



Perbadanan Insurans Deposit Malaysia
Protecting Your Insurance And Deposits In Malaysia

NRS | NATIONAL RESOLUTION SYMPOSIUM 2023

18-19 October



PANEL SESSION 1:

Sharing on Recent Global Banks Failure & Impact to the Region



Moderator
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Single Resolution Board



Panelist
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Panelist
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International
Association of Deposit
Insurers



Panelist
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Freshfields Bruckhaus
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NATIONAL RESOLUTION
SYMPOSIUM 2023



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Recent Bank Resolutions in the United States

Tyler M. Cavaness

Assistant Director, Division of Resolutions and Receiverships

FDIC

SVB and Signature Failures



Timeline

8 March



SVB announces \$1.8b loss on sale of securities

Silicon Valley Bank (SVB), Santa Clara, California had **\$209b in assets and \$192b in liabilities**, as of year-end 2022.

SVB was a California-chartered bank that focused on commercial and private banking clients, mostly linked to businesses financed through venture capital.

The announcement of the \$1.8b loss on sale of securities included a **concurrent plan to raise \$2b in capital** to shore up its balance sheet.

9 March



SVB shares fall 60%

SVB experiences run by depositors.

By the evening, about \$42b in deposits had left the bank, with an additional \$100b staged to be withdrawn on 10 March.

In other words, **nearly 30% of deposits left the bank in a matter of hours**, with another 50% set to leave.

10 March



SVB closed; FDIC appointed receiver

SVB closed by California Department of Financial Protection and Innovation, which appointed FDIC as receiver.

FDIC creates a DINB.

FDIC solicits interest for SVB's purchase and assumption.

12 March



Signature Bank closed; FDIC appointed receiver

Signature Bank, New York, New York, **with \$110b in assets** at year-end 2022, is closed by the New York State Department of Financial Services. FDIC is appointed as receiver.

FDIC and the Federal Reserve vote to recommend that the Secretary of the Treasury, in consultation with the President, **make a systemic risk determination under FDI Act** with regard to the resolution of SVB and Signature Bank.

FDIC charts two bridge banks.

13 March



FDIC transfers all deposits to bridge banks.

Depositors granted full access to their money Monday morning, when Silicon Valley Bank, N.A., the bridge bank, and Signature Bridge Bank, N.A. opened.

Key Takeaways and Lessons Learned

- Supervision
- Uninsured Deposits and Liquidity Risk
- Resolution Planning
- Long Term Debt

THANK YOU



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The failure of a global systemically important bank: lessons learnt

Eva Hüpkes

Secretary General

International Association of Deposit Insurers (IADI)

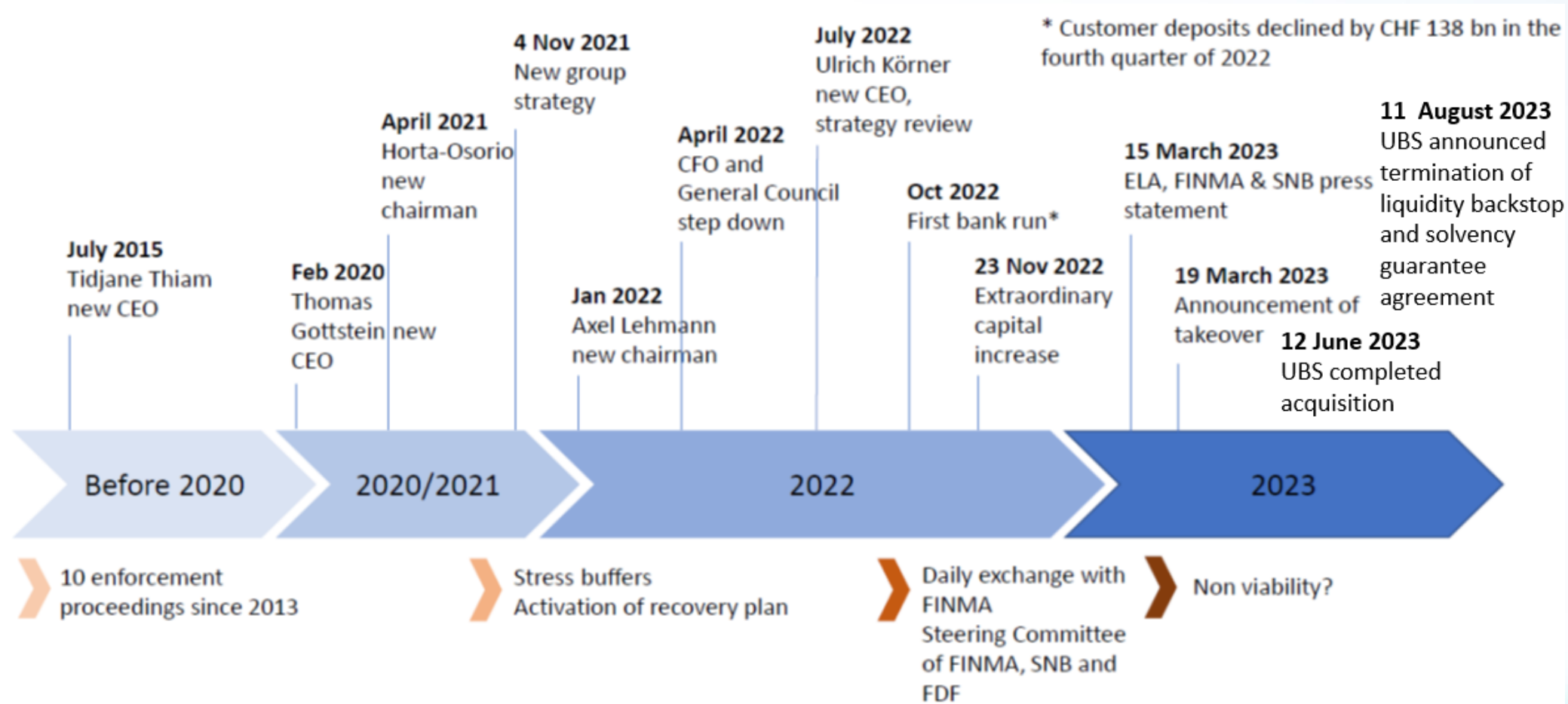
The views of the speaker do not necessarily reflect those of IADI or any of its members

Overview

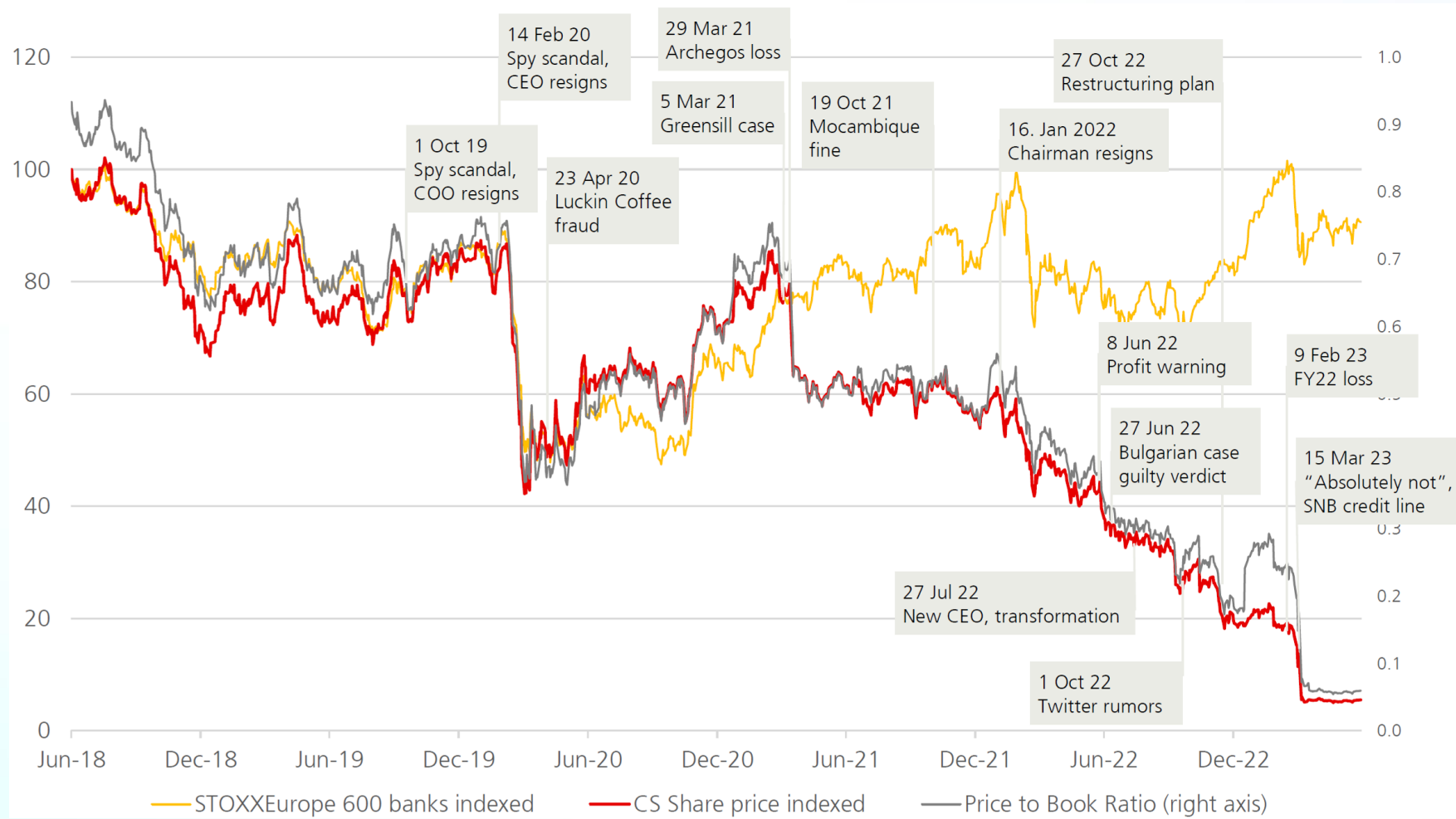
1. What happened?
2. Why not resolution?
3. What did we learn?

What happened?

Chronology of the Credit Suisse failure



Market indicators



Measures of 19 March 2023

Federal Council

Emergency regulation

- Derogations from the Mergers Act
- Loss protection guarantee CHF 9 bn
- Default Guarantee CHF 100 bn based (on the proposed PLB)

Swiss National Bank

Guaranteed liquidity assistance loan of CH 100 bn and additional liquidity assistance loan ELA+, both with privileged creditor status in bankruptcy

FINMA

Ordered CS to write down AT1 bond of CHF 16 bn

Credit Suisse AT1 instruments



CREDIT SUISSE
Credit Suisse Group AG

(incorporated with limited liability in Switzerland)

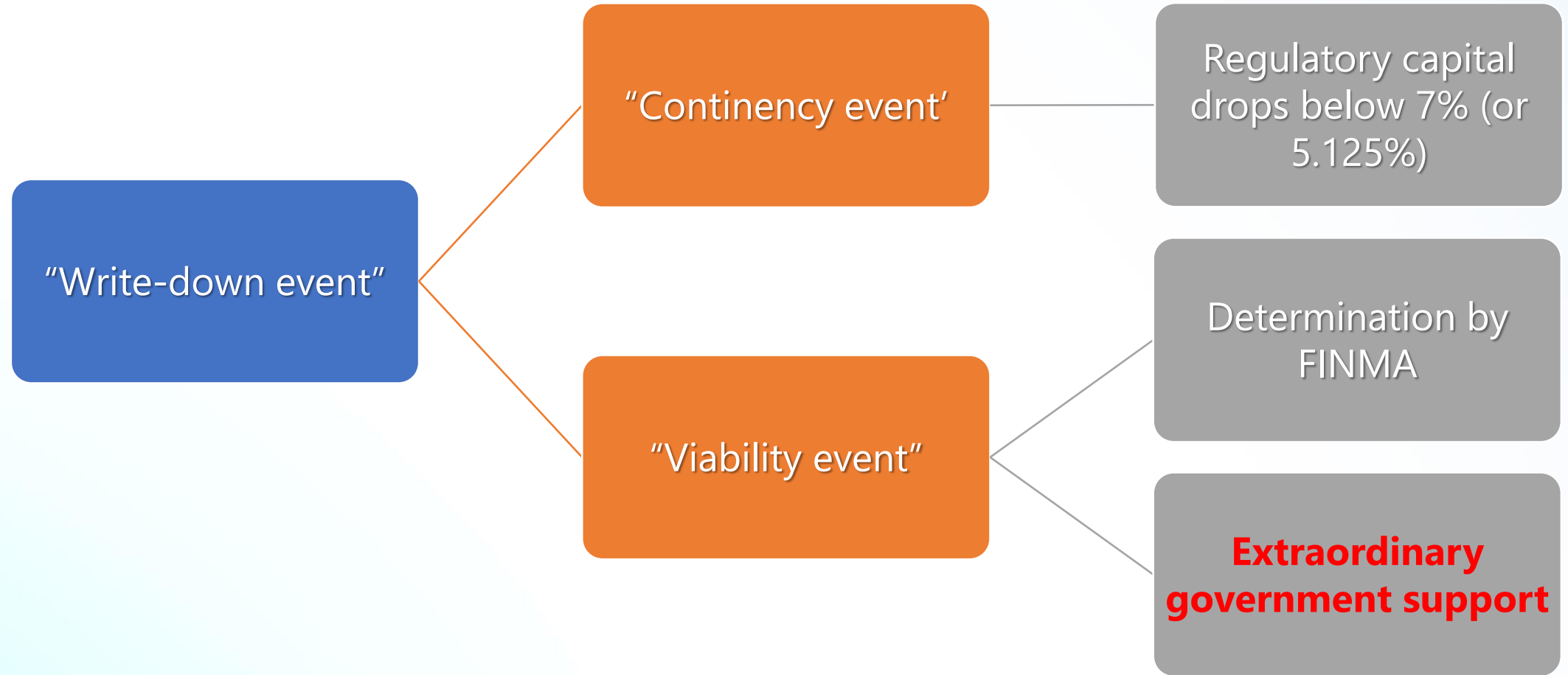
U.S.\$1,650,000,000 9.750 per cent. Perpetual Tier 1 Contingent Write-down Capital Notes

Issue Price: 100.000 per cent.

Write-down

Following the occurrence of a **Write-down Event**, a Write-down will occur and the full principal amount of the Notes will automatically and permanently be written-down to zero on the Write-down Date.

Write down of AT1 bonds



Write-down event

“Customary measures to improve CSG’s capital adequacy being at the time inadequate or unfeasible, CSG has received **an irrevocable commitment of extraordinary support from the Public Sector** (beyond customary transactions and arrangements in the ordinary course) that has, or imminently will have, the effect of improving CSG’s capital adequacy and without which, in the determination of the Regulator, CSG would have become insolvent, bankrupt, unable to pay a material part of its debts as they fall due or unable to carry on its business.”

Credit Suisse AT1 instruments' prospectus

Why not resolution?

Why not resolution?

Progress of the institutions' work as at the end of 2022

Institution	Recovery plan	Swiss emergency plan	Institution resolvability	Rebates
Credit Suisse	Approved	Effective	Preparatory measures adequate	Maximum potential rebate (62.5%) utilised ⁴
UBS	Approved	Effective	Preparatory measures adequate	Maximum potential rebate (62.5%) utilised ⁴
PostFinance	Approved	No plausible plan for reaching effectiveness ¹	As emergency plan	Not applicable
Raiffeisen	Approved	Effective	As emergency plan	Not applicable
Zürcher Kantonalbank	Approved	Plausible plan for reaching effectiveness	As emergency plan	Not applicable
SIX x-clear	Approved	Not applicable	Preferred resolution strategy defined ²	Not applicable
SIX SIS	Approved	Not applicable	Resolution strategy under preparation ³	Not applicable

¹ The strategy (recapitalisation guarantee by the federal government) has become obsolete due to the decision not to approve the revision proposal for the Post Organisation Act.

² Preparations for the implementation readiness are still being made.

³ The basis for defining the strategy was created.

⁴ The rebate system was replaced by the resolvability assessment on 1 January 2023 to continue to set incentives to maintain or improve resolvability. FINMA now has the ability to impose surcharges on the gone concern or liquidity requirements if shortcomings are identified in the resolvability assessment.

Source: FINMA Resolution Report 2023

Resolution – one of four options



“Four options were prepared and pursued until the decision was made: resolution, the emergency plan with bankruptcy of the group, temporary public ownership (TPO) and a takeover. Specifically, this meant that on 19 March, a draft resolution decree and a bankruptcy decree with the respective plans of action were also ready for signature.”

Marlene Amstad

Chair of FINMA's Board of Director at the Media event on 5 April 2023

Why not resolution?

Official explanations:

- Credit Suisse was the victim of a bank run but remained well capitalized. The resolution framework is not attuned to such liquidity crisis
- A “private deal” between the two banks is preferable to public intervention by the resolution authority
- The orchestrated takeover was to avoid a Lehman-moment for the global financial system

Financial & markets regulation [+ Add to myFT](#)

Rules for winding up big banks do not work, Swiss finance minister warns

Karin Keller-Sutter says following the protocols 'would have triggered an international financial crisis'



Karin Keller-Sutter was at the centre of Swiss authorities' rush to rescue Credit Suisse © PETER KLAUNZER/EPA-EFE/Shutterstock

Financial Times, 25 March 2023

How “private” was the deal? (1)

As filed with the Securities and Exchange Commission on May 16, 2023

Registration No. 333-271453

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Amendment No. 1
to
FORM F-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

UBS Group AG

(Exact Name of Registrant as Specified in its Charter)

Switzerland
(State or other jurisdiction of
incorporation or organization)

6021
(Primary Standard Industrial
Classification Code Number)
Bahnhofstrasse 45, 8001
Zurich, Switzerland
Telephone: +41 44 234 11 11

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

David Kelly
600 Washington Boulevard
Stamford, CT 06901
Telephone: (203) 719 3000

(Name, address, including zip code, and telephone number, including area code, of agent of service)

Not Applicable
(IRS Employer
Identification Number)

Form F-4 registration statement filed by UBS with the SEC in connection with the acquisition of CS

“[I]n a meeting of February 20, 2023, the Strategy Committee, and **in a meeting on February 22, 2023, the UBS Group AG board of directors, each concluded that an acquisition of Credit Suisse was not desirable for UBS Group AG** but that further analysis was necessary in order to prepare for a scenario where Credit Suisse was in serious financial difficulties. In reaching this view, the Strategy Committee and the UBS Group AG board of directors considered the uncertainty of establishing a reliable valuation of Credit Suisse, recent business performance and risks of Credit Suisse, further potential liabilities as well as the risk that regulatory approvals required to complete a transaction might not be obtained or could only be obtained over an extended time. The UBS Group AG board of directors requested management to monitor ongoing developments at Credit Suisse and to assess measures through which UBS Group AG’s concerns could be addressed in the event that the Swiss government made a formal request to UBS Group AG to consider acquiring Credit Suisse”

How “private” was the deal? (2)

As filed with the Securities and Exchange Commission on May 16, 2023

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“Government Representatives indicated that of all possible options available to give the market necessary reassurance, the one deemed by Government Representatives to be **most successful in reassuring markets and minimizing negative fallout was an orderly takeover of Credit Suisse by UBS Group AG on a going concern basis**. UBS Group AG was therefore asked whether it was willing to consider merging with Credit Suisse in principle. The Government Representatives indicated that without such a rescue it was to be expected that Credit Suisse (a Global Systemically Important Bank) would need to be placed into resolution or into bankruptcy. The Government Representatives made clear that a **resolution or bankruptcy of Credit Suisse would have a very severe impact on the financial markets and the banking system in Switzerland and around the world**. To avoid this, it would be necessary to agree and announce an alternative transaction by the end of Sunday, March 19, 2023.”

Form F-4 registration statement filed by UBS with the SEC in connection with the acquisition of CS

Would resolution have been possible?

- Single point of entry resolution strategy prepared jointly with the members of the CS Crisis Management group was executable
- Resolution would have entailed:
 - Full write down of capital
 - Full write down of AT1 bonds
 - Conversion of bail-in bonds issued by holding company
- ... and generated around CHF 73 billion in fresh capital
- Execution risks:
 - Bondholders could have claimed lack of proportionality of the measure given Credit Suisse's intact capital base
 - Cross-border recognition and execution of bail-in could have given rise to operational challenges and legal challenges under the securities laws of the US and other jurisdictions
- No indication of contagion risk

What did we learn?

Lessons learnt: Crisis Management

- Need for transparent decision making and joint communication of authorities involved: resolution authority, finance ministry, lender of last resort
- Jointly monitor, evaluate and communicate resolvability to enhance credibility, and test crisis preparedness through simulations
- Promote optionality in the preparation and implementation of resolution strategies taking in light of different scenarios (including e.g. liquidity-driven failures)
- Need for a post-bail-in restructuring plan
- Engage with non-CMG members in the lead-up to resolution

Lessons learnt: liquidity

- Require systemically important banks to preposition collateral with the central bank to facilitate access to liquidity
- Widen scope of acceptable collateral for extraordinary liquidity assistance
- Address stigma with respect to ELA
- Adopt a “public liquidity backstop” to ensure access to adequate funding in resolution
- Review deposit insurance arrangements

Lessons learnt: supervision

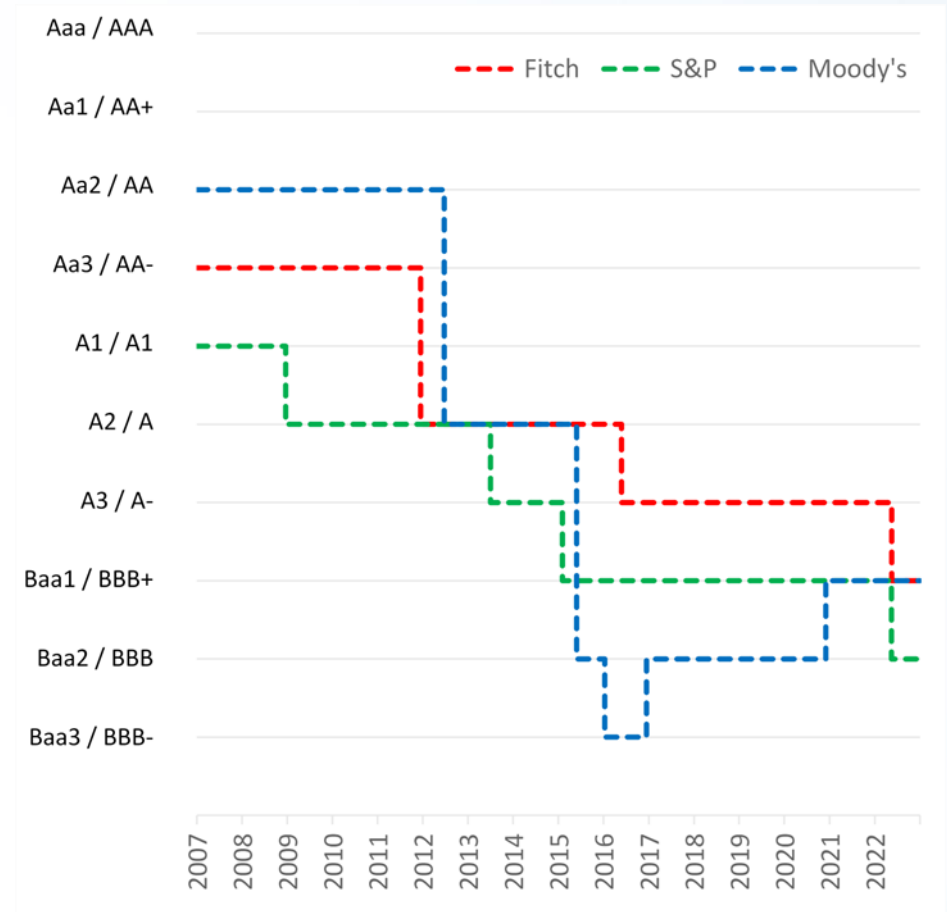
- Prudential indicators provided an incomplete picture of available capital and liquidity
- Limited fungibility of capital and liquidity within the group
- Analysts raised questions around the accounting and regulatory treatment of participations
- Regulatory indicators provide no information about the credibility of the bank's strategy, the business model, the profit outlook, the quality of the management and the board of directors

Billion	Q1 2023		Q4 2022		Q3 2022		Min.
Capital, risk-weighted							
CET1	35.8	14.7%	36.7	14.6%	39.9	14.6%	10.0%
CET1 + AT1 (going concern)	49.4	20.3%	50.0	19.9%	50.1	18.3%	14.3%
TLAC (going and gone concern)	97.9	40.2%	99.1	39.5%	97.4	35.5%	28.6%
Risk-weighted assets	243.8		251.0		274.1		
Capital, unweighted							
Leverage ratio CET1	32.8	5.0%	32.7	5.0%	41.7	4.9%	3.5%
LR CET1 and AT1 (going concern)	49.4	7.6%	50.0	7.7%	50.1	5.9%	5.0%
TLAC (going and gone concern)	97.9	15.0%	99.1	15.2%	97.4	11.5%	10.0%
LR denominator	653.0		650.5		836.9		
Total assets	540.3		531.4		700.4		
Liquidity							
LCR	178%		144%		192%		100%
HQLA	118.1		120.0		226.8		

Swiss Expert Group Report, 1 September 2023

Lessons learnt: supervision

- Supervisory assessment of viability to take into account a broader set of indicators
- Introduce structured early intervention and review the determination of the point of non-viability
- Accelerate enforcement proceedings and publicly disclose enforcement actions
- Strengthen management accountability: senior management regime, remuneration policies



Swiss Expert Group Report, 1 September 2023

Lessons learnt: capital regime

- Enhance transparency, in particular with respect to any temporary regulatory relief granted, and pre-positioned capital resources
- Review design of Swiss AT 1 bonds so that AT1 bonds can only be converted or partly written down prior to resolution, but not fully written down

Conclusion

Conclusions

1. Ensuring bank resolvability remains the most efficient way to tackle the problem of the implicit ‘too big to fail’ subsidy for systemically important banks and to avoid a taxpayer bail-out.
2. The 2023 banking turmoil has not put into question the international resolution framework as set out in the FSB Key Attributes of Effective Resolution Regimes and the Total Loss-Absorbing Capacity Standards (FSB, 6 June 2023 press release).
3. The Credit Suisse resolution plan was fully executable (Report of the Swiss Expert Group) and provided Swiss authorities with a credible alternative.
4. A number of implementation issues merit further attention.
5. The increased speed of bank runs due to 24/7 payments, mobile banking and the use of social media require all financial safety net authorities, including deposit insurers, to review their crisis preparedness and communication strategies.

References

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- [Swiss Financial Market Supervisory Authority \(FINMA\) Resolution Report 2023](#)
- [Financial Stability Board \(FSB\), “FSB Plenary meets in Frankfurt”. press release, 6 July 2023](#)
- Financial Stability Board (FSB), “2023 Bank failures: Preliminary lessons learnt for resolution”, [forthcoming](#).

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Protecting Your Insurance And Deposits In Malaysia

Legal challenges for transfer tools

Matthew O'Callaghan

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1. Resolution tools - Overview



Bailout



Bail-in



**Transfer to
bridge bank**



**Commercial transfer
to a purchaser**



**Transfer to an asset
management vehicle**



2. Resolution tools - Challenges



**Legal and
regulatory challenges**



**Complexity
and interconnectivity**



**Coordination
and communication**



**Political and
public pressure**



International coordination

3. Effectiveness of resolution transfer tools

Interaction with group resolution plans

Appropriate buyer required (national champion or entity with appropriate licences)

Limited time for due diligence

One or more resolution tools, or combination of tools necessary

Ongoing government support (e.g., liquidity backstop or loss sharing agreement) may still be required?

Primary resolution authority vs supporting resolution authority

4. Challenges to navigate when deploying resolution transfer tools

- Transfer legal structure
- Timeframe for due diligence
- Licences required for transferee
- Regulatory approvals/waivers
- Antitrust approvals
- Foreign direct investment approvals
- Client consent and notification
- Counterparty, vendor, partner etc consent
- Change of control call/put options
- Contract termination risks
- Collateral and netting
- Data protection
- Data privacy
- Restrictive covenants
- Liabilities (known and unknown)
- Litigation risks
- Information leakage
- Trust property and wills
- Employment contracts
- MPF/pension/employee entitlements
- Solvency of rump bank where partial transfer
- Continuity and integration issues (operational, legal, etc.)
- Public issued instruments
- Sustainability
- Governance – directors/management

5. Lessons learnt and steps to minimize challenges

Coordination among
key regulatory
authorities/government

Terms and governing
law of bonds

Speed of market
response and restoring
confidence

Resolution planning
and loss absorbing
capacity

Assess attributes for
systemic risks

Backstop Funding and
Central Bank
coordinated action

THANK YOU



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Q&A



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