

## foreign banks . in switzerland .

State Secretariat for International Finance SIF  
Bernerhof  
3003 Bern  
[Basel3@sif.admin.ch](mailto:Basel3@sif.admin.ch)

Zürich, 24 October 2022

### Basel III Swiss Implementation

Dear Madam, Dear Sir

We thank you for inviting us to comment on the draft Swiss Implementation of Basel III and are pleased to do so.

We participated to the SBA comments, which we fully support. We do not address the topics contained in their comments up to two exceptions.

It is of particular importance to the foreign banks in Switzerland active in trade and commodity trade finance to be able to benefit from the same simplifications as their EU competitors. The business plays an important role for the Swiss financial centre and the Swiss economy as a whole. There is no reason why firms in Switzerland should not be subject to the same frame conditions as their competitors in the EU.

Secondly, branches of foreign banks in Switzerland would like to simplify their LCR reporting duties. The obligation to regularly report information that is publicly available and that is monitored by the supervisory of the entity's parent does not add value but merely creates an additional workload. Thus, the AFBS suggests inverting the burden of proof and impose reporting obligation merely upon explicit request by FINMA.

Thank you for your attention. We remain at your disposal for any further clarification.

Best Regards

ASSOCIATION OF FOREIGN BANKS IN SWITZERLAND



Raoul Würigler  
Secretary General



Jonathan Deney  
Scientific Advisor

AFBS Comments NSFR CTF Banks  
AFBS Comments Liq Ordinance Art 14

## Liquidity Ordinance and commodity trade finance business

### State of Play

The revision of the Liquidity Ordinance entered into force on 1 July 2021. It assures national transposition of the Basel III standards. Foreign banks active in trade and commodity trade finance are concerned by the enhanced liquidity requirements imposed by the revised Ordinance and the competitive disadvantages this introduces for banks in Switzerland against its competitors in the EU.

The Net Stable Funding Ratio NSFR requires banks to reinforce their resilience by increased liquidity coverage of financing business. It imposes long term (minimum twelve months) coverage of a part of the banks' exposure, including short-term exposure.

That requirement particularly impacts banks active exclusively in the trade and commodity trade financing. Such transactions tend to be short term (generally up to 90 days), clearly circumscribed, and of high volume, depending on prices and client activity.

The Swiss implementation of the NSFR imposes a required stable funding factor of 50% on all client assets up to six months. This means that trade finance banks need to obtain long-term financing in excess of twelve months while the exposure effectively to be covered generally has a 30 to 90-day maturity. This results in:

- significant additional financing costs for the bank;
- challenges to raise large amounts of long-term financing for some of them;
- additional risks to be managed (in particular, interest rate risks and a maturity gap as 90 day trade finance transactions are financed with borrowings above one year for banks which do not collect savings), the new regulatory constraint imposing a "reverse liquidity transformation".

In addition, the Swiss implementation leads to a disadvantage for banks in Switzerland compared to their EU competitors. The NSFR as applied in the EU provides for a specific treatment applicable to the trade finance business: the trade finance related exposures with a maturity up to 6 months are subject to a 10% weighing (instead of the 50% one applicable in Switzerland).

The Federal Council's response to the parliamentary interrogation of 6 June 2021 offers only partial relief. Reducing the weighting of off-balance sheet contingent liabilities from 5% to 0% does not compensate the distortion imposed by the liquidity coverage requirements. The volume of off-balance sheet liabilities is small and the proposal's impact on the overall ratio is very limited.

The transposition of the Basel III standards as suggested in the AFBS Comments is consistent with the Federal Council's approach "based on maintaining the competitiveness and reputation of Switzerland as a location for business and finance" and to "bolster competitiveness", as outlined in its report on the progress of implementation of recommendations dd 21 April 2021.

## Proposal

In order to render re-financing for trade and commodity trade finance business accessible to individual market participants and defend the competitiveness and the leading position of the Swiss banks in this business, the Annex 5 of the Liquidity Ordinance shall be amended as below.

This modification has two key advantages:

- by reducing the required stable funding generated by trade finance assets (from 50% to 10%), it factors in the specific characteristics of the trade finance business (short maturity, uncommitted facilities) and better aligns the NSFR requirements in terms of refinancing with the economic reality of these activities.
- It puts the Swiss regulatory framework in line with the EU standards, which impose the same 10% required stable funding factor for "trade finance on-balance-sheet related products with a residual maturity of less than six months".

RSF-Kategorie		Gewichtungsfaktor (%)
2.1	Unter Vorbehalt der RSF Kategorie 3.4 lastenfreie und für weniger als sechs Monate belastete Einlagen bei Finanzinstituten sowie Ausleihungen an diese mit einer Restlaufzeit von weniger als sechs Monaten, wenn: a. die Einlagen sowie die Ausleihungen mit Aktiva der Kategorie 1 nach Artikel 15a oder Kategorie 2a nach Artikel 15b besichert sind, und b. die Bank die erhaltenen Sicherheiten während der gesamten Laufzeit der Einlage oder der Ausleihung frei weiter verpfänden kann (rehypothecation).	10
2.2	<u>Lastenfreie Aktiva für die Handelsfinanzierung mit einer Restlaufzeit von weniger als sechs Monaten.</u>  <u>"Handelsfinanzierung" (trade finance on-balance sheet related products) bezeichnet Finanzierungstätigkeiten im Zusammenhang mit dem Austausch von Gütern und Dienstleistungen durch Finanzprodukte mit festgelegter kurzer Laufzeit, im Allgemeinen weniger als ein Jahr, ohne automatische Verlängerung.</u>	10

Catégories RSF		Coefficient de pondération (en%)
2.1	Sous réserve de la catégorie RSF 3.4, dépôts non grevés ou grevés pendant une période inférieure à six mois d'établissement financiers et prêts à ces établissements ayant une durée résiduelle inférieure à six mois: a. si les dépôts et les prêts sont garantis par des actifs de la catégorie 1 au sens de l'art. 15a ou de la catégorie 2a au sens de l'art. 15b, al. 1 à 4 et, b. si la banque peut remettre librement en gage les garanties reçues pendant toute la durée du dépôt ou du prêt (rehypothecation).	10
2.2	<u>Actifs non grevés liés des « crédits commerciaux »<sup>1</sup> ayant une durée résiduelle inférieure à 6 mois.</u>  <sup>1</sup> Les "crédits commerciaux" (trade finance on-balance sheet related products) désignent les financements liés à l'échange de biens et de services par le biais de produits financiers à terme fixe et à court terme, généralement moins d'un an, sans refinancement automatique.	10

## EU Regulation / For Information

In the EU the respective matter is governed by the Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 – CRR2: [LINK](#)

### Article 428v

10% required stable funding factor

The following assets and off-balance-sheet items shall be subject of a 10% required stable funding factor:

- (a) Monies due from transactions with financial customers that have a residual maturity of less than six months other than those referred to in point (g) of Article 428r(1) and in point (b) of Article 428s(1);
- (b) Trade finance on-balance-sheet related products with a residual maturity of less than six months;
- (c) Trade finance off-balance-sheet related products as referred to in Annex I with a residual maturity of one year or more.

European Regulation defines trade finance in Regulation (EU) No 575/2013 (CRR): [LINK](#)

### Article 4(1)(80):

trade finance means financing, including guarantees, connected to the exchange of goods and services through financial products on fixed short-term maturity, generally of less than one year, without automatic rollover.

## Liquidity Ordinance – Art 14 Par 6 foreign branch

### Introduction

Art 14 Par 6 of the Liquidity Ordinance LiqO defines LCR reporting requirements applicable to the Swiss branch of a foreign bank. It requires regular reporting by the foreign parent even though the latter is subject to an equivalent supervisory regime. It allows FINMA to "exempt upon request by the foreign parent the bank's branch in Switzerland from compliance of LCR if comparable information is published on a consolidated basis and if the foreign parent is subject to comparable supervision and legal framework."

This procedure imposes considerable administrative burden upon the banking group. The AFBS Secretariat has been approached by some member institutes to discuss the matter. The following proposal for amendment of the Liquidity Ordinance has been elaborated.

### State of Play

The branch's parent with adequate LCR and NSFR regulation needs to consolidate data of each branch in its group reporting on LCR and NSFR respectively. Imposing additional, jurisdiction-specific, requirements for the branch leads to an extra burden for the bank, unequal treatment, and economic and operational disadvantage.

NSFR regulation is based on the equity at hand. But branches do not have own equity. FINMA refers to the working capital for calculation, which is not in line with the law. As such there is no legal ground for branches to apply NSFR. FINMA confirms this approach through its practice regarding the Small Banks' Regime where it excludes branches from participation since they do not have equity according to the Capital Adequacy Ordinance. It is therefore difficult to understand why they should apply NSFR.

Under current financial market regulation, the branch is exempt from specific regulation if its parent is subject to adequate rules. Thus, the branch is exempt from conduct rules if there is equivalent regulation in place at the parent's home country.

Most banks were granted exemption for LCR reporting but not for NSFR reporting. It is unclear why FINMA does not grant exemption for NSFR reporting; auditors of participating banks raise the same question. The banks are subject to a regime of equivalent supervision.

Even if exemption has been granted, FINMA continues requesting publicly available information to be reported by the parent company and it requires such reporting at very short intervals (monthly rather than quarterly or half-yearly).

When the branch in Switzerland is authorised FINMA requests extensive guarantees and requires the head office to report both according to local and to Swiss standards. This imposes an excessive burden upon the bank.

### Proposal

Change Art 14 Par 6 to reverse the burden of proof, stating that the branch in Switzerland of a foreign bank incorporated in a jurisdiction with equivalent supervision and regulatory framework is exempt from NSFR and LCR reporting requirements unless FINMA explicitly imposes additional measures.

The suggestion would be to change Art 14 Par 6 in order to reverse the burden of proof, stating that the branch in Switzerland of a foreign bank incorporated in a jurisdiction with equivalent supervision and regulatory framework is exempt from LCR requirements unless FINMA explicitly imposes additional measures:

~~6 Sie kann auf Antrag der Bank ausländische~~Ausländische Zweigniederlassungen in der Schweiz, deren Muttergesellschaft im Ausland einer Aufsicht und rechtlichen Anforderungen untersteht, die mit denen der Schweiz vergleichbar sind, sind von der Erfüllung der LCR befreit~~en~~, ausser die FINMA auferlegt zusätzliche Anforderungen wenn vergleichbare Angaben zur LCR auf konsolidierter Basis veröffentlicht werden.

~~6 La FINMA peut, sur demande de la banque, libérer des exigences relatives au LCR les~~Les succursales étrangères en Suisse dont la société mère est soumise à l'étranger à des exigences prudentielles et juridiques comparables à celles en vigueur en Suisse, sont exemptées des exigences relatives au LCR~~à condition que des informations comparables au LCR soient publiées sur une base consolidée~~sauf si la FINMA impose des mesures supplémentaires.

**Info:** Art 14 Par 6 Liquidity Ordinance: [DE FR IT](#)