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Too Urgent to Rush

Policy perspectives on the completeness of the ongoing "Too big to fail" (TBTF) regulation reforms

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Summary

The downfall and forced sale of Credit Suisse to UBS—the largest crisis involving a Global Systemically Important Bank (G-SIB) since the Global Financial Crisis—has sparked a new debate as well as an overhaul of the “Too Big to Fail” (TBTF) regulatory framework. After multiple waves of reports and investigations of the matter, the Swiss federal government presented its proposals for future legislation to the national lawmakers on June 6th, 2025.

The Federal Department of Finance’s (FDF) proposal consists of 23 core and extended measures[1] on legal and directive level, clustered into four groups: strengthening prevention and liquidity, expanding the set of crisis instruments, and others. Among the main measures that have attracted most public scrutiny are the new requirement to fund subsidiaries with equity capital (i.e., ending “double leverage”), the legal enshrinement of the public liquidity backstop and new competencies for Switzerland’s financial watchdog FINMA. While many of these measures would certainly help to stabilise the Swiss banking sector, doubts remain. Some already grieve the loss of competitiveness for the largest international player from Switzerland, UBS, while others point to the apparent willingness to repeat massive state interventions in the future, as signalled by the secondary focus on resolution measures.

This brief reviews the current proposals and debate surrounding Switzerland’s TBTF regulations - focussing on the focal point of increased capital requirements. Furthermore, it considers their economic and foreign policy dimensions, and suggests potential ways to further reinforce its credibility and effectiveness, especially with regards to the resolution framework and stabilisation mechanisms.

How the downfall of CS sparked a new debate

Unlike UBS, Credit Suisse weathered the Global Financial Crisis from 2007 to 2009 through its own efforts and market funding. However, over the subsequent decade, a countless series of scandals and degrading financial results led it to gradually lose the confidence of investors and clients. This erosion accelerated with two major scandals—the collapse of the Archegos hedge fund and the closure of Greensill's supply-chain finance funds—resulting in a combined loss of approximately USD 6.4 billion.

Multiple announcements on strategic turnarounds, including a restructuring plan unveiled in October 2022, failed to improve this situation, after which speculation about the bank's stability accelerated, resulting in the refusal of its largest shareholder to provide the needed equity capital. After a CHF 50 billion credit line from the Swiss National Bank (SNB) bought the crisis managers additional time, a government-brokered deal, supported by FINMA and the SNB, arranged UBS's acquisition of Credit Suisse in March 2023.

There is a general consensus that Credit Suisse's excessive risk taking, a "deficient risk management" and a permissive risk culture lacking internal controls[2] were the main culprits of the debacle. At the same time, the report by a parliamentary inquiry committee published at the end of 2024 highlighted significant miscalculations by the responsible authorities, most notably the regulatory filter, which temporarily allowed Credit Suisse to run with less equity capital than legally required and thereby presented a distorted image of its financial health to markets and the public.

While many, especially public authorities abroad, saw the Swiss government's swift action as essential to avoid a broader crisis, the hesitancy to implement the prepared resolution plan of Credit Suisse raised doubts about both its feasibility and government's willingness to face such a showdown. This, combined with the lack of future merger options for the newly expanded UBS, opened a debate around the need for reform of the TBTF framework to enhance its effectiveness and credibility[3].

Reaction and main recommendations by the Federal Council

The Federal Council's proposals, presented in June 2025, are based on their major lessons learned and incorporate 23 single measures, grouped into three main areas:

- Strengthen prevention: including stricter capital requirements for foreign subsidiaries and specific balance-sheet positions, alongside governance enhancements such as implementing a Senior Managers Regime, introducing legal adequacy requirements and clawbacks on executive remuneration, as well as a broad array of competency extensions for Switzerland's financial watchdog FINMA.
- Strengthen liquidity: transferring the long-awaited Public Liquidity Backstop (PLB) into ordinary law, raising regulatory requirements for the banks' liquidity risk management and enabling extended SNB-procured and market-based funding sources for banks.

- Expanding the crisis toolkit: This involves broadening resolution mechanisms and enhancing the "resolvability" of SIBs as well as the legal certainty of "bail-in" measures, improving cooperation between supervisory bodies.

What is "TBTF"?
The Swiss "too big to fail" (TBTF) regulation aims to reduce risks posed by systemically important banks (SIBs) to the economy and taxpayers - meaning banks so significant they must not be allowed to "fail", i.e. go bankrupt, like any ordinary business in a healthy market economy - hence "too big to fail". The goal is to prevent future SIB failures and protect the financial system without resorting to state bail-outs. It includes stricter capital requirements, higher requirements to corporate governance, as well as enhanced intervention powers and crisis management tools for the authorities supervising SIBs.

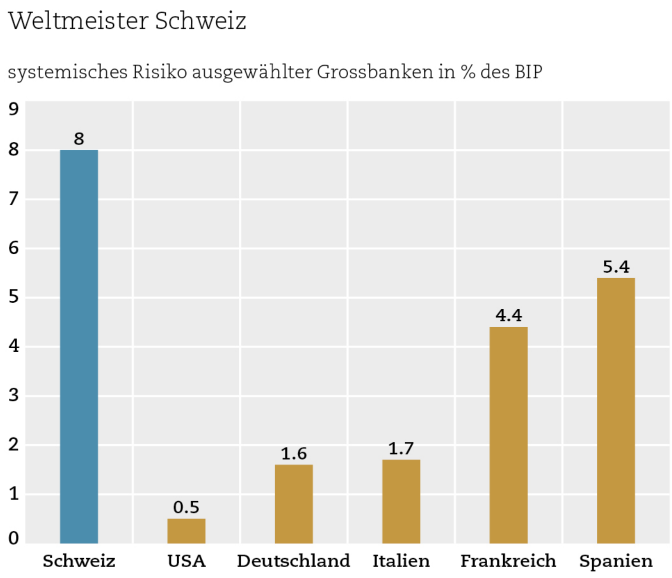
What is "ELA"?
The Emergency Liquidity Assistance (ELA) programme provides a legal basis for secured short-term loans by the Swiss National Bank (SNB) to a troubled bank - this means that troubled banks shall have equal opportunities to borrow money from the SNB in exchange for the deposit of eligible assets as collateral. In the event of bankruptcy, the collateral serves SNB as a cushion against credit losses on the granted loans. The remainder of the risk remains on the balance sheet of the SNB and hereby indirectly (but not only) with the Cantons and Municipalities of Switzerland, who receive dividends from the SNB after profitable years.

What is "PLB"?
The Public Liquidity Backstop (PLB) is a framework that foresees and facilitates a state guarantee to the central bank against credit losses after all possibilities for collateralised SNB loans under the Emergency Liquidity Assistance (ELA) programme have been exhausted. Hence, as a replacement for additional collateral unavailable to the troubled bank, SNB receives instead a (partial) loss insurance provided by the federal government. In this scenario, the SNB might still carry a partial risk but most or all of it is transferred to the federal government and hereby directly to Swiss taxpayers. It is the third and last line of defense to avoid a SIB's bankruptcy.

Why "Too Big to Fail" keeps posing a fundamental dilemma for society

The TBTF issue presents a moral and political challenge for liberal democracies. While bank bail-outs have generally aimed to protect financial stability and thereby the broader economy, they are often viewed as "socialising losses" in favor of the financial elite, eroding trust in democratic institutions and setting perverse incentives. The same argument goes for government-sponsored or -backed protection or support schemes that aim to hinder potential bank runs, during which banks are stripped of their stable deposits when they are needed most.

Moreover, the implicit state guarantee weakens market discipline, encourages moral hazard[4] and can lead to significant future liabilities for taxpayers, threatening the long-term economic prosperity of a country. Consequently, state guarantees can undermine the very stability they aim to safeguard, as they unintentionally incentivise risk-seeking behavior among bank managers. As a general rule, private entities should not endanger systemic stability at the expense of taxpayers. Instead, certain mechanisms need to be in place to sever the ties between corporations and public funds.



Source: Schweizer Monat, based on data from NYU Stern Volatility Institute (April 2023)

This issue is particularly pressing for Switzerland, which, even compared to other major financial centers, could face significant costs if a public SIB bailout was necessary. Analysis by the NYU Volatility Institute indicates that Switzerland bears the highest potential fiscal burden among major economies, with a future crisis potentially costing up to 8% of GDP in terms of the bank's decline in market capitalisation under an extreme scenario[5]. The NYU's system risk indicator is a widely recognised proxy for banking risks, even though it must be acknowledged that the bank's equity valuation by the market is not inherently decisive when it comes to compliance with regulatory capital requirements.

In 2008, the UBS bailout faced widespread political unpopularity and strong cross-party resistance - even though its size was relatively small compared to the bailouts in other countries that required extensive back-up by the International Monetary Fund (IMF). Given current pressures on democratic institutions, rising polarisation, and the growth of "anti-establishment" movements, similar interventions today could trigger considerably higher unrest. In 2017, Funke and

Trebesch presented persuasive historical evidence on this strong correlation between the rise of the populist right and the consequences of financial crises, including significant scarring on public finances from state-sponsored bail-outs[6].

Excursus: The financial sector's importance for Switzerland's soft power
How Switzerland deals with the aftermath of Credit Suisse's downfall is of crucial importance - not just from a domestic economic and political perspective, but from a Swiss foreign policy perspective, too. The Swiss financial sector is a cornerstone of Switzerland's soft power. Soft power, unlike hard (e.g. military) power, is "(...) the ability to get what you want through attraction rather than coercion or payments. It arises from the attractiveness of a country's culture, political ideals, and policies".[7] As Alexandre Edelmann, Head of Presence Switzerland (the governmental unit tasked with managing Switzerland's image abroad) emphasized as recently as February 2025, the country's financial center contributes to an image of Switzerland as a highly stable and trustworthy country.[8] In its Foreign Policy Strategy 2024-2027, the Federal Government also named Switzerland's reputation as "(...) an attractive location for internationally active companies and financial institutions".[9]

A Presence Switzerland monitoring report for the year 2023 showed that the CS crisis and subsequent takeover by UBS had a strongly negative impact on foreign media's perception of Switzerland. Stories about the bank's collapse as well as interventions by authorities went around the world. Various outlets had reported that "(...) the development would damage Switzerland's overall standing as a business location, and had undermined the very qualities that distinguished the Swiss financial centre – namely its quality, stability, trustworthiness and adherence to the rule of law."[10] A pertinent example of this damage is certainly the irritation over the write-down of the AT1 bonds held by international investors. Even though the same report a year later described a partial recovery - or rather a reduction in volume of negative reporting[11] - such indicators should be seen as a warning sign of what's at stake for Switzerland in the international arena.

Therefore, how policies such as the TBTF regulation are (re-)shaped and whether the government's actions succeed in preventing further banking crises or issues with the new "megabank" UBS can and likely will impact Switzerland's attractiveness as a financial hub to foreign depositors and investors.

Will higher capital requirements suffice to end the TBTF debate?

As has been uncovered over the last 2 years, Credit Suisse was unable to increase funding by selling its subsidiaries abroad because this would have caused a further decline in equity capital. Therefore, the Federal Council has proposed to abolish the so-called “double leverage” practice, which allows banks to fund subsidiaries with considerable debt funding instead of hard equity capital on the consolidated balance sheet. In other terms, a global SIB domiciled in Switzerland would have to back up all their shares in, for example, an American subsidiary with their own money, and not a cent of borrowed money.

Over the last years, a lot of strong opinions on the necessity and efficacy of such higher capital requirements have been heard. On one side, there are resolute proponents, demanding up to around 30%[12], according to the most fervent voices. On the other side, opponents emphasise the importance of a more lenient response to safeguard the international competitiveness of Switzerland’s financial hub.

While reducing risks is essential to protect financial and thus economic stability, it is however important to realise that rising capital requirements will never fully protect taxpayers from systemic risk and bank-management failure.

Ensuring resolvability and risk retention - recommendations for further discussion

The Federal Council and many others have remarked, and rightly so, that raising capital requirements cannot possibly remain the sole measure to bring the too-big-to-fail dilemma closer to a sustainable solution. As observers noted before us, the dilemma will only be resolved once measures have been put in place that give enough confidence that a systemically important bank can actually be sent into orderly resolution. After all, the Swiss resolution framework has been considered arguably implementable by both the Financial Stability Board (FSB) and the Expert Group on Banking Stability. As a result, we would like to highlight the need for in-depth public discussion around the following main points:

Requirement for extensive international alignment on bank resolution frameworks:

- Systemically important banks operating on a global scale have the potential to implicate damage on a global scale too, even to the degree of compromising the stability of other banks, for example, when inter-bank lending comes to a halt or when depositors quickly withdraw significant funding.
- One major instrument to reduce the likelihood of such bank runs and eventual bank failure is the emission of so-called "bail-in" bonds. These debt instruments can generally be converted into equity, usually when a certain financial metric signals financial

distress and thus triggers the conversion of the outstanding debt into fully loss-accountible equity. Also, they can contain clauses for total write-down, easing a bank's debt burden during financial distress, as is the case for so-called "AT1 bonds". In the case of CS, there was considerable disagreement among international regulators and legal objection by investors over the bonds' complete write-down while the more junior claims of the equity holders were partially met by the CS-UBS deal.

- Indeed, both the Federal Council as well as the Parliamentary Commission of Inquiry have highlighted the criticality thereof in their reports: the absence of aligned creditor hierarchies across jurisdictions can create conflicts, especially when foreign creditors face unequal treatment. Although frameworks like the FSB's Key Attributes of Effective Resolution Regimes promote cross-border coordination (e.g., through Crisis Management Groups), they lack enforcement across borders[13].
- As stressed in the closing remarks by the Parliamentary Commission of Inquiry, the entire TBTF framework must be aligned with the legal feasibility of resolution procedures when foreign jurisdictions are involved. Given its unique positioning as host to the first G-SIB failure since the global financial crisis, Switzerland should take a proactive stance advocating for a principle-based international framework on bank resolution in order to avoid disharmony in recovery & resolution procedures for failing SIBs in the future - be it to align AT1 bond features or the procurement of emergency liquidity via single vs. multiple point of entry[14].
- Concurrently, Switzerland should work towards multilateral agreements for resolution strategies to prevent legal conflicts and ensure harmonised enforcement. This should occur at the decision-making level of the relevant international bodies, including the Financial Stability Board (FSB), specifically its Crisis Management Groups (CMGs), the IMF due to their role in setting the standards for bank resolution, and IOSCO[15] with regards to their role in securities regulation, such as of AT1 bonds. Where necessary, the legal basis between the different jurisdictions must be aligned, e.g. on the level of UNCITRAL[16] with regards to international trade law.

Requirement for a risk-reflective compensation of tax-funded support mechanisms ("skin in the game"):

- Market economics has taught us that risk takers can and usually do act responsibly if prices set by demand and supply reflect the underlying risk of a business endeavor. As multiple risks - including market risks, credit risks and counterparty risks - are inherent to the banking business, the riskiness of a bank must be reflected in the price it needs to pay for the received funding, e.g. from deposits, loans, issued bonds or equity holders.
- While this is usually seen as trivial for fully private and competitive markets, this certainly changes when subsidies or state protection mechanisms come into play. As has been shown for cantonal banks[17] as well as UBS[18], investors incorporate the perceived likelihood of the government running to their help in case of trouble in the price they will demand for funding given to these banks. As a result, anticipated state support distorts the reflection of risk in market prices and can lead to moral hazard.
- It is therefore necessary to correct this market distortion by demanding a risk-reflective price for any funds put in place for the support of failing banks. This certainly includes explicit state guarantees, implicit guarantees such as the PLB, as well as the depositor insurance scheme esisuisse[19]. Some of this has already been addressed with the latest proposals of the Federal Council, e.g. the ex-post cost obligations for banks under the umbrella of a future PLB, just as CS/UBS had to compensate for the emergency liquidity received in 2023. Furthermore, provisions such as clawbacks or industry bans by FINMA intend to increase the sense of risk retention and accountability in a comparable fashion. However, there remain further practical questions, e.g. as to an additional (or alternative) necessity of an ex-ante compensation of the PLB for SIBs or the adjustment of the esisuisse deposit insurance scheme to risk-reflective pricing as exists today with the U.S. American FDIC[20] - with legitimate arguments and concerns for both camps alike.

Additional Literature

- M. Ammann, N. Käfer, T. Wiest (6 Jun 2023): Reformbedarf in der Regulierung von «Too Big to Fail» Banken
- Y. Lengwiler et al. (1 Sep 2023): Report of the Expert Group on Banking Stability 2023 - The need for reform after the demise of Credit Suisse
- Financial Stability Board (10 Oct 2023): 2023 Bank Failures - Preliminary lessons learnt for resolution
- Financial Market Authority (19 Dec 2023): FINMA Report - Lessons Learned from the CS Crisis
- Federal Department of Finance (10 April 2024): Federal Council report on banking stability
- S. Amrein (8 Oct 2024): Implizite Garantien für Grossbanken – keine Garantien für Kleinbanken, published in: Die Volkswirtschaft - Plattform für Wirtschaftspolitik

Endnotes

1 See Eckwerte des Bundesrates zur Änderung des Bankengesetzes - number of measures as per the overview provided by the Federal Department of Finance (FDF)

2 FINMA (2023): Lessons Learned from the CS Crisis. Berne: Stämpfli Communications

3 Report of the Expert Group on Banking Stability 2023: The need for reform after the demise of Credit Suisse

4 Moral hazard is an economic concept describing a type of strategic-choice behavior whereby individuals assume excessive risks as they benefit from positive materializations but shift any accountability on subjects offering downside protection

(e.g., insurance companies, shareholders or taxpayers, depending on context).

5 The NYU Stern Volatility Institute measures systemic banking risk as conditional expected losses (expected shortfall) in market capitalization of the systemically important banks in the respective country, given a scenario that corresponds with the worst 5% of stock market performances in one single trading day.

6 M. Funke & C. Trebesch (2017): Financial crises and the populist right; ifo DICE Report 15.4: 6-9.

7 J.S. Nye (2024): Soft Power: The Means to Success in World Politics. New York: PublicAffairs: x (Roman numeral).

8 https://brandfinance.com/insights/switzerland-balancing-reliability-with-innovation-to-boost-global-appeal-and-soft-power

9 FDFA (2024): Foreign Policy Strategy 2024-2027: 15.

10 FDFA (2024): Switzerland seen from abroad - 2023 Analysis: 15.

11 FDFA (2025): Switzerland seen from abroad - 2024 Analysis: 17.

12 For example, economist Adriel Jost and others referring mostly to the theses put forward by Martin Hellwig and Anat Admati https://www.nzz.ch/wirtschaft/der-umgang-mit-den-banken-erinnert-an-wahnsinn-man-tut-immer-wieder-das-selbe-und-erwartet-andere-ergebnisse-ld.1754281

13 National authorities holding decision-making power may prioritize local interests during such crises. Some progress has been made with requirements like bail-in bonds containing “recognition clauses” (Art. 126a(1h) CAO) and FSB-led cooperation initiatives. However, legally binding agreements remain absent, adding to legal uncertainty.

14 This concerns the question whether one single government should enact recovery or resolution measures the entirety of a failing bank via its domestic holding entity, or if each affected government should pursue this endeavor for the local bank branch independently and in coordination. When reflecting on the feasible options in the case of Credit Suisse, the authorities previously favouring the SPE approach came to the conclusion that both options harbor too many uncertainties and hence opted for non-resolution.

15 International Organization of Securities Commissions

16 United Nations Commission on International Trade Law

17 L. Schmid (26 Feb 2025): Kantonalbanken: Garantiert im Vorteil; published by: Avenir Suisse

18 C. Monnet, D. Niepelt, R. Taudien (28 Jan 2025): Pricing Liquidity Support: A PLB for Switzerland

19 The esisuisse mechanism seeks to ensure that regular bank deposits per customer and bank relationship are covered up to an amount of 100,000 CHF in case of a bank’s failure

20 Federal Deposit Insurance Corporation

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