdened with the costs of bank resolution while also

[31] CP1: "The principal public policy objectives for deposit insurance systems are to protect depositors and contribute to financial stability. These objectives should be formally specified and publicly disclosed. The design of the deposit insurance system should reflect the system's public policy objectives."

[32] This level should be estimated by the authorities based on credible scenarios of outflows of deposits and considering the existing requirement that all banks must have 125% of the amount of total insured deposits in Swiss assets with enough liquidity.

[33] See Section of the SNB Bilateral Liquidity Support.

addressing moral hazard concerns. This mechanism would align with the Key Attributes and the policy preferences of the Swiss government. An ex-post resolution fund would allow authorities to allocate public funds for resolution efforts and subsequently initiate a process to recover those funds from banks after the resolution decision is taken. For this system to function effectively, several conditions must be met: First, there must be a procedure to identify failing financial institutions as systemic and to determine when temporary public funds are necessary to maintain financial stability. Second, a mechanism must be established to ensure that public funding can be accessed quickly. Third, there needs to be a legal framework that connects the temporary support from authorities to the recovery of funds from the stakeholders and creditors of the firms, and, if needed, from the broader banking industry through levies (KA 6.2), implemented gradually to mitigate procyclicality. In all circumstances, the government—not the SNB—would be the appropriate authority to provide this temporary public funding.

SNB BILATERAL LIQUIDITY SUPPORT

A. Emergency Liquidity Assistance

89. The National Bank Act (NBA) (Article 9) authorizes the SNB to lend to a broad set of counterparties to contribute to financial stability (Article 5, Paragraph 1, e.). This provision is detailed in the "Guidelines of the SNB on the monetary policy instruments," (the Guidelines) Section 6. According to this section, an Emergency Liquidity Assistance (ELA) applicant must be solvent, and the total amount of the ELA loan must be fully collateralized.

90. The Act does not explicitly recognize the stability of the financial system as a shared responsibility between the SNB and the Federal Council.[34] The Federal Council could, however, swiftly enact an emergency law to provide a guarantee to the SNB covering potential ELA-related losses, as demonstrated by the CS case. The role of the Federal Council in financial stability is contemplated in the draft of the Public Liquidity Backstop (PLB) [35] Law within the Swiss TBTF resolution framework for SIBs.

91. The SNB's ELA has primarily been operative only for SIBs. There are no legal impediments to the broad eligibility of ELA counterparties, and the legal instrument is available to various classes of institutions, including all institutions eligible for the SNB's standard monetary policy operations and financial market infrastructure (FMI) institutions. However, until 2023, only the SIBs were appropriately positioned to use the instrument, since they were the only institutions

[34] The assessment focuses on the role of the SNB in providing liquidity to the financial system for financial stability reasons. While other institutions (e.g., the FINMA) that might contribute to financial stability could be mentioned, the Federal Council could uniquely increase the SNB's liquidity provision capacities, as discussed below.

[35] Federal Council adopted a dispatch on introduction of a public liquidity backstop for SIBs.

participating in the SNB's ELA preparedness exercises, including ELA simulations, collateral stocktaking, and mobilization exercises.

92. The SNB does not have a comprehensive public regulation[36] laying down the ELA operational framework. Typical components of an ELA regulation are discussed in recent literature, especially in the wake of the CS demise, including on the SNB's website, its Financial Stability Reports, the Federal Council Report on Banking Stability (FCRBS), and the draft of the PLB Law. Besides the Section 6 of the Guidelines on monetary policy instruments and the Section 5 of the Liquidity Against Mortgage Collateral (LAMC) instruction sheet, [37] which mention the solvency and collateralization requirements for ELA, no other regulatory document spells out the ELA criteria to be met and procedures to be followed by prospective ELA applicants. Instead, details on ELA procedures are discussed bilaterally with counterparties (thus far mainly SIBs and banks part of the LAMC) and documented in non-public MoUs.

93. Since 2019, the SNB has taken initiatives to broaden its set of ELA counterparties, but differences between the announced initiative and a full-fledged ELA framework still exist. As of 2024, all Swiss banks can access the SNB's liquidity under the LAMC, provided they meet the required legal and operational preparations. In addition to the LAMC initiative, the SNB announced the Liquidity Against Security Collateral (LASC)[38] initiative in 2024 and is currently working on its operationalization. By broadening the collateral framework, the LAMC initiative—and the LASC once implemented—will enhance the SNB's liquidity provision capacities. While the LAMC instruction sheet mentions ELA, it lacks several key components necessary for an effective ELA framework, including the absence of (i) a public reference to a flexible assessment of solvency for ELA propose, which are based on compliance with the minimum capital requirement (see Section 5.2 of the instruction sheet) rather than a forward-looking approach, and (ii) a reference to remedial measures and conditionalities, as well as the supervisory intrusion that the provided liquidity could be tied to. To the extent that Section 5 of the LAMC instruction sheet serves as guidelines for handling an ELA case, the framework would be less effective. Specially, the initiatives cover only some asset classes – securities and mortgages. Additionally, the absence of a public reference to the forward-looking assessment of solvency could ex post fuel moral hazard, especially if that assessment is used instead of the announced hard-wired compliance with minimum capital requirements. Finally, the lack of conditionalities and supervisory intrusion might limit SNB's (or FINMA) capacity to address potential root causes of liquidity stress and to contain financial stability risks. These elements would, however, be available to the SNB and the FINMA within the resolution framework in the TBTF regime, which has thus far been reserved for SIBs.

[36] In this section, the term "regulation" refers to the public elements of the ELA framework. At the SNB, comparable documentation (e.g., for monetary policy instruments) is referred to as "Guidelines." At the ECB, the ELA regulation is referred to as the "Agreement on Emergency Liquidity Assistance."

[37]See Section 5 of LAMC instruction sheet "Instruction sheet governing liquidity against mortgage collateral (LAMC)"

[38] The LASC is the expansion of the scope of eligible securities to non-HQLA securities and is discussed below.

94. The SNB's ELA framework was tested substantially during the CS crisis. Initially, liquidity outflows surpassed the assumptions that underpinned prudential liquidity regulations, resulting in a substantial demand for SNB support. Then-existing support mechanisms included two instruments: the LSFF, which is an overnight facility collateralized by HQLA assets, and the ELA collateralized primarily by non-HQLA securities and mortgages.[39] CS quickly depleted LSFF and ELA against mortgage collateral, withdrawing CHF 48 billion, beyond which it couldn't pledge or transfer any further securities to the SNB. Ex post, it required CHF 168 billion to stabilize the situation.

95. To address the remaining liquidity gap of CHF 120 billion, the authorities implemented measures under emergency law, specifically the additional ELA (ELA+) and the Public Liquidity Backstop (PLB). Both initiatives were developed by SNB in collaboration with the Federal Council, with each provision capped at CHF 100 billion. While they were both accompanied by preferential rights in bankruptcy proceedings for the SNB, the Federal Council protected the SNB only with respect to ex-post losses related PBL-backed lending. The ELA+ was made available to CS on March 16 and to UBS on March 19, CS ultimately utilizing CHF 50 billion—CHF 20 billion on March 17 and CHF 30 billion on March 20, 2023. The PLB was introduced on March 16 (adopted on March 19), opening the possibility for the SNB to provide liquidity guaranteed by the Federal Government in case of CS default. CS drew CHF 70 billion on March 20 at the SNB under this instrument.[40]

96. The handling of CS case revealed the need for improving the current ELA framework. On the one hand, standard operational guidelines regarding liquidity provision to preserve financial stability were adequately executed. On the other hand, the SNB's implementation of the ELA+ marked a departure from established international practices, increasing the risk to its balance sheet.[41] While the SNB acted as lender of last resort after CS had exhausted its alternative funding sources, it soon became clear that the liquidity required exceeded the collateralizable amounts available through its existing instruments, the LSFF and ELA.

97. The introduction of the ELA+ exposed the SNB to substantial risk. Although the SNB believed it was adequately protected[42] by the CHF 100 billion cap and preferential rights in bankruptcy proceedings in insolvency, potential real losses cannot be dismissed due to the granularity required for an accurate risk assessment in a liquidation scenario. Given these risks, collateralized lending remains a widely accepted practice among central banks, as it facilitates the mobilization of collateral with high legal certainty, adheres to specific eligibility criteria, ensures proper valuation, and allows the application of sound risk control measures. Accordingly, collateral

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[39] The SNB's collateral framework is reviewed below.

[40] The emergency law, which serves as the legal foundation for several instruments related to the CS case, limits the ELA+ to the specific takeover of CS by UBS and is set to expire on December 31, 2027. However, under this law, ELA+ can only be provided if there is a valid credit agreement between the SNB and CS. Currently, no such agreement exists, as the initial agreement signed in March 2023 was terminated in August 2023 following the repayment of the ELA+ loans by CS.

[41] Although the loan under ELA+ and PLB have been repaid in full.

[42] [Special topics relating to the SNB | Swiss National Bank]

should ideally be mobilized ex ante, with due diligence conducted prior to granting ELA. The ELA+ option not only exposed the SNB's balance sheet to potential losses but also sets a precedent that may discourage other ELA stakeholders—such as authorities and eligible entities—from taking necessary actions to improve collateral availability.[43]

98. The first step toward improving the ELA framework is to better distinguish it within the SNB's instrument toolkit.[44] The ELA function as a financial stability instrument extends beyond the scope of just the banks declared as SIBs or being a liquidity provision instrument in a resolution framework. Furthermore, the effectiveness of the ELA framework requires, in addition to broadening the collateral framework (introduced with the LASC and LAMC) of a standard liquidity-providing instrument, the inclusion of the elements necessary for crisis management and a more transparent central bank communication. The 2023 banking crisis highlighted the need for central banks to reassess the systemic relevance of institutions, as the collapse of non-SIBs can significantly threaten financial stability. Clarifying the role and use of ELA will enable the proper deployment of an effective ELA framework for all eligible counterparties, complementing Switzerland's financial safety net. In that deployment, the framework should be scalable and flexible that is with sufficient room for the central bank to exercise discretion on certain policy parameters (to mitigate moral hazard) in the context of uncertainty in the decision-making process. Unlike monetary policy instruments, providing ELA shouldn't be considered as a hard-wired operation and might be subject to conditionalities and supervisory intrusion.

99. Formulating a comprehensive ELA regulation and making it public would significantly contribute to achieving this goal. The regulation could be structured around the following points:[45] (i) the financial stability objective underlying the operation and its discretionary nature; (ii) the eligibility criteria for ELA applicants; (iii) the requirement for forward-looking solvency and long-term viability of the ELA applicant; (iv) the systemic relevance of the applicant at the time of the ELA request; (v) the requirement for the loan to always be fully collateralized with an high level description of the collateral framework; (vi) a list of potential ELA-related conditionalities; (vii) a reference that receiving ELA might be tied to supervisory intrusion, including legal powers for the SNB and FINMA to conduct enhanced oversight; and (viii) the reference to policy parameters,

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[43] Currently, collateral preparation is not mandatory for all ELA counterparties.

[44] As discussed in the following paragraphs, the need for distinction primarily serves to enhance the governance of ELA and not for additional burden for prospective ELA applicants. It is well documented (see e.g., Eliminating Discount Window Stigma: What Can We Learn from Abroad? | Yale School of Management) that, due to factors such as effective communication and broader eligibility criteria for counterparties, the SNB's counterparties do not associate stigma with the SNB's monetary policy instruments, including the LSFF. A holistic communication strategy aligned with the IMF's Central Bank Transparency Code (imf.org/external/datamapper/CBT/) could further mitigate stigma that could be attached to ELA. Federal Reserve's note Central bank liquidity facilities around the world provides international examples on how central banks separate ELA from other facilities.

[45] See IMF's Central Bank Transparency Code imf.org/external/datamapper/CBT/.

including a penalty interest rate for the loan and the term of the loan.[46] A comprehensive framework along these lines enables ELA to effectively serve as a liquidity-providing instrument for financial stability purposes, including—in but not limited to—the three cases mentioned previously.[47]

100. The regulation should be part of a comprehensive ex-ante communication strategy around ELA. It should exhibit sufficient transparency to manage the expectations of other ELA stakeholders, ensure the SNB's accountability, and compliance to sound governance. To level the playing field, bilateral MoUs should be reserved for bank-specific issues such as collateral reporting or preparation. The level of transparency should not diminish the central bank's discretion or its freedom to decide on a case-by-case basis if liquidity support is provided, in which form and under which conditions.[48]

101. The SNB should communicate that solvency for the purpose of granting ELA is evaluated in a forward-looking manner, and the FINMA should be able to provide such an assessment swiftly. While standard point-in-time solvency[49] is required for regular monetary operations, differentiating liquidity from solvency problems can be complex in practice, especially during times of crisis. Typically, forward-looking solvency allows granting ELA to a temporarily undercapitalized institution if financial stability is at risk. Conversely, a point-in-time solvency is not a sufficient condition for determining forward-looking solvency. For ELA purposes, an institution is deemed forward-looking solvent if it has a credible prospect of maintaining or restoring its capital above the prudential minima within a reasonable period (e.g., 6 to 12 months).[50] A comparable assessment is contemplated within the current resolution framework of the TBTF regime and could be adapted for ELA to non-SIBs, which will also complement their resolution framework.[51]

102. The recently announced Extended Liquidity Facility (ELF)[52] enhances the identification of ELA and improves transparency within the framework but should be complemented by comprehensive guidelines. The announcement clearly distinguishes between two liquidity provision regimes designed to address extraordinary liquidity stress: one for banks with unquestionable solvency and seeking a limited amount of liquidity, and a second regime for banks whose solvency requires close monitoring. This second regime will resemble a modern and flexible

[46] Thus far, these financial parameters are discussed bilaterally with the banks within the LSMC and LAMC initiatives (Section 5.4 of the instruction sheet). High transparency on financial parameters levels the playing field and manages expectations and would do so beyond these initiatives.

[47] Clearly, while parts of these elements, such as supervisory intrusion or forward-looking solvency (as defined below), might be present in some forms in other frameworks, such as resolution, they should be crafted by the SNB and communicated to counterparties and the broader audience as elements of a comprehensive ELA regulation.

[48] See IMF's Central Bank Transparency Code imf.org/external/datamapper/CBT/.

[49] Like the compliance with prudential requirements as it is current the case for LAMC initiative.

[50] Such an approach has been also signaled in the SNB's ELF announcement. For an additional reference, see IMF working paper on "The Lender of Last Resort Function after the Global Financial Crisis" January 2016.

[51] Introducing forward-looking elements in the supervisory metric for all banks has been recommended in the FCRBS.

[52] See Martin (2025) "The Extended Liquidity Facility (ELF): the next step in the SNB's liquidity support to banks".

ELA with forward-looking assessment of solvency, while the former will be comparable to standing liquidity instruments with expanded collateral used by major central banks worldwide for times of extreme liquidity squeeze. The SNB is encouraged to publish guidelines on these regimes along the lines discussed above.

103. Similarly, the viability assessment for ELA should adopt a forward-looking perspective. This assessment evaluates the longer-term viability of the entity's business model, considering its overall operations and outlook. It considers lending practices and assesses whether the applicant's ability to repay the ELA depends on specific reforms, such as changes in management or lending strategies, or if alternative solutions, such as resolution, may be more suitable. Additionally, it should be assessed whether the applicant will be able to keep the necessary licenses, is not fundamentally threatened by litigation, exclusion from financial market infrastructures

104. Wide-ranging collateral preparation would ensure the adequacy of collateral mobilization (and the related legal requirements) methods implemented by the SNB and their effective use by counterparties. Currently, there are existing collateral preparation agreements between the SNB and its counterparties. These agreements pre-define the scope of eligible assets and the preset legal requirements. While this predetermination allows the SNB to communicate with minimal operational discretion, these initiatives are restrictive in terms of asset types (securities and mortgages) and potentially because participation is not mandatory. The SNB should continue its efforts to address assets currently not handleable, either due to their types or because legal impediments that prevent their mobilization.

105. A more flexible approach to collateral preparation should be explored. A proposal[53] involves all ELA-eligible counterparties submitting a list of assets (domestic or abroad) to the SNB for due diligence verification regarding their eligibility for ELA, without transferring legal title.[54] The non transferability of some credit claims, mainly older mortgages, severely limited the SNB's liquidity provision capacity in the CS case. During the process, the SNB and the counterparties can engage in discussions to identify ways to facilitate the transfer or pledge[55] of collateral during times of crisis, which in some cases might involve the need to make contractual changes to the documentation of some credit claims.[56] This collaboration should focus on agreeing upon the necessary legal and operational adjustments to ensure rapid mobilization of collateral when needed. Furthermore,

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[53] The proposed broader collateral overreach may require additional material and intangible resources. The collateral scanning discussed below will help the SNB prioritize, considering the implementation challenges of ongoing collateral expansion initiatives.

[54] Although the title is not transferred, the SNB should ensure that the collateral will not be encumbered at the time of ELA, as could be the case with Swiss mortgages that should be kept unpledged to meet the deposit insurance requirements.

[55] Collateral pledging does not require a transfer of ownership until a counterparty defaults, but it entails a higher mobilization risk compared to a repo.

[56] The SNB successfully implemented the mobilization of credit claims under the COVID-19 Refinancing Facility, an experiment that could be leveraged going forward.

because the collateral is not mobilized nor encumbered, the SNB need not be specific on all collateral policy parameters (e.g., risk mitigation measures). At the end of the process such collateral is prepared and ready for ELA, even if it cannot be part of the bank liquidity management process.

106. For better preparedness, expanding ELA eligibility to all banks might require granting additional powers to the SNB and FINMA. Although the current TBTF regime does not mandate banks to prepare for ELA, it does provide some related incentives, since it encourages SIBs to prepare mortgage collateral through a partial reduction in the HQLA requirements. Measures to improve collateral preparedness would also be necessary for other institutions, especially if resolution planning is required for all banks. Several options have been considered in the FCRBS to achieve this, including legal requirements, or expanding incentives via reduction of HQLA requirements to all banks. Regarding the latter, while the SNB, in its discussions with partners, could assess the amount of liquidity that could be provided against certain collateral classes (such as high-quality mortgages), it cannot safely do so for assets of lesser quality due to the operational discretion that the uncertainty around valuation and the applicable risk mitigation measures their mobilization might require. Additional powers could be granted to both SNB and FINMA to enhance the participation of banks in simulation exercises testing other aspects of the ELA framework.[57]

107. While designing simulation exercises, an adequate balance should be struck between the information disclosed to participants and safeguarding the SNB's discretionary operability. In designing simulation exercises involving their counterparties on the use of ELA, central banks face the tradeoff between the effectiveness of the instrument and transparency on its parameters. A critical dimension is that of the solvency assessment. While the assessment of forward-looking solvency should be defensible ex-post,[58] it is a probabilistic assessment, with some parameters ultimately decided on a case-by-case basis. Another dimension is the collateral policy. On the one hand, a collateral pool restricted to high-quality collateral enables the central bank to commit ex-ante to collateral acceptance, valuation, and applicable risk mitigation measures during the simulations. On the other hand, a restricted collateral scope could render the ELA framework less effective in terms of the amount of liquidity it enables the central bank to provide. An ex-ante commitment with a broader collateral pool might incentivize higher participation of counterparties in the absence of legal requirements, but could, however, disincentivize adequate liquidity management by banks, especially if risk control measure cannot be accurately calibrated.

108. Providing for a Public Liquidity Backstop (PLB) in the law is essential for effective financial stability. The CS case demonstrated that Swiss authorities could promptly activate

[57] As outlined in the section on collateral policy, ELA collateral is generally both illiquid and non-marketable, which limits effective price discovery and the appropriate calibration of risk control measures. Therefore, incentivizing banks to prepare collateral by allowing the use of a portion of the prepared assets to fulfill their liquidity requirements is not feasible for majority of assets only eligible for ELA.

[58] The assessment and the ex-post communication on the solvency assessment and ex-post collateral acceptance is discussed in Tucker, 2023, Regimes for Lender of Last Resort Assistance to Illiquid Monetary Institutions: Lessons in the Wake of Credit Suisse

emergency laws to provide a PLB; however, this backstop has yet to be formalized on ordinary law, providing legal certainty and increasing transparency of the authorities' toolkit. The liquidity outflows observed during the 2023 episodes highlighted that such outflows can be substantial, making the potential ELA amounts difficult to collateralize, particularly when considering necessary risk control measures. This challenge is especially pronounced for SIBs, as mobilizing and accurately calibrating collateral policy parameters for some otherwise eligible items on their balance sheets can be complex. Conveying government support in granting the ELA into an ordinary law is part of the measures proposed in the FCRBS to strengthen the Swiss TBTF regime for systemically important banks. Under this proposal, the PLB would serve as the third line of defense against liquidity stress, behind tighter capital and liquidity requirements and the ELA itself.[59]

109. International practice shows that the government guarantee to the central bank for ELA purpose could be granted for a broader set of situations, to be decided case-by-case. Lessons mentioned above regarding the SIBs also apply to non-SIBs to the extent that their failures might jeopardize financial stability. Central banks lack special resources for absorbing risks other than liquidity risk. Providing ELA can require a government guarantee when (i) there is a risk of under-collateralization—the government would cover the remaining (un-collateralizable) liquidity needs; (ii) the institution's solvency is uncertain—with the uncertainty originating from the forward-looking dimension of the solvency assessment; and (iii) the ELA is used for providing liquidity-in-resolution and there is a concern about the exit strategy—e.g., for institutions undergoing a resolution where the (forward-looking) solvency or viability is doubtful, or the SNB's liquidity provision in the process cannot be fully collateralized. Under sufficient legal provision, operational parameters of government guarantee for ELA might be contemplated within an MoU, while safeguarding the SNB's independence.

110. An extended government guarantee complements the resolution of non-SIBs. Broadening the potential cases a government guarantee would back ELA aligns with the recommendation of expanding resolution planning requirements to category 3 banks and with the recommendations of allowing FINMA to apply resolution measures to any bank without the need of consent by the creditors. If a bank satisfies the criteria for resolution and normal insolvency procedures could jeopardize financial stability, it should receive central bank liquidity support on the same terms as those applied to SIBs.

B. Collateral Policy

111. Currently, collateral eligibility for monetary policy instruments is restricted to marketable assets within a predefined collateral basket established by the SNB. Eligible securities include bonds with a minimum rating of AA- issued by public entities (central banks, central and local governments, multilateral development banks, supranational organizations) and corporate entities, as well as covered bonds issued by non-domestic banks credit and financial

[59] With liquidity support ultimately provided by the SNB.

institutions. According the FINMA,[60] banks can rely on the HQLA classifications provided by the SNB by means of the SNB GC Basket. Major issuers by sector include, in this order, foreign central governments, mortgage and funding institutions, foreign banks and other foreign credit institutions, and supranational institutions. Furthermore, accepted bonds are diversified across a wide range of countries and currencies, with bonds in foreign currency representing around 95 percent of the outstanding amount of eligible.[61]

112. For SIBs and in the process of deploying ELA to broader set of counterparties, the SNB has broader eligibility criteria for ELA collateral. Legally, there are no restrictions on the types of assets the SNB might accept to provide ELA. The LASC and LAMC are the two major SNB initiatives aim at broadening the SNB's collateral framework. The scope of LASC assets will be defined by a set of criteria (collateral schedule) and includes a broad range of non-HQLA bonds and equities in different currencies, as well as securitized loans such as ABS. The ultimate set of eligible securities will be decided and communicated to relevant counterparties upon request. Under LAMC, the SNB accepts mortgages for residential, investment, and commercial properties. Once an asset is deemed eligible, the SNB does not apply any preference order for collateral acceptance. Mobilization tests for non-marketable assets are mandatory for SIBs and other Swiss banks participating in LAMC and, and in the future, in LASC. Participation in the LAMC and LASC initiative is not mandatory for non-SIBs.

113. Valuation of marketable securities is currently conducted by different third-party argents (TPA) and is solely market-based. The principal TPA, SIX, performs several other operational tasks for collateral management on behalf of the SNB, including electronic processing of collateral pledging and maintaining the collateral basket and securities encumbered for the intraday facilities or the LSFF. SIX values all eligible securities by marking them to market twice a day and exercising margin calls to ensure that the total value of the loan is always covered by the mobilized collateral. Since the valuation is mainly market-based, only eligible securities with a market price can be used on a given day.

114. The SNB applies no haircuts for collateral eligible for monetary policy instruments, but implements overcollateralization and controls for securities with close links (own-used). For securities eligible for the LSFF, the SNB overnight facility, no haircuts are applied. However, overcollateralization is implemented via margining, requiring counterparties to mobilize collateral with the SNB covering at least 110 percent of their credit limit at the LSFF. The SNB does not accept counterparties' own securities or those issued by persons or companies which, directly or indirectly, hold at least 20 percent of the capital or voting rights in a counterparty or, conversely, in which the counterparty holds such rights. The same risk mitigation measures apply to the intraday facility.

[60] Circular 2015/2 "Liquiditätsrisiken – Banken", margins 148 and 149

[61] As of the end of October 2024.

115. In contrast, haircuts apply to collateral eligible for the instruments for non-monetary policy operations. Specifically, haircuts apply to ELA-collateral mobilizable by SIBs, to mortgage collateral mobilized under the LAMC, and will be applied to HQLA and non-HQLA LASC-collateral. The ELA haircuts are determined by the SNB using Value-at-Risk models, and set to capture exchange-rate, credit quality, and liquidity risks. The SNB does not publish its applicable haircuts but communicates them to counterparties bilaterally. For LAMC collateral, the SNB mentions in its public documents that applicable effective average haircuts range from 10 to 15 percent.[62]

116. While in some respects, the SNB's collateral policy for monetary policy instruments is comparable to that of other advanced central banks, it is narrower in several dimensions. Similarities include a well-defined, diversified (across issuers, currency, country of risk, etc.) and public scope of marketable assets. Furthermore, the SNB primarily relies on market-based pricing for its bond valuation.[63] Significant differences include more conservative acceptable credit ratings,[64] and the non-eligibility of non-marketable collateral such as credit claims and mortgages. The Swiss banking system currently enjoys ample liquidity conditions and a well-functioning money market that effectively distributes liquidity. The broadening of the set of eligible assets for monetary policy operations might thus not be a priority, although collateral distribution across counterparties should be monitored to ensure equal access to SNB liquidity. To date, the SNB's collateral policy for monetary instruments has effectively protected its balance sheet during monetary policy lending operations, and none of its counterparties have defaulted on mobilized collateral.

117. A few changes would further align the SNB's collateral policy for monetary policy instrument with best practices. The SNB is advised to better integrate theoretical valuation in its daily workflow, keeping full control on the valuation methodology.[65] While one eligibility requirement for a bond is its tradability on a recognized trading platform, reliable market prices might not always be available, especially during crises. Furthermore, the SNB should complement its risk mitigation measures for the LSFF with risk-based haircuts. The 110 percent margin might not be sufficient to protect the SNB balance sheet, especially against exchange rate risk, given the predominance of foreign-currency denominated securities in the eligible basket. Haircuts for marketable assets are mainly determined by the SNB and applied by TPA for LACS securities (i.e., for ELA). The SNB should apply haircuts for monetary policy collateral, maintaining full control of the methodology, and publish applicable haircuts along with the list of eligible securities, given the transparency required for monetary policy operations. Publishing haircuts allows counterparties to

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[62] Mainly covering the market risk since credit risk of the debtor and time to liquidation of mortgage collateral is not directly modeled.

[63] Market-based valuation consists of deriving the collateral value from observable transaction prices. An alternative valuation approach is theoretical valuation, which relies on arbitrage-free pricing theory. Central banks, like the European Central Bank, generally implement the two approaches, but prioritize the former to limit market footprint.

[64] The ECB and the Federal Reserve accept up to investment-grade securities (up to BBB rated bonds) and mortgages are also eligible at the Bank of England and within the ECB for standard operations.

[65] Similar to haircuts, the theoretical valuation of illiquid collateral could involve arbitrages that may depend on central bank's preferences.

better manage their liquidity and revising them at low frequency (e.g., every two years) enables the central bank to avoid procyclicality in its liquidity provision.

118. To effectively fulfill its role as a liquidity backstop during times of stress, additional efforts are needed in handling non-standard collateral. As documented by the FCRBS, significant classes of assets are eligible only in a securitized form. These include corporate, household, and foreign loans.[66] Regarding the latter, requiring securitization for critical classes of foreign collateral could restrict the SNB's liquidity provision capacity, especially to globally active banks.[67] These mobilization efforts should be part of an overarching coherent collateral policy.

119. Communicating about a broader collateral framework for ELA requires an adequate balance between discretion to prevent moral hazard and the transparency required for accountability and counterparty preparedness. As discussed above, while a conservative collateral framework (restricted to high-quality assets) allows for great transparency, discretion would be needed for assets of lesser quality. For the latter types of assets, transparency is recommended when achievable and should not prevent the SNB from exploring paths for their acceptance on a discretionary basis. A typical ELA applicant is an entity under stress, which entails heightened risks compared to standard monetary policy operations. Furthermore, such an entity would likely have liquidated and encumbered its high-quality collateral either with other market participants or with the central bank's unconditional standing facilities.[68]

120. As part of the ex-ante communication on ELA, a list of eligible asset classes should be included in the ELA regulation.[69] Publishing such a broad list even in a high-level way might better incentivize counterparties to participate in the collateral preparing process. Unless explicitly prohibited by law, any type of asset is a priori acceptable as collateral. Central banks control financial and operational risks by defining a collateral preference order,[70] valuation methodologies, and risk control measures. Table 2 compares general principles for monetary operations and ELA collateral policies via their respective objectives and the level of discretion they allow[71] on key policy parameters.

[66] The Report of the group of experts on banking stability documents the restrictive eligibility of foreign collateral as one of the causes of under-collateralization, which led to the implementation of ELA+.

[67] As discussed in Tucker (2023), banks may have a limited appetite for the process, especially if the securitized loans are solely for ELA purposes and not intended for marketing. Tucker (2023) also provides insights into the mobilization of foreign loans, including discussing the case of the Federal Reserve.

[68] For a more comprehensive discussion of the ELA trade-offs including between moral hazard and stigma, see Federal Reserve's note Central bank liquidity facilities around the world. The note discusses, among other things, that while higher interest rates on ELA loans might reduce moral hazard, they also come with heightened stigma.

[69] See the IMF's Central Bank Transparency Code mentioned above.

[70] Criteria for collateral classification include liquidity, legal certainty, valuation, volatility, total volume on issue, and distribution in the financial sector. Those factors cannot always with captured by risk-based haircut models.

[71] This discretion is allowed, without being mandatory.

121. Noticeable is the allowed discretion on risk-mitigation measures in ELA. Under a risk-based haircut calibration, the principle of risk equivalence should serve as the guiding principle. Risk equivalence seeks to equate all risks across asset classes—that is, haircuts are calibrated such that expected losses are the same for all collateral types. Haircuts thus signal central bank risk preferences. The principle could be achieved for highly liquid assets with observable market prices via a model-based calibration, allowing for full transparency and the publication of haircuts for monetary policy collateral. However, the principle is not always achievable under ELA-only collateral, calling for discretion to avoid sending the wrong signal to the market.[72] For the same reason, the central bank could also retain discretion regarding concentration limits and overcollateralization. The potential implementation of these two measures should be mentioned in the ELA regulation.[73]

Table 2. Switzerland: Collateral Policy—Monetary Policy Instruments Versus ELA

	Monetary Policy Operations	ELA
Objective	Price stability	Financial stability
Eligibility	High-quality and liquid assets	Broader collateral acceptance
Collateral Preference	None (asset selection by banks)	Defined by the central bank
Rule versus Discretion	Rules (might change in system-wide crisis)	Central bank discretion
Valuation	Disclosure of key methodological elements	Nondisclosure to the public
Haircuts	Public	Applicable but Non-public
Concentration Limits and Overcollateralization	(Generally) None	Applicable but Non-public

122. The SNB should conduct collateral scanning more systematically. The process of collateral scanning involves comparing counterparties' short-term runnable liabilities to the amount of collateral the central bank can effectively handle that is mobilize both operationally and legally, value, and implement appropriate risk control measures. Thus far, the process is done with SIBs and with non-SIBs currently participating or planning to participate in LAMC and LASC. Generalizing the process to all ELA-eligible counterparties and to other asset classes will potentially require better standardization of procedures.

123. The cross-border mobilization of non-standard collateral should be a key component of the SNB's international agenda. The SNB has already made progress with marketable securities, that could be cleared with foreign triparty custodians. However, scaling up this process to include non-standard collateral may require significant additional or orthogonal efforts. As the liquidity

[72] Publicly excessively low or high haircuts could distort the risk perceptions and pricing behaviors of other market participants.

[73] The SNB may resort to overcollateralization as a mechanism to incentivize compliance with ELA conditions.

backstop for a G-SIB, the SNB could engage with central banks in jurisdictions where its counterparties hold significant foreign assets to discuss collateral mobilization under local laws.

124. A comprehensive collateral policy would better inform the SNB and other Swiss authorities, especially in the preparation of the MoU on the PLB and the government guarantee. As discussed above, the government guarantee is needed in case of the under collateralization of the ELA amount. Accordingly, the collateral policy is a fully fledged part of the ELA framework. While liquidity potentially available under ELA shouldn't be part of the traditional liquidity management for ELA-eligible counterparties, it could be included in internal discussions with FINMA during the assessment of their respective resolution plans and with the Federal Council in order to delineate the necessary liquidity provision under the PLB or the government guarantee.

RESOURCES AND ORGANIZATION

125. The resolution function is both challenging and resource intensive. Assessing the necessary human resources for this function requires a holistic view of the scope and complexity of the tasks involved. In the case of FINMA, the unit responsible for resolution (GB-R) also handles significant supervisory functions, including recovery planning, early intervention, and liquidation. Within its resolution mandate, the GB-R is also responsible for the resolution of FMIs, insurance companies and collective investments. When evaluating resource impacts, FINMA should benchmark its staffing levels against peer authorities with similar mandates. Additionally, a bottom-up approach should be used to identify specific resource needs, which may differ from peer examples. Combining cross-jurisdiction benchmarking with a bottom-up approach reveals that FINMA's current staffing for recovery and resolution is significantly below the lower end of comparable G-SIB jurisdictions.

126. FINMA's recovery and resolution unit is relatively small, with about 30 staff members (24 in 2023). Approximately 30 percent[74] of their time is dedicated to recovery plans, despite only the four SIBs and the two systemically important FMIs being required to draw up such a plan and having approved plans. The remaining time (around 21 FTEs, or 12 banks per FTE) is spent on resolution planning (including FMIs), Swiss Emergency Plans, policy and international work, and bank liquidation functions for all institutions supervised by FINMA. Compared to peers, FINMA's staffing levels for resolution per bank are on the lower end. For instance, the FDIC in the United States employs around 500 FTEs (about 10 insured depository institutions per FTE) for resolution tasks, with additional support from the Fed and OCC for crisis management. The BoE's Resolution Directorate has 87 staff (about 12 banks per FTE), and BaFin's resolution function has around 100 staff, supported by the SRB, which dedicates about 20 percent of its time (around 100 FTEs) to Germany, resulting in about 10 banks per FTE. While the GB-R is comparable to the BoE and not far from the FDIC and BaFin/SRB, the higher absolute number of staff in these authorities allows for more flexible resource management. Using BaFin's staffing level per bank, GB-R should have 26 FTEs

[74] As transmitted by FINMA in discussions during the mission.

dedicated solely to banking resolution, in addition to staff for recovery planning, early intervention, liquidation, and FMIs, insurance companies and collective investment entities resolution.

127. For larger institutions requiring more resolution planning and preparedness, the resource shortfall is more pronounced. FINMA has about 7.5 FTEs per SIB, whereas the BoE Resolution Directorate has around 11 FTEs for each of the eight major banks under the U.K. Resolvability Assessment Framework, and BaFin and the SRB have about 10 FTEs for each of the 21 significant institutions in Germany. Recent FSAPs for the U.K. and Germany indicate that resolution authority resources are under strain. According with this metric, for category 1 and 2 banks alone, FINMA should have at least 40 FTEs dedicated to bank resolution.

128. A bottom-up functional perspective suggests that the aforementioned metrics underestimate the significant resource shortfall. This viewpoint emphasizes the fixed costs of maintaining expertise across various domains and the necessity for a comprehensive approach to recovery planning. The department must ensure sufficient expertise and staffing in key areas, including recovery plan assessment, resolution plan assessment, enhancement of FINMA's resolution preparedness, legal support, policy development, and international cooperation. Currently, some specialized fields, such as corporate finance and valuation, are significantly understaffed. Recommendations regarding recovery plans, resolution planning, and preparedness are crucial. If all banks are mandated to prepare recovery plans, the current allocation of 30 percent of the total staff, around 9 full-time equivalents (FTEs) will be inadequate. Furthermore, if FINMA is to develop resolution plans for category 3 banks, the previously mentioned 40 FTEs will also prove insufficient. Preparing resolution manuals is resource-intensive and does not scale with the number of banks. Other peer authorities have established specialized units for resolution preparedness (including manuals, contingency planning, crisis simulations, etc.). Given FINMA's limited activity in this area, there is a pressing need to increase total human resources allocated to these tasks. FINMA could also explore the possibility of securing extra resources by hiring expert staff from audit firms and law firms during a crisis. This is common practice in most peer jurisdictions and should involve establishing necessary procurement processes and pre-selecting relevant firms. These resources should be funded and directed exclusively by FINMA, with no intervention from any other entity.

129. The additional human resources needed for FINMA's Recovery and Resolution Unit are significant. Even using a top-down approach of comparing banks per FTE with peer jurisdictions, the Recovery and Resolution Unit should have no fewer than 40 FTEs for the resolution of banks function alone. This number must be complemented by additional staff for recovery planning, early intervention, and other specialized areas within the resolution function, such as resolution preparedness. These additional needs will increase the minimum FTEs mentioned above by a substantial margin. FINMA should conduct a comprehensive bottom-up assessment of its tasks and benchmark them against peer authorities to take a decision on the correct level of staffing.

130. FINMA will face significant challenges in increasing its staffing levels. Achieving adequate staffing will be a considerable challenge; however, the current situation is unsustainable and must be addressed. If FINMA is unable to bolster its workforce and implement a rigorous work plan over the next three to five years, authorities will need to find solutions and support FINMA in this effort to ensure that the crisis management and resolution function has the necessary resources and critical mass to effectively mitigate risks to financial stability in Switzerland.

RESOLUTION OF FMIs

131. The Financial Market Infrastructure Act (FMIA) establishes a framework for the insolvency and resolution of FMIs. The insolvency regime applies to all FMIs supervised by FINMA, regardless of their systemic importance. For systemically important FMIs, additional requirements related to recovery, orderly wind-down and resolution planning are imposed to ensure continuity or orderly wind-down of essential business processes and to mitigate potential losses during resolution. All systemically important FMIs subject to supervision by FINMA have drawn up a recovery as well as an orderly wind-down plan, which have each been assessed and approved by FINMA. FINMA is tasked with creating resolution plans for these systemically important FMIs, detailing how their restructuring or winding up can be managed. As of now, FINMA has not prepared any resolution plans for these FMIs. However, according with information provided by the authorities, work is under way and has progressed well in 2024. Resolution strategies have been defined and building blocks of resolution plans have been developed. The requirements for resolution planning specifically apply to SIX x-clear and SIX SIS, while the Swiss Interbank Clearing (SIC), which operates on behalf of the SNB, is not subject to additional planning requirements.[75]

132. The current legal framework for FMI resolution is undergoing a comprehensive review. As noted in the 2019 FSAP, the Swiss insolvency and resolution framework for FMIs largely mirrors that of banks, with only a few notable exceptions. However, the inherent differences between FMIs and traditional banks highlight the limitations of applying the same resolution tools, particularly in the case of CCPs, which have unique operational characteristics and risks. The resolution tools outlined in the existing legislation may not adequately address the specific challenges faced by FMIs during a crisis, and the FSB has provided specific guidance, emphasizing tailored approaches. The ongoing review[76] aims to introduce FMI-specific rules, in particular CCP-specific resolution tools to further align Swiss FMI legislation with FSB recommendations while considering developments in international regulations and best practices. The review will enhance Switzerland's preparedness to handle potential crises involving FMIs, ensuring that the resolution process is both efficient and effective in protecting the interests of market participants and the broader economy.

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[75] SIC is subject to dedicated requirements, including recovery planning, under the NBO, subject to SNB oversight.

[76] https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-101490.html.