

## The Federal Council's parameters for amendments to the Banking Act

### Implementing the measures highlighted in the Federal Council's report on banking stability and the report by the Parliamentary Investigation Committee)

The tables in chapters 1 to 4 contain parameters for a legislative proposal on the measures put forward by the Federal Council on 10 April 2024 for implementation or review, along with other measures which were recommended in the report by the Parliamentary Investigation Committee (PInC) of 17 December 2024. Where there are changes compared to the Federal Council's report, these are highlighted in red.

The three main focus areas, ***Strengthening prevention***, ***Strengthening liquidity*** and ***Expanding the crisis toolkit***, are each presented in a table along with ***other measures***, and arranged within the table by field of action. In each field of action, the core measures for strengthening the TBTF regime are shown first, highlighted in blue, followed by the results of the investigations and the measures still to be implemented, with their respective parameters. Any reference to the PInC's recommendations, postulates or motions is also shown for each measure.

## 1. Focus on strengthening prevention

	Background	Parameters		
	Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
Corporate Governance	<p><b>Federal Council report:</b> Introduce a senior managers regime to ensure a clearer assignment of responsibilities (proportional implementation: at least for the board of directors and executive board, potentially also for other levels) (2)<sup>2</sup></p> <p><b>PlnC report:</b> Strengthen FINMA's enforcement capability with regard to SIBs (<i>motion 24.4531 and 24.4527, postulates 24.4544 and 24.4538</i>)</p> <p><b>Scope of application:</b> SIBs, check for other banks</p> <p><b>Level:</b> Legislation</p>	<p>To eliminate misconduct by decision makers at an early stage and effectively, thereby improving the corporate governance and risk culture pre-emptively through clear assignment of responsibilities at the uppermost hierarchical levels and by linking it with possible sanctions by banks and FINMA.</p> <p>To incorporate the matters raised in the PlnC's motions 24.4531 and 24.4527.</p>	<p>Applicable to all banks, but with implementation being highly proportional.</p> <p><b>Reason:</b> Measure is aimed at conduct and is intended to be an instrument of good corporate governance. As such, in principle it is intended to be applied to all banks alongside the current rules of conduct. Comparable roles at comparable banks shall be subject to the same rules. It also prevents top executives changing banks to escape an accountability regime. The measure can be implemented on a highly proportional basis and in a slimmed down version, particularly for smaller banks.</p>	<ul style="list-style-type: none"> <li>• To include those people covered by the current fit and proper assessment regime (esp. members of supervisory and management bodies) and – if they are not already covered – other pre-defined key individual roles at upper senior levels that can have considerable influence over a bank's risk profile (such as Head of Internal Audit, Head of Risk Control, Head of Compliance, or heads of important business divisions). These are subject to FINMA's fit and proper assessment under the Banking Act (BankA).</li> <li>• To establish an overview of responsibility (for each bank) and a responsibility statement (for each person covered by the fit and proper assessment) to document the responsibilities.</li> <li>• This documentation will enable individuals to be held better to account. Sanctioning by the bank via remuneration measures, written warning, preclusion from promotion. Sanctioning by FINMA via instruments such as revocation of authority or prohibition from practising a profession.</li> <li>• Proportionality: The roles that are included and the scope of the documentation of responsibilities shall be specific to the bank and will heavily depend on a bank's business model, risk profile, size and complexity.</li> </ul>
	<p><b>Federal Council report:</b> Define corporate governance requirements in more detail by strengthening the legal basis (e.g. on requirements for the board of directors and responsibility for corporate culture) (1).</p> <p><b>Scope of application:</b> SIBs, check for other banks</p> <p><b>Level:</b> Legislation</p>	<p>Clarify and increase the legal binding force of corporate governance requirements in order to strengthen both the requirements themselves and their supervision.</p>	<p>Applicable to all banks, but with implementation being proportional.</p> <p><b>Reason:</b> The current corporate governance circular already applies to all banks and is designed to be proportional.</p>	<ul style="list-style-type: none"> <li>• To elevate the existing FINMA corporate governance circular to a higher level (BankA, BankO, and potentially others) along with targeted additions; this affects e.g. rules on the accountability and composition of the top-level governing body, on the composition of the management body, and its jurisdiction (esp. risk management and internal controls).</li> <li>• Individual clarification of the requirements for banks, as well as for other, more recent financial market legislations.</li> </ul>

<sup>1</sup> The column shows the highest level at which amendments are required. If legislative amendments are required, their adoption by Parliament is generally followed by amendments at ordinance level

<sup>2</sup> The numbers in brackets relate to the numbers of the measures in the Federal Council report on banking stability of 10 April 2024

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Strengthen the legal basis and requirements for remuneration systems, esp. on the design of variable remuneration, clawbacks and retention periods (3)</p> <p><b>PlnC report:</b> Prevent false incentives on remuneration and dividend distribution by SIBs (<i>postulates 24.4541 and 24.4535</i>), strengthen FINMA's enforcement capability with regard to SIBs (<i>motions 24.4531 and 24.4527</i>)</p> <p><b>Scope of application:</b> SIBs, check for other banks</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen the legal basis and requirements for remuneration systems (increased risk focus and orientation towards long-term success), to prevent misconduct and the taking of inappropriate risks.</p> <p>To incorporate matters raised in the PlnC's postulates 24.4541 and 24.4535, and motions 24.4531 and 24.4527.</p>	<p>General principles for all banks. Specific requirements such as retention periods and clawbacks only for SIBs.</p> <p><b>Reason:</b> The principle of a long-term focus for remuneration systems is generally appropriate and should also apply to non-SIBs. However, specific and more substantial requirements are of particular importance for SIBs.</p>	<ul style="list-style-type: none"> <li>• Some minimal principles for remuneration systems in the BankA are retained for all banks. By analogy: "The remuneration scheme is simple and transparent, and oriented towards the long term." "The structure and level of total remuneration are aligned with the bank's risk policies."</li> <li>• Remuneration systems must not threaten long-term compliance with regulatory requirements (capital and liquidity).</li> <li>• Specific requirements for SIBs are set out in the BankA: deferring remuneration components by applying retention periods and clawbacks (reclaiming remuneration that has been paid).</li> <li>• Misconduct (e.g. violation of the rules on the senior managers regime, violation of supervisory law) should be sanctioned by, among other things, measures on remuneration (e.g. reduction or cancellation of variable remuneration components).</li> </ul>
<p><b>Federal Council report:</b> Enshrine proper business conduct requirements for institutions at the legislative level and strengthen the legal basis covering changes in management bodies (7)</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation</p>	<p>To clarify and increase the legal binding force of corporate governance requirements in order to strengthen both the requirements themselves and their supervision.</p>		<ul style="list-style-type: none"> <li>• To enshrine in the BankA the institutional guarantee of proper business conduct (as with the guidelines for insurance companies and other financial institutions) and strengthen the legal basis for the approval by FINMA of changes in management bodies (Organ mutations, similar to FinIA).</li> </ul>

	Background	Parameters		
	Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
Supervision incl. early intervention	<p><b>Federal Council report:</b> Strengthen early intervention by the supervisory authority by legally enshrining the relevant measures, applicability and timing (22)</p> <p><b>PlnC report:</b> Strengthen FINMA's enforcement capability with regard to SIBs (motion 24.4531 and 24.4527)</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen FINMA's options for early intervention, in particular strengthening enforceability and legally effective intervention, in order to avoid as far as possible a crisis emerging due to bank-specific issues or misconduct.</p> <p>To incorporate the matters raised in the PlnC's motions 24.4531 and 24.4527.</p>		<ul style="list-style-type: none"> <li>To strengthen the existing supervisory powers in areas like corporate governance (e.g. remuneration and restrictions on business activity), capitalisation (e.g. limitations on dividends and Pillar 2 add-ons) and recovery and resolution planning, defining the requirements of the banks more precisely and strengthening FINMA's powers of intervention and their enforceability in ongoing monitoring.</li> <li>To clarify in the BankA that protective measures (similar to the regulations for insurance companies) shall definitely apply before the measures for banks at risk of insolvency, in order to ensure that FINMA's intervention to ensure a bank's recovery is effective.</li> <li>To expand the protective measures (in particular to trigger recovery plan measures, prevent distributions of equity or dividends or convene a general meeting).</li> <li>Targeted legal revocation of the suspensive effect of an appeal (but with the ability of the aggrieved party to apply to the court for restoration of the suspensive effect, see measure 9).</li> <li>The measure calls for amendments to various articles in the BankA and ordinances, specifically in the Banking Ordinance (BankO; SR 952.02) and the Capital Adequacy Ordinance (CAO; SR 952.03).</li> </ul>

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Request to review: Introduce pecuniary administrative sanctions by FINMA for supervised legal entities (4)</p> <p><b>PlnC report:</b> Strengthen FINMA's enforcement capability with regard to SIBs (<i>motion 24.4531 and 24.4527</i>)</p> <p><b>Scope of application:</b> Financial institutions</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen prudential supervision by authorising FINMA to impose pecuniary administrative sanctions against legal entities, in order to punish violations which are serious but do not justify licence revocation. To promote early awareness by the owners of the financial institution in respect of its activities and those of its managers. To incorporate matters raised in the PlnC's motions 24.4531 and 24.4527 (but without it being applicable to natural persons).</p>	<p>Introduction of a such competence to impose fines against financial institutions under supervision (legal entities).</p> <p><b>Reason:</b> Pecuniary administrative sanctions are not the key component of the TBTF toolkit, rather they help to strengthen prudential supervision and belong to the international standard toolkit. The possible disadvantages for enforcement proceedings by FINMA have been thoroughly clarified and do not represent a significant obstacle. Restricting the instrument to SIBs was also investigated, but was deemed to be legally questionable and inappropriate from the perspective of equal treatment, in particular with regard to the principle of economic freedom between competitors.</p> <p>It was decided not to introduce such powers for FINMA with regard to natural persons, who benefit from more extensive constitutional guarantees.</p> <p><b>Reason:</b> This would make enforcement proceedings too complex, and hence less effective. Moreover, this additional risk could be offset by risk premia integrated into remuneration, making this measure easily circumventable. Finally, FINMA has enough tools at its disposal with regard to natural persons (e.g. publication of certain decisions, prohibition on practising a profession, withdrawal of the guarantee of irreproachable conduct).</p>	<ul style="list-style-type: none"> <li>• Penalties issued for serious breaches of supervisory law.</li> <li>• The amount set must respect the principle of proportionality and be sufficiently dissuasive, while also ensuring that the entity's existence is not jeopardised.</li> <li>• FINMA takes collaboration into account to reduce or even dispense with the penalty (e.g. as part of settlements)</li> <li>• The priority of the duty to cooperate is set down in the FINMASA: duty to provide all pre-existing facts, even under the constraints in accordance with the Federal Council report of 23 February 2022 and the Federal Supreme Court's jurisprudence.</li> <li>• To guarantee the coherence of supervision methods, the FAOA should also be given powers to issue administrative financial penalties (in the Auditor Oversight Act, AOA).</li> </ul>

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Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
	<p>To strengthen prudential supervision by creating an instrument to use strong financial incentives to induce an institution to restore legal compliance.</p> <p>To incorporate matters raised in the PlnC's motions 24.4531 and 24.4527.</p>	<p>Introduction of periodic penalty payments (PPP), with which FINMA obligates the affected party to periodic payments until compliance is restored.</p> <p><b>Reason:</b> For prudential supervision and enforcement to be effective, there needs to be an appropriate instrument, to allow FINMA to use a "substitute performance" as provided for under Art. 32 para. 2 of the FINMASA, in those cases in which the institution can rectify the gaps or violations. The instrument is not a sanction, but rather a means of enforcement.</p>	<ul style="list-style-type: none"> <li>• Powers to impose PPPs on all supervised persons and entities as an execution measure when an enforceable decision from FINMA is not implemented within the set deadline.</li> <li>• The amount set must respect the principle of proportionality, while also ensuring that the entity's existence is not jeopardised.</li> <li>• The amount of the PPP must be sufficiently dissuasive and is calculated according to the number of days or weeks for which the situation continues, with a maximum period to be determined.</li> <li>• The measure requires the introduction of new provisions in the FINMASA.</li> </ul>
<p><b>Federal Council report:</b> Request to review: Strengthen enforcement of supervision by shortening the duration of procedures (e.g. immediate enforceability of FINMA rulings) (9)</p> <p><b>PlnC report:</b> Restrict the means of appeal and substantially shorten the appeal procedure for FINMA rulings (<i>recommendation no. 5</i>), strengthen FINMA's assertive powers with regard to SIBs (<i>motions 24.4531 and 24.4527</i>)</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen the efficiency and effectiveness of prudential supervision by simplifying the procedures.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 5, and motions 24.4531 and 24.4527.</p>	<p>The suspensive effect of appeals should be removed in a targeted manner. Other than this, no further changes to procedures should be carried out.</p> <p><b>Reason:</b> The legal restriction of the suspensive effect of appeals is particularly aimed at more effective prudential supervision and quicker enforcement of critical measures. The measure is to be closely coordinated with the structure for early interventions. At the same time, the ability to restore a suspensive effect through an appellate authority should always remain possible for constitutional reasons. Other reviewed measures on faster enforcement of rulings, such as the exclusion of the means of appeal, the restriction of grounds for appeal, the shortening of appeal deadlines or the introduction of deadlines in the supervision phase, i.e. prior to the order, were rejected due to the procedures being too general and restricted, and also due to being less effective than restricting the suspensive effect.</p>	<ul style="list-style-type: none"> <li>• To amend the regime for the suspensive effect in agreement with the early intervention plan, which is implemented in measure 22.</li> <li>• Targeted removal of the suspensive effect of a ruling (for example in relation to corporate governance, remuneration, capital and liquidity surcharges), while retaining the possibility of judicial restoration. The same applies to protective measures which are now used prior to the risk of insolvency (see measure 22).</li> <li>• There are no changes to the protective measures in the event of impending insolvency. Appeals in this respect do not have a suspensive effect and the instructing judge cannot award a suspensive effect (Art. 37g <sup>quinquies</sup> of the BankA).</li> </ul>

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Request to review: Strengthen dual supervision through stricter requirements around the use of audit firms (e.g. independence requirements and direct awarding of mandates) (10)</p> <p><b>PlnC report:</b> Review the setting up of audit oversight by the SIBs (<i>recommendation no. 18</i>), strengthen FINMA's enforcement capability with regard to SIBs (<i>motions 24.4531 and 24.4527</i>), reduce conflicts of interest in bank audits (<i>postulates 24.4539 and 24.4533</i>)</p> <p><b>Scope of application:</b> Financial institutions</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen prudential supervision in general and in particular of banks by removing any restrictions on FINMA's onsite audits and by strengthening the independence of the audit firms by reducing conflicts of interest. To incorporate matters raised in the PlnC's recommendation no. 18, postulates 24.4539 and 24.4533, and motions 24.4531 and 24.4527.</p>	<p>Strengthening the independence of audit firms by introducing mandatory rotation and the requirement for FINMA to annually approve the choice of audit firm. The introduction of direct awarding of mandates is rejected. Clarification that FINMA is not subject to any restrictions in onsite audits.</p> <p><b>Reason:</b> Direct awarding of mandates would potentially have the strongest impact on the independence of audit firms. However, due to being subject to procurement law it is very costly and if introduced would require a lot of FINMA resources for all the financial institutions under supervision (regularly awarding around 1,000 audit mandates). As such, less costly measures which still have a positive and productive impact on independence should be implemented.</p>	<ul style="list-style-type: none"> <li>• To amend Art. 23 of the BankA, to clarify beyond doubt that FINMA can carry out audits for all banks at any time.</li> <li>• Obligate supervised entities to change their audit firm every 10 years at the latest.</li> <li>• Obligate FINMA to approve the audit firm selected by the supervised entities on an annual basis.</li> <li>• Prohibit audit firms from providing other services to the supervised entities alongside the audit mandate (and external audit role according to the Swiss code of Obligations). Audit-related activities remain possible.</li> <li>• Prohibit lead auditors from undertaking other tasks in the financial market (in particular as a member of a top-level governing body).</li> </ul>
<p><b>Federal Council report:</b> Investigation: Abolish dual supervision (no use of audit firms and expansion of FINMA) (11)</p> <p><b>Scope of application:</b> SIBs</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen the independence of the supervisory authority specifically for SIBs through systematic prevention of any conflicts of interest (as a more stringent alternative to measure 10).</p>	<p>Do not abolish dual supervision.</p> <p><b>Reason:</b> The additional resources required at FINMA would be very high (approx. 100 additional full-time positions) and recruitment from the labour market would be challenging. Moreover, FINMA would lose out on the audit firms' expertise and international connections. The benefits of strengthening the system (see above) with less invasive measures are estimated to be higher. The PlnC is not calling for abolition of the dual system.</p>	<ul style="list-style-type: none"> <li>• Not pursued any further.</li> </ul>

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Request to review: Adapt FINMA Board of Directors' responsibility for matters of substantial importance, taking into account the PlnC findings (13)</p> <p><b>PlnC report:</b> Facilitate governance of FINMA (<i>postulates 24.4542 and 24.4536</i>)</p> <p><b>Scope of application:</b> FINMA</p> <p><b>Level:</b> Legislation</p>	<p>To avoid legal uncertainties and simplify FINMA's governance. To incorporate the matters raised in the PlnC's postulates 24.4542 and 24.4536.</p>	<p>Adaptation of the statutory regulation on FINMA Board of Directors' responsibility for matters of substantial importance: to regulate at legislative level the range of matters to be decided by the Board of Directors.</p> <p><b>Reason:</b> The Federal Council considers the current division of responsibilities between FINMA's Board of Directors and the executive board to be sensible and the PlnC report did not fundamentally question it. The PlnC ascertained that FINMA did not inappropriately exercise its discretion in assessing what constitutes a matter of substantial importance. However, with postulates 24.4536 and 24.4542, the PlnC did call upon the Federal Council to review whether adapting, abolishing or expanding the relevant provision was appropriate. Adapting the legal provision should ensure clarity, strengthen legal certainty and thereby also tighten up the governance of FINMA at the legislative level.</p> <p>Other reviewed options were rejected:</p> <ul style="list-style-type: none"> <li>• Removing the Board of Directors' responsibility for matters of substantial importance: As FINMA's strategic body, the Board of Directors remains responsible for matters of substantial or strategic importance in any case, and will have to gather the necessary information and, where appropriate, issue instructions. Removing the responsibility would therefore give the false impression that the Board of Directors does not have, or should not have, either the ability to gather information or to exert influence in such matters.</li> <li>• Retaining the provision while configuring it as a discretionary rule: This option has questionable benefits, bears the risk of legal uncertainty and its implementation is complex.</li> </ul>	<ul style="list-style-type: none"> <li>• To replace the FINMASA article on the responsibility of FINMA's Board of Directors for matters of substantial importance (Art. 9 para. 1 lit. b of the FINMASA) with a FINMASA article which assigns responsibility for decisions on certain categories of business to FINMA's Board of Directors, and which lists these categories appropriately.</li> <li>• This can include, in particular, categories which are already described in FINMA's current organisational regulation. Examples would be rulings relating to protective measures, financial resolution, insolvency and liquidation.</li> <li>• The listing in the Act serves to establish legal certainty. Furthermore, this allows the separation of powers between the strategic Board of Directors and the operational Executive Board to be executed at statutory level. It also simplifies the governance of FINMA.</li> </ul>

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Introduce comprehensive public disclosure on supervisory procedures (5)</p> <p><b>PlnC report:</b> Efficient implementation of FINMA's enforcement proceedings (<i>recommendation no. 3</i>), strengthen FINMA's enforcement capability with regard to SIBs (<i>motions 24.4531 and 24.4527</i>)</p> <p><b>Scope of application:</b> Financial institutions</p> <p><b>Level:</b> Legislation</p>	<p>To preventively avoid misconduct by financial institutions and their staff, increase the predictability of FINMA's practice and strengthen credibility of the Swiss financial centre through increased transparency of FINMA's enforcement practice.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 3, and motions 24.4531 and 24.4527.</p>		<ul style="list-style-type: none"> <li>• To introduce into the FINMASA a duty for FINMA to provide information on its final decisions in enforcement proceedings, with exceptions possible.</li> <li>• To introduce into the FINMASA a discretionary clause allowing FINMA to inform the public about investigations and the opening of proceedings.</li> <li>• To introduce into the BankA a discretionary clause allowing FINMA to inform the public about investigations and early intervention measures.</li> <li>• Information provided in the form of a press release or the publication of case law. For legal entities, the company name is mentioned. For natural persons, publication is in principle anonymous.</li> </ul>
<p><b>Federal Council report:</b> Align the prohibition from practising a profession (industry ban) with the prohibition from performing an activity (activity ban) and extend the existing instrument of disgorgement of profits to other natural persons (6)</p> <p><b>PlnC report:</b> Strengthen FINMA's enforcement capability with regard to SIBs (<i>motion 24.4531 and 24.4527</i>)</p> <p><b>Scope of application:</b> Financial institutions</p> <p><b>Level:</b> Legislation</p>	<p>To strengthen prudential supervision, including by strengthening the industry ban instrument by aligning it with the activity ban.</p> <p>To incorporate matters raised in the PlnC's motions 24.4531 and 24.4527.</p>		<ul style="list-style-type: none"> <li>• To introduce the ability for FINMA to impose an industry ban (in line with the activity ban) for serious breaches of internal regulations, and not just for violations of supervision requirements.</li> <li>• To extend the scope of application for confiscation to all natural persons (e.g. to client advisers and traders subject to the prohibition from performing an activity provided for in Article 33a FINMASA and who do not perform a management function).</li> </ul>
<p><b>Federal Council report:</b> Make it easier for FINMA to obtain information by extending the duty to provide information and to report (8)</p> <p><b>PlnC report:</b> Strengthen FINMA's enforcement capability with regard to SIBs (<i>motion 24.4531 and 24.4527</i>)</p> <p><b>Scope of application:</b> Financial institutions</p> <p><b>Level:</b> Legislation</p>	<p>To increase the efficiency of prudential supervision by facilitating FINMA's access to information through expansion of the circle of people who are obliged to provide it.</p> <p>To incorporate matters raised in the PlnC's motions 24.4531 and 24.4527.</p>		<ul style="list-style-type: none"> <li>• To introduce an explicit duty to provide information on the basis of Article 29 paragraph 1 FINMASA applicable to members of management bodies, to other people who have to provide the guarantee of irreproachable conduct and to all employees.</li> </ul>

Background		Parameters		
Measure incl. scope of application and level <sup>1</sup>		Objectives	Outcome of the request to review	Focus of content
Capital requirements	<p><b>Federal Council report:</b> Strengthen the capital requirements for foreign participations – and thus for parent banks – within a financial group (15)</p> <p><b>PlnC report:</b> Review the requirements for the quality and quantity of the SIBs' capital (recommendation no. 4)</p> <p><b>Scope of application:</b> SIBs</p> <p><b>Level:</b> Legislation</p>	<p>To stop the debt financing of capital for foreign participations in the Swiss parent entity. Thereby: ensuring the resilience of the parent entity to withstand valuation corrections of foreign participations and the SIB's ability to act in any possible recovery phase.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 4.</p>		<ul style="list-style-type: none"> <li>• The current partial debt financing of the capital for foreign participations (known as double leveraging) is prevented through the full deduction of the book value of these participations from the parent entity's CET1 capital (known as participation deduction). As a result, foreign participations are fully backed by capital in the Swiss parent company's balance sheet.</li> <li>• After the deduction, the parent entity's remaining capital will fully cover the risks of its operating business. In particular, this should increase the room for manoeuvre in a crisis and improve the chances for the successful recovery of a SIB.</li> <li>• To introduce the regulation at legislative level (in the BankA) with greater detail (e.g. transitional provisions) in the CAO. Appropriate transitional deadlines must be provided for the implementation.</li> </ul>
	<p><b>Federal Council report:</b> Introduce forward-looking elements into the institution-specific capital surcharges (Pillar 2) (based in particular on stress tests, examine how best to disclose the results) (14)</p> <p><b>PlnC report:</b> Review the requirements for the quality and quantity of the SIBs' capital (recommendation no. 4)</p> <p><b>Scope of application:</b> SIBs</p> <p><b>Level:</b> Ordinance<sup>3</sup></p>	<p>Appropriate cover of bank-specific risks taking into account forward-looking elements (e.g. based on stress tests) in FINMA's Pillar 2 capital surcharges, whilst avoiding procyclicality at the same time.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 4.</p>		<ul style="list-style-type: none"> <li>• Every year, FINMA to review, based on stress tests and observations from ongoing monitoring, whether a Pillar 2 capital surcharge is required for individual SIBs, which will add to the existing capital requirements if weaknesses are identified.</li> <li>• Providing greater detail for these requirements and the process at ordinance level goes hand in hand with the adjustments to early intervention at legislative level. As such, this measure is being included in the ordinance work which is subsequent to the legislative work. Inclusion of the SNB's analysis also needs to be clarified.</li> </ul>

<sup>3</sup> In the general context of the measure on early intervention, implementation at ordinance level takes place after the legislative proposal. The measure is therefore not yet part of the consultation bill entitled "Amendment to the Capital Adequacy Ordinance (implementation of the measures from the Federal Council report on banking stability and from the report of the Parliamentary Investigation Committee)

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Tighten regulatory requirements regarding the prudent valuation and the recoverability of certain balance sheet items <i>(18)</i></p> <p><b>PlnC report:</b> Review the requirements for the quality and quantity of the SIBs' capital <i>(recommendation no. 4)</i></p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Ordinance</p>	To incorporate matters raised in the PlnC's recommendation no. 4.		<ul style="list-style-type: none"> <li>See the consultation bill entitled "Amendment to the Capital Adequacy Ordinance (implementation of the measures from the Federal Council report on banking stability and from the report of the Parliamentary Investigation Committee)".</li> </ul>
<p><b>Federal Council report:</b> Strengthen the risk-bearing function of AT1 going-concern capital instruments (e.g. clear criteria for suspending coupon payments) <i>(19)</i></p> <p><b>PlnC report:</b> Review the requirements for the quality and quantity of the SIBs' capital <i>(recommendation no. 4)</i></p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Ordinance/international standards</p>	To incorporate matters raised in the PlnC's recommendation no. 4.		<ul style="list-style-type: none"> <li>See the consultation bill entitled "Amendment to the Capital Adequacy Ordinance (implementation of the measures from the Federal Council report on banking stability and from the report of the Parliamentary Investigation Committee)".</li> </ul>
<p><b>Federal Council report:</b> Maintain the exemption of TBTF capital instruments from <b>withholding tax</b> <i>(21)</i></p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation</p>	To use fiscal measures to ensure that the SIBs' requirement for TBTF capital instruments, which is high compared to the national financial market (in accordance with regulatory requirements on issuance from the group holding company), can be covered by the international capital market.		<ul style="list-style-type: none"> <li>To enshrine in the Withholding Tax Act (WTA) a perpetual exemption for the issuance of TBTF capital instruments, in order to ensure these instruments remain attractive in the capital market.</li> </ul>

## 2. Focus on strengthening liquidity

	Background	Parameters		
	Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
Ensuring liquidity in a crisis	<p><b>Federal Council report:</b> With a view to significantly expanding the potential for liquidity provision via the LoLR, review and, if necessary, adapt the legal framework, including the introduction of requirements for banks to prepare collateral (28)</p> <p><b>PlnC report:</b> Review the measures available in case of a digital bank run (<i>recommendation no. 9</i>), Expand the SNB's powers vis-à-vis SIBs with regard to ELA (<i>motions 24.4532 and 24.4528</i>)</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation and ordinance</p>	<p>To expand liquidity provision in a crisis, strengthen the second line of defence (lender of last resort, LoLR), amongst other things by means of a regulatory requirement for SIBs to prepare collateral, by providing incentives and redesigning the facilities, along with clear framework conditions.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 9, and motions 24.4532 and 24.4528.</p>		<ul style="list-style-type: none"> <li>As regards LoLR, a requirement is being introduced for banks to prepare collateral for recourse to central bank liquidity. For SIBs, this carries a quantitative minimum requirement and includes – building on the basic requirements of the Liquidity Ordinance (Art. 21-24 of the LiqO) – risks not previously covered. For the remaining banks, qualitative requirements will be enshrined in the regulations, in which the preparation of recourse to liquidity via central banks will become an explicit part of the emergency plan (Art. 10 of the LiqO).</li> <li>FINMA is to assess the appropriate level of preparation for all banks on the basis of the criteria set out in the LiqO, and receive the authority to order additional preparatory measures.</li> <li>The level of the requirement for SIBs will be determined according to the risk level, based on the potential for liquidity outflows in a crisis, and shall take into account their differing business models.</li> <li>However, this should not involve any material change to the liquidity requirements of the first line of defence. There should be an incentive mechanism for voluntary preparations beyond the minimum requirement, which should tie in with the existing Art. 20a of the LiqO.</li> <li>The range of eligible collateral for compliance with the minimum requirement by all banks shall be broadly defined and encompass high-quality liquid assets (HQLA) and non-HQLA. These must be unencumbered and operationally available.</li> <li>Banks' obligations and the criteria for meeting them (e.g. collateral categories) should be enshrined in the LiqO and overarching principles, if needed, in the BankA.</li> <li>The SNB will publish the conditions for using its facilities.</li> <li>For all aspects identified by the SNB as having an impact on compliance with the LiqO, the SNB will consult beforehand with FINMA to ensure the resolution planning, and with the FDF to ensure differentiation from the PLB. These aspects include, in particular, eligible collateral and risk haircuts, along with the conditions governing transfers to the SNB.</li> <li>Collateral prepared at foreign central banks is eligible as long as it can be transferred in a crisis. Local liquidity surpluses may only be included in the calculation of the Swiss preparation requirement if it can be transferred within the financial group.</li> <li>In order to remove existing barriers to the transfer of collateral, legal simplifications will be formulated to optimise process efficiency as regards banks transferring collateral to the SNB for the purpose of obtaining liquidity assistance. Such simplifications do not change the fact that using assets as security for obtaining central bank liquidity requires preparation.</li> <li>To reduce the stigma surrounding the use of central bank facilities, the ability will be introduced for banks to postpone publishing an ad-hoc announcement regarding provision of liquidity by a central bank (disclosure postponement). No statutory amendments are required for strengthening the transferability of liquidity within a banking group.</li> </ul>

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Introduce a PLB instrument for SIBs in ordinary law (29)</p> <p><b>PlnC report:</b> Review the measures available in case of a digital bank run (recommendation no. 9)</p> <p><b>Scope of application:</b> SIBs</p> <p><b>Level:</b> Legislation</p>	<p>To ensure the provision of liquidity in the resolution of a SIB (as the third line of defence, subsidiary to the bank's own sources of liquidity and LoLR) and create a preventative effect in the event of a liquidity crisis at a SIB.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 9.</p>		<ul style="list-style-type: none"> <li>In accordance with the Federal Council dispatch which was adopted on 6 September 2023 for the attention of Parliament.</li> </ul>
<p><b>Federal Council report:</b> Tighten requirements regarding the provision of information about the liquidity situation to the supervisory authority (25)</p> <p><b>PlnC report:</b> Review the measures available in case of a digital bank run (recommendation no. 9)</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Ordinance</p>	<p>The new article sets out the data which the banks are to send promptly to FINMA in a crisis, so that the authorities have the necessary information with which to assess a crisis situation.</p> <p>To incorporate matters raised in the PlnC's recommendation no. 9.</p>		<ul style="list-style-type: none"> <li>See the consultation bill entitled "Amendment to the Capital Adequacy Ordinance (implementation of the measures from the Federal Council report on banking stability and from the report of the Parliamentary Investigation Committee)".</li> </ul>

Background	Parameters		
Measure incl. scope of application and level <sup>1</sup>	Objectives	Outcome of the request to review	Focus of content
<p><b>Federal Council report:</b> Request to review: Facilitate the diversification of funding sources by introducing a Covered Bond Act, taking the impact on LOLR and PLB into account (27)</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation</p>	<p>To facilitate the diversification of banks' funding sources, taking into consideration possible conflicting objectives (in particular with measures regarding the lender of last resort (LoLR) and the public liquidity backstop (PLB), and also the existing Mortgage Bond Act).</p>	<p>Review the measure, and if the outcome is positive, it should be implemented at a later point in time.</p> <p><b>Reason:</b> A Covered Bond Act can be advantageous for the obtention of liquidity by individual banks. However, the advantages and potential disadvantages can only be assessed in depth later, in particular when the measures for strengthening liquidity through the LOLR and the PLB have been implemented and their effects seen more clearly.</p>	<ul style="list-style-type: none"> <li>• A review of the introduction of a Covered Bond Act will be carried out later, taking implementation of the LoLR and PLB into account.</li> </ul>

### 3. Focus on expanding the crisis toolkit

	Background	Parameters		
	Measure incl. scope of application and level <sup>1</sup>	Objectives	Measure incl. scope of application and level	Objectives
Recovery and resolution plan	<b>Federal Council report:</b> Strengthen <b>recovery planning</b> through clearer regulatory requirements and criteria (23) <b>Scope of application:</b> SIBs <b>Level:</b> Legislation	To strengthen the ability of SIBs to recover without assistance by increasing requirements in order to reduce the likelihood of impending insolvency at a SIB.		<ul style="list-style-type: none"> <li>To clarify the requirements for developing a recovery plan, esp. the triggering of the recovery plan, the scope and feasibility of the recovery measures.</li> <li>To create the legal basis for FINMA to mandate measures (esp. going-concern capital and liquidity surcharges) to rectify any shortcomings.</li> <li>An amendment at legislative level (Art. 9 of the BankA) is required for a secure basis for recovery planning.</li> </ul>
	<b>Federal Council report:</b> Introduce a regulatory requirement for a parent bank resolution plan (32) <b>PlnC report:</b> Adjust the objectives of the TBTF legislation ( <i>motions 24.4529 and 24.4525</i> ), take account of SIBs' international dependencies as well as the size of the remaining G-SIB ( <i>recommendation no. 1</i> ) <b>Scope of application:</b> SIBs <b>Level:</b> Legislation	To improve the resolvability of SIBs by requiring that as well as focusing on the continuation of systemically important functions in Switzerland, resolution planning also focuses more closely on reducing risks to national and international financial stability. To incorporate matters raised in the PlnC's motions 24.4529 and 24.4525 and its recommendation no. 1.		<ul style="list-style-type: none"> <li>As well as planning the continuation of systemically important functions in their resolution planning (current emergency planning), SIBs must also ensure the resolution of the other parts of the bank.</li> <li>In order to anchor the relevant requirements, resolution planning should be expanded at legislative level to include risks to the stability of the financial system as well as the continuation of systemically important functions (in Art. 9 para.2 lit. d of the BankA).</li> </ul>
	<b>Federal Council report:</b> Expand resolution options (e.g. orderly wind-down) (31) <b>Scope of application:</b> SIBs <b>Level:</b> Legislation	To improve the resolvability of SIBs and increase their ability to act in various potential crisis scenarios by preparing and, where necessary, legally safeguarding several re-solution variations.		<ul style="list-style-type: none"> <li>To ensure, by means of clarifying adjustments to the BankA amongst other things, that different resolution strategies can be implemented in a resolution.</li> <li>To replace the term 'restructuring' with the term 'resolution' in the BankA (disambiguation from restructuring in private law and alignment to international standards).</li> <li>To ensure that today's requirement "prospect of restructuring the bank or of continuing individual bank services" is not restrictive.</li> <li>To ensure that the bail-in can be applied in all the resolution strategies.</li> <li>To ensure that the existing transfer tools can be implemented in a resolution (in Art. 30 et seq. of the BankA with more precise details in the BankO).</li> </ul>

	Background	Parameters		
	Measure incl. scope of application and level <sup>1</sup>	Objectives	Measure incl. scope of application and level	Objectives
	<p><b>Federal Council report:</b> Increase legal certainty of a <b>bail-in</b>, or advocate this, especially at international level (33)</p> <p><b>Scope of application:</b> SIBs</p> <p><b>Level:</b> International standards and legislation</p>	To increase the legal certainty of a bail-in, in order to safeguard to the extent possible national and international financial stability in a crisis.		<ul style="list-style-type: none"> <li>• Selective adjustments in the BankA to strengthen legal certainty in a bail-in, in particular to simplify the value adjustment for the existing shareholders in the case of a capital measure (Art. 31c of the BankA). This simplification also aligns Swiss law with that of other jurisdictions (e.g. the EU).</li> <li>• The Swiss authorities are also continuing to commit at international level to solutions for improving the legal certainty of a bail-in (esp. in the work of the FSB and by involving relevant foreign authorities in crisis management).</li> </ul>
Crisis management	<p><b>Federal Council report:</b> Request to review: Optimise responsibilities, competencies and cooperation between authorities in a crisis (37)</p> <p><b>PlnC report:</b> Improve the exchange of information between the FDF and the SNB about the SIBs (<i>recommendation no. 10</i>), improve information sharing between the authorities in the memorandum of understanding (<i>recommendation no. 12</i>)</p> <p><b>Scope of application:</b> FINMA, the SNB and the FDF</p> <p><b>Level:</b> Legislative and MoU</p>	<p>Clearer statutory regulation and enshrining cooperation and the flow of information between the authorities in law, in order to further strengthen the effective preparation for, and cooperation in, crises.</p> <p>To incorporate the matters raised in the PlnC's recommendations nos. 10 and 12.</p>	<p>Legal strengthening and clear definition of cooperation between the authorities on financial stability and crisis organisation. This includes crisis prevention and crisis management. No material amendments of responsibilities regarding prudential supervision and financial stability.</p> <p><b>Reason:</b> As the PlnC also notes, there is room for improvement in cooperation and the flow of information. Because of its significance, the central aspects of this cooperation should be regulated at a higher legislative level than an MoU. However, because of the extremely far-reaching consequences of such an amendment, material changes to the responsibilities in financial market supervision and in financial crises should not be made. Every method of distributing the responsibilities amongst the institutions has its own advantages and disadvantages. The PlnC did not raise a need for action in this regard.</p>	<ul style="list-style-type: none"> <li>• Aspects of the cooperation between authorities are regulated, in particular in regard to a crisis or protecting financial stability (i.e. prevention and crisis management). The cooperation refers to the general stability of the financial market, as well as the banking sector.</li> <li>• The fundamental mandates in the area of financial market supervision, financial stability and crisis organisation shall be retained.</li> <li>• Individual roles and responsibilities within the crisis organisation shall be clearly defined, including any intersections.</li> <li>• Mutual provision of information (optional and mandatory provisions), and in cases with good cause – where several authorities are directly affected by a decision or have to cooperate indirectly – obligations for the authorities involved to inform or consult shall be determined.</li> <li>• In crisis organisation, specific preparation work including crisis simulations involving the relevant authorities on resolution of a systemically important bank shall be regulated and carried out.</li> <li>• The most important aspects of cooperation shall be regulated at legislative level.</li> <li>• Regular information to Parliament and the Federal Council shall be regulated.</li> </ul>

#### 4. Other concerns raised by the PlnC and not yet addressed by the measures in the report on banking stability, and depositor protection

Need for action	Parameters	
Measure incl. scope of application and level <sup>1</sup>	Objectives	Focus of content
<p>Expand the objective of the TBTF legislation to include international dependencies (<i>PlnC motions 24.4529 and 24.4525</i>)</p> <p><b>Scope of application:</b> SIBs <b>Level:</b> Legislation</p>	<p>The TBTF objectives should also take into account the protection of international financial systems and feasibility in an international context.</p>	<ul style="list-style-type: none"> <li>• The TBTF objectives should henceforth also include the reduction of risks to the stability of the international financial system (Art. 7 of the BankA).</li> <li>• Closer account should be taken of international interconnectedness of a SIB in the legal basis for resolution planning (Art. 8 of the BankA and 60 et seq. of the BankO) thereby improving its resolvability.</li> </ul>
<p>Investigate restricting capital and liquidity requirements for SIBs (<i>PlnC motions 24.4530 and 24.4526</i>)</p> <p><b>Scope of application:</b> SIBs <b>Level:</b> Legislation</p>	<p>To restrict relief provisions, raise transparency on granting and limit temporal validity.</p>	<ul style="list-style-type: none"> <li>• To review and where necessary clarify the legal requirements and criteria for individual decisions by FINMA with regard to relief provisions in the BankA and in the CAO and LiqO.</li> <li>• Implementation involves, in particular, basic requirements on transparency and time limits for relief provisions. However, it does not conflict with the aim of further strengthening FINMA's set of instruments and authority in the supervision of the SIBs, and grants – where appropriate – the necessary room for manoeuvre.</li> </ul>
<p><b>Evaluation of the TBTF regulations according to Art. 52 of the BankA</b> with regard to strategic alignment of the potential for development (<i>PlnC recommendation no. 1</i>)</p> <p><b>Scope of application:</b> SIBs <b>Level:</b> Legislation</p>	<p>Strategic alignment of the Federal Council's reporting with the aim of regularly and comprehensively evaluating the regime, taking the interests of financial stability and the economy into account.</p>	<ul style="list-style-type: none"> <li>• To adapt the Federal Council's mandate in Art. 52 of the BankA on reporting: more strategic and more comprehensive objective setting, with a focus on evaluating the existing regime while taking financial stability, the economy and competitiveness into account, along with international standards and developments (e.g. Basel III).</li> <li>• Basis for reporting: International comparison (of existing and planned regulations).</li> </ul>
<p>Investigate a more binding cooperation agreement between FINMA and the FAOA (<i>PlnC recommendation no. 8</i>)</p> <p><b>Scope of application:</b> FINMA, FAOA <b>Level:</b> MoU</p>	<p>To ensure regular and close interaction between FINMA and the FAOA as regards the audit firms of financial institutions at risk.</p>	<ul style="list-style-type: none"> <li>• To review the possibility of a memorandum of understanding.</li> <li>• The outcome will be set out in the legislative proposal.</li> </ul>
<p>Review the distribution of powers between COMCO and FINMA in the assessment of bank mergers (<i>PlnC recommendation no. 20</i>)</p> <p><b>Scope of application:</b> COMCO, FINMA <b>Level:</b> Legislation or ordinance</p>	<p>To review the need for legislative action for bank mergers, taking into account the existing financial market regulations concerning this term.</p>	<ul style="list-style-type: none"> <li>• To review, in the context of financial stability, the need for legislative action in competition law relating to Article 10 paragraph 3 of the CartA, according to which FINMA may take the place of COMCO in some bank mergers (with a focus on the term 'creditor protection' and an earlier involvement of COMCO by FINMA during bank mergers).</li> <li>• This review shall take place as part of compliance with EATC-N postulate 23.3444: "Merger of UBS and CS. Assessment of the significance for competition law and the economy".</li> </ul>

Need for action	Parameters	
Measure incl. scope of application and level <sup>1</sup>	Objectives	Focus of content
<p>Implementation of motion 23.3604 by CS Hegglin</p> <p>"Better safeguarding of vested benefits and Pillar 3a credit balances" and operational improvements in depositor protection (<i><b>motion 23.3604</b></i>)</p> <p><b>PlnC report:</b> The PlnC advocates the Federal Council look at adapting deposit insurance and, if appropriate, submitting a corresponding bill to the legislator (p. 492).</p> <p><b>Scope of application:</b> Banks</p> <p><b>Level:</b> Legislation</p>	<p>Implementation of motion 23.3604</p> <p>To strengthen trust in and make operational improvements to depositor protection through preparatory measures to ensure that the payout of insured deposits is as interruption-free as possible.</p> <p>To draw up a solution for the payout of insured deposits if the funds set aside by the deposit insurer are not sufficient.</p>	<ul style="list-style-type: none"> <li>• To amend the BankA by implementing motion 23.3604 by CS Hegglin "Better safeguarding of vested benefits and Pillar 3a credit balances".</li> <li>• Additionally, any sum paid out by the deposit insurance provider should not be included in the usual procedures to rank the creditors in classes (collocation procedures) if it is ascertained that all the insured deposits can be paid out. This ensures that the deposit insurance is back to full operational capacity very quickly after being used.</li> <li>• To introduce an additional requirement for the banks to update the IT infrastructure of the core banking system accordingly after a grace period of 5 years, so that depositors can access their insured deposits with as little interruption as possible when needed.</li> <li>• Introducing requirements for banks to prepare LoLR collateral provides for the option to generate additional liquidity if the deposit insurer's funds are not sufficient to pay out the insured deposits.</li> </ul>

The numbering of the motions and postulates in the PlnC report mirrors the following order on the respective initiative submitted to Parliament.

	PlnC report numbering	Title	Submission NC	Submission CS
<b>Motions</b>	1	Mo. PlnC. Adjust the objectives of the TBTF legislation	<a href="#">24.4529</a>	<a href="#">24.4525</a>
	2	Mo. PlnC. Restrict the easing of capital and liquidity requirements for SIBs	<a href="#">24.4530</a>	<a href="#">24.4526</a>
	3	Mo. PlnC. Strengthen FINMA's enforcement capability with regard to the SIBs	<a href="#">24.4531</a>	<a href="#">24.4527</a>
	4	Mo. PlnC. Expand the SNB's powers vis-à-vis SIBs with regard to ELA	<a href="#">24.4532</a>	<a href="#">24.4528</a>
<b>Postulates</b>	1	Po. PlnC. Reduce conflicts of interest in bank audits	<a href="#">24.4539</a>	<a href="#">24.4533</a>
	2	Po. PlnC. Review the early crisis detection system and strengthen the role of the Federal Chancellery (FCh)	<a href="#">24.4540</a>	<a href="#">24.4534</a>
	3	Po. PlnC. Prevent false incentives on remuneration and dividend distribution by SIBs	<a href="#">24.4541</a>	<a href="#">24.4535</a>
	4	Po. PlnC. Facilitate governance by FINMA	<a href="#">24.4542</a>	<a href="#">24.4536</a>
	5	Po. PlnC. Strengthen shareholder structure in systemically important companies	<a href="#">24.4543</a>	<a href="#">24.4537</a>
	6	Po. PlnC. Review the criteria for granting mandates in order to strengthen the SIBs' responsibility towards the Swiss economy and taxpayers	<a href="#">24.4544</a>	<a href="#">24.4538</a>