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## Response to proposed amendments to the Capital Adequacy Ordinance and the Federal Council's parameters for legislative measures

### **The Swiss Bankers Association's (SBA) position:**

The SBA supports the goal of further strengthening the stability of the Swiss financial system. This requires a balance between financial stability and competitiveness. Regulatory changes must address specific problems and aims.

No additional requirements should be introduced that bring no discernible benefit to stability, result in pure bureaucracy for financial institutions with regard to practical implementation, endanger principles fundamental to the rule of law, fail to take proportionality into account and threaten Swiss banks with international competitive disadvantages.

We expressly support key elements of the Federal Council's package, including the proposed extension of liquidity provision in a crisis. We view both the improvements to liquidity assistance from the Swiss National Bank (SNB) and the move to enshrine a state default guarantee in favour of the SNB (public liquidity backstop) in law to strengthen financial stability as correct and necessary. However, we do not believe that any flat fee for this would be justified.

We are also in favour of introducing a senior managers regime because clear responsibilities create legal certainty and a conscious risk culture and build trust among customers. Such a regime must be implemented in a goal-oriented, unbureaucratic manner and must be highly proportionate.

We also acknowledge the appeal of a wider range of resolution options and a targeted expansion of the crisis toolkit.

However, our overall view of the "banking stability" package put forward by the Federal Council is that it is overloaded and neither proportionate nor goal-oriented. While some of the proposed measures are directly linked to the events at Credit Suisse, many others have very little or no such connection.

This is troubling not only from a legislative and economic policy perspective, but also in view of the lack of balance between system stability and international competitiveness.

The Federal Council has not yet provided details of the majority of its proposals, but it is the package as a whole that will determine both the impact of the measures and their cost. We cannot discuss individual measures in isolation. We therefore think that a complete package must be presented, including a sound cost/benefit analysis. No systematic or all-encompassing assessment of the benefits and costs expected for the financial centre and the economy as a whole from the proposed package of measures has been conducted to date.

We believe that such an impact assessment is urgently needed and must endeavour to quantify as far as possible the economic implications of the measures at both act and ordinance levels.

Our criticism over the lack of an economic impact assessment specifically concerns (but is not limited to) the area of capital adequacy regulations. Some of the Federal Council's proposals in this area, added to the effects of "Basel III Final" and the sliding scale of requirements for systemically important banks in line with their market share and size that is already in place, would drive costs higher. This cumulation of effects and interdependencies must be the subject of an in-depth evaluation. Above all, the Federal Council's maximalist approach to capital requirements has no convincing justification and ignores the

potential impact on the real economy as well as possible alternatives. We firmly reject in particular the measures concerning capital backing for foreign participations and request a review of more expedient options. Furthermore, the proposals on valuation entail a disconcerting shift in perspective from “going concern” to “gone concern”.

We reject many of the measures in their proposed form, including the introduction of administrative fines and other unnecessary and/or disproportionate powers for the Swiss Financial Market Supervisory Authority (FINMA) as well as a mechanistic approach to so-called “early intervention”. Restraint is called for, especially since the Parliamentary Investigation Committee noted that FINMA has not made full use of the powers it already has.

With reference to the measures at ordinance level that are the subject of the present consultation, we emphatically reject the tightened restrictions. The proposed approach to valuing specific balance sheet items (measure 18, prudent valuation adjustments, software and deferred tax assets) is as restrictive as can be – way beyond international standards and much stricter than any comparable jurisdiction. This would massively expand the “Swiss finish”, making international comparability impossible and significantly weakening the Swiss financial centre’s competitiveness. We call for substantial changes to the provisions in the ordinance concerning the risk-bearing function of additional tier 1 (AT1) capital instruments (measure 19, additional tier 1 capital) in order to make these instruments more marketable and internationally comparable and to enhance their loss-absorbing capacity. With regard to individual institutions’ disclosure of information on their liquidity situation (measure 25), the requirements must be significantly reduced, made clearer and split up into levels.

Besides adding detail and technical specifications to individual measures, it is essential for the requirements at both act and ordinance levels to account for institutions’ differing circumstances in a risk-congruent manner. The package of measures must not be allowed to turn into a wave of regulation for the entire industry. Instead, restraint and proportionality must be rigorously observed. With this in mind, we see no need whatsoever to impose additional requirements on the vast majority of institutions.

In times of geopolitical and economic tension, it is all the more important to focus on competitiveness in terms of regulatory requirements, as the Federal Council stated in its press release of 20 August 2025 on relieving the regulatory burden on companies. Banking regulation cannot be seen as independent from Switzerland’s efforts to promote itself as a business location. A holistic view is therefore indispensable.