

The starting point: a regime tested and found wanting

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The too-big-to-fail regime that entered into force in 2012, described in an earlier chapter of this Part, rested on two pillars. The first required systemically important banks to hold more and better capital than other banks, both to continue operating in a crisis and to absorb losses in a resolution. The second required them to prepare for an orderly resolution, so that the functions essential for the Swiss economy could be maintained while the rest of the bank was restructured or wound down. In March 2023 the authorities concluded that a resolution of Credit Suisse, although prepared on paper, carried risks that they were not willing to take in the middle of an international crisis of confidence. The Federal Council therefore relied on its emergency powers under the Federal Constitution to support a takeover by UBS. The merger preserved financial stability. It also left behind the uncomfortable finding that the instrument designed for exactly this situation had not been used.

The first institutional response came from the Federal Department of Finance, which set up an expert group on banking stability in the spring of 2023. The group was originally chaired by the former Neuchâtel cantonal councillor Jean Studer. After his departure in June 2023 the department appointed Yvan Lengwiler, professor of economics at the University of Basel, to lead it, and added Rudolf Sigg, the former chief financial officer of the Zürcher Kantonalbank, as a member.¹ The group was deliberately composed of people from outside the authorities directly involved in the rescue, so that its analysis would not be read as a defence of decisions already taken.

Its report, published on 1 September 2023 under the title *Reformbedarf nach dem Untergang der Credit Suisse*, opened with a sentence that captured the novelty of the event: Credit Suisse had been, on 19 March 2023, the first global systemically important bank to stand immediately before resolution.

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The report grouped its recommendations under four headings. The first concerned crisis management and the allocation of responsibilities among FINMA, the SNB and the Federal Department of Finance. The second dealt with liquidity, including the SNB's emergency liquidity assistance and a public liquidity backstop for resolution. The third addressed the supervisory toolkit, with additional instruments for FINMA to secure resolvability. The fourth turned to the quality of capital and the market for Additional Tier 1 instruments, which the write-down of Credit Suisse's AT1 bonds had shaken.²

The press read the report above all as a plea for a stronger supervisor. The experts supported stronger sanctioning instruments for FINMA and greater transparency about its enforcement activities, recommended regular crisis simulations for authorities and banks, and called for revised capital requirements for systemically important banks. Their most quoted warning concerned the absence of a fallback. Since a merger with another Swiss bank would no longer be available once UBS and Credit Suisse had become one, Switzerland risked facing the next major banking crisis without a rescue solution, in the way Iceland had faced its banking collapse in 2008.³ The comparison was pointed. It reminded readers that a country whose bank balance sheets are several times its gross domestic product cannot rely on the state to absorb a failure of that bank without risking its own solvency.

FINMA published its own lessons-learned report in December 2023. In it the supervisor described the limits of its instruments and asked for powers that most of its international peers already possessed.⁴ A year later FINMA summarised the tools it considered lacking: the authority to impose fines, better possibilities to communicate publicly about its supervisory activities, powers to intervene earlier, and a responsibility regime for senior executives.⁵ Taken together, the expert group and the supervisor had defined most of the agenda before the Federal Council began its own work.

1 Notes

1. Federal Department of Finance (EFD), press release "Expertengruppe «Bankenstabilität» neu unter der Leitung von Yvan Lengwiler", 5 June 2023, <https://www.efd.admin.ch/de/nsb?id=95559>. The release records Jean Studer's departure, Lengwiler's appointment and Sigg's accession to the group. ↩
2. Expertengruppe «Bankenstabilität», Reformbedarf nach dem Untergang der Credit Suisse. Bericht der Expertengruppe «Bankenstabilität» 2023, 1 September 2023,

<https://www.efd.admin.ch/dam/de/sd-web/7DiL9ADvRHnm/bericht-expertengruppe-de.pdf>. The report was chaired by Yvan Lengwiler and lists the members in an appendix. ↩

3. finews.ch, “Finanzmarktexperten wollen der Finma mehr Macht geben”, 1 September 2023, <https://www.finews.ch/news/banken/59094-cs-krise-grossbanken-bericht-bankenstabilitaet-yvan-lengwiler>. ↩
4. FINMA, Lessons Learned from the CS Crisis, report of 19 December 2023, <https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/finma-publikationen/cs-bericht/20231219-finma-bericht-cs.pdf>, p. 8, where FINMA states that the legal framework “severely restricts FINMA’s influence in matters of governance” and notes that it lacks a senior managers regime, powers to impose fines and the option of publishing enforcement proceedings regularly. ↩
5. FINMA, “FINMA welcomes PInC report on the CS crisis”, 20 December 2024, <https://www.finma.ch/en/news/2024/12/20241220-mm-finma-begruesst-puk-bericht/>. FINMA states that these tools are “currently lacking compared with international peers” and refers back to its lessons-learned report of December 2023. ↩

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