Address on the publication of the Federal Council parameters for TBTF regulation, 6 June 2025
Marlene Amstad, Chair of FINMA's Board of Directors

The primacy of prevention, no "all risks" cover and political choices

President Keller-Sutter
Deputy Chancellor
President Schlegel
Esteemed members of the press
Ladies and Gentlemen

Today's publication of the Federal Council parameters marks an important step in the political process towards appropriate banking legislation. I would like to focus on three issues from a supervisory perspective.

First. It is typical of banking crises that before any problems emerge in liquidity and capital, there are shortcomings in a financial institution's risk culture, business model and governance. To mitigate the risk of a banking crisis, **preventive measures** with statutory force are essential. The Federal Council parameters provide for targeted measures. I will discuss four of these here.

The introduction of an **accountability regime** brings us closer to an objective we have been advocating for since the last financial crisis: it should be easier to hold managers responsible for their misconduct. A regime of this kind has been in place successfully in other important financial centres for some time and has demonstrated a clear preventive effect. The intention in Switzerland is to calibrate the accountability regime to the size and complexity of the relevant financial institution. Furthermore, when rules are broken, FINMA should have the power to **publicly disclose** the name of the financial institution involved once proceedings are completed. This is in keeping with the public's right to know. The Federal Council parameters also envisage giving FINMA **fining powers**. It must be possible for the body responsible for licensing institutions to fine these institutions in the event of rule breaches and misconduct. This has a clear deterrent effect.

These three examples illustrate the thrust of these preventive measures: not only must compliance with the law be restored when there are breaches of the rules, but the misconduct will be sanctioned in a manner that is transparent for all stakeholders.

The introduction of a secure legal basis for **early intervention** is equally important. After the CS crisis the need for early intervention by supervisors on a secure legal basis was widely recognised. This is essential with banks that play a systemically important role in the financial system. The critical point here is that the earlier and more decisively a supervisor intervenes in commercial operations, the clearer the legal basis needs to be. The generally worded clauses in the current legislation do not meet this need.

Rarely has there been such a broad consensus on a banking crisis that management did everything it could to undermine market confidence and was therefore the prime cause of the collapse of CS. The PInC’s conclusions unmistakably highlighted the need for preventive tools to address developments of this kind effectively at an early stage. Not following through on this would mean failing to learn the lessons of the CS crisis properly.

Second. Even if we amend the legislation and utilise all the preventive measures and discretion to the full, we still need to recognise that we can never have fully comprehensive insurance in a market economy. No law and no discretion can remove all risks. Management failure, poor strategic decisions or a loss of confidence by the market cannot be eliminated by supervisory law. All of this may seem obvious, but in the last crisis some people appeared to be surprised by it. I therefore want to reiterate this explicitly at the beginning of this political process.

Third. As there is always a residual risk, we need to decide in advance how much of this risk will be the banks’ responsibility and how much will be borne by the state. This is ultimately a political choice and will be reflected at the end of the day in the liquidity and capital requirements. From the perspective of the technical authority I want to add the following comments on this.

The mechanics of capitalising foreign subsidiaries is in essence *not* complicated. Permitting a bank’s foreign subsidiaries to fund their capital partly with debt means they are borrowing to meet capital requirements. The technical term for this is double leverage. Double leverage makes recovering from crises more difficult. If the foreign subsidiary gets into difficulty, it can tear down the entire bank.

Double leverage has been internationally recognised as a risk for over two decades. It is the second time since then that a revision of the legislation is taking place in Switzerland. The first time around in 2012 there was already a discussion about the same question, but parliament decided to retain the ability to partly fund capital with debt. Today the Federal Council is proposing to deduct the portion of foreign subsidiaries financed with debt from capital – and thus abolish double leverage for these entities.

To summarise, the proposal to abolish double leverage is neither new nor typically Swiss and nor has it come about as a result of the CS crisis. The less debt used to fund foreign subsidiaries’ capital, the lower the risk for Switzerland.

I would now like to talk about two possible misunderstandings: **first**, the capital issue we have been discussing here is one of *financing*, *not* valuation. The issue now is the potential for double leverage and it is *not* about portfolio valuation. The latter has in any case not been permitted for banks since 2020 and the exception granted to CS in 2017 no longer applies since the merger. **Second:** the abolition of double leverage is *not* directly related to a bank's resolvability. The resultant increase in capital is designed to ensure that the bank has enough capital to rescue itself. This makes a resolution less likely.

FINMA welcomes the Federal Council parameters and believes they will decisively strengthen the resilience of the Swiss financial centre. It is important is that the full range of measures is implemented. This will give us the tools to prevent the next banking crisis in the most effective way.

Thank you for your attention.