Basel Committee
on Banking Supervision

Regulatory Consistency Assessment Programme (RCAP)

Assessment of Basel III LCR regulations – Switzerland

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Glossary

ALA	Advanced liquidity approach
BIS	Bank for International Settlements
C	Compliant (grade)
CHF	Swiss franc
D-SIB	Domestic systemically important bank
ECAI	External credit assessment institution
EGW	Emissionszentrale für gemeinnützige Wohnbauträger
ESG	Emissionszentrale Schweizer Gemeinden
FAQ	Frequently asked question
FINMA	Swiss Financial Market Supervisory Authority
FINMASA	Financial Market Supervision Act
GC	General collateral
G-SIB	Global systemically important bank
HLBA	Historic look-back approach
HQLA	High-quality liquid assets
LC	Largely compliant (grade)
LCR	Liquidity Coverage Ratio
LiqO	Liquidity Ordinance
MNC	Materially non-compliant (grade)
NC	Non-compliant (grade)
OSFI	Office of the Superintendent of Financial Institutions Canada
PIC	Personal investment company
RCAP	Regulatory Consistency Assessment Programme
SIG	Supervision and Implementation Group
SFT	Securities financing transaction
SMI	Swiss Market Index
SNB	Swiss National Bank

Preface

The Basel Committee on Banking Supervision (Basel Committee) sets a high priority on the implementation of regulatory standards underpinning the Basel III framework. The prudential benefits from adopting Basel standards can only fully accrue if these are implemented appropriately and consistently by all member jurisdictions. The Committee established the Regulatory Consistency Assessment Programme (RCAP) to monitor, assess and evaluate its members' implementation of the Basel framework.

This report presents the findings of an RCAP Assessment Team on the adoption of the Basel Liquidity Coverage Ratio (LCR) in Switzerland and its consistency with the minimum requirements of the Basel III framework. The assessment is based on the Swiss LCR rules of the Liquidity Ordinance, supplemented by circulars issued by Swiss Financial Market Supervisory Authority (FINMA).

The RCAP Assessment Team was led by Mr Brad Shinn, Managing Director – Bank Capital, of the Office of the Superintendent of Financial Institutions Canada (OSFI). The Assessment Team comprised two technical experts drawn from Belgium and Japan (Annex 1). The main counterpart for the assessment was FINMA, which in turn coordinated with the Swiss National Bank (SNB). The overall work was coordinated by the Basel Committee Secretariat with support from an OSFI staff member.

The assessment focuses on the consistency and completeness of the Swiss LCR rules with the Basel minimum requirements. Issues relating to prudential outcomes, the liquidity position of individual banks or the effectiveness of the FINMA's supervisory effectiveness were not in the scope of this RCAP. The assessment relied upon the Swiss regulations and other information and explanations provided by the Swiss authorities and ultimately reflects the expert view of the Assessment Team on the documents and data reviewed. Where deviations from the Basel framework were identified, they were evaluated for their current and potential impact on the reported LCR for a sample of internationally active banks in Switzerland. The materiality assessment relied upon the data, information and computations provided by FINMA. Some findings were evaluated on a qualitative basis in instances where appropriate quantitative data were not available. The overall assessment outcome was then based on the materiality of findings (in both quantitative and qualitative terms) and expert judgment. The Assessment Team followed the methodology and guidance provided in the RCAP Handbook for Jurisdictional Assessments.[1]

Starting in November 2016, the assessment comprised (i) completion of an RCAP questionnaire (a self-assessment) by FINMA; (ii) an assessment phase (February to June 2017); and (iii) a post-assessment review phase (July to September 2017). The second phase included on-site assessment, which included discussions with FINMA, the SNB, representatives of Swiss banks and a representative of esisuisse.[2] These exchanges provided the Assessment Team with a deeper understanding of the implementation of the Basel LCR standards in Switzerland. The third phase consisted of a two-stage technical review of the assessment findings: first, by a separate RCAP Review Team as well as feedback from the Basel Committee's Supervision and Implementation Group (SIG); and second, by the RCAP Peer Review Board and the Basel Committee. This review process is a key part of the RCAP process, providing quality control and ensuring the integrity of the assessment findings.

The report has three sections and a set of annexes: (i) an executive summary with a statement from FINMA on the material findings; (ii) the context, scope and methodology and the main set of assessment findings; and (iii) details of the deviations and their materiality along with other assessment-related observations.

[1] See www.bis.org/bcbs/publ/d361.htm.

[2] esisuisse is the depositor insurance scheme that guarantees client money held with Swiss branches of banks and securities dealers. See www.esisuisse.ch/en?set_language=en.

The RCAP Assessment Team acknowledges the professional cooperation received from FINMA throughout the assessment process. In particular, the Assessment Team sincerely thanks FINMA Member of the Executive Board and Head of Banks Division, Mr Michael Schoch, FINMA members Alexandre Kurth, Michael Pohl, Uwe Steinhauser and other FINMA staff for the professional and efficient cooperation extended to the team throughout the assessment. The Assessment Team is confident that the RCAP assessment exercise will contribute towards further strengthening of the prudential effectiveness and full implementation of the LCR in Switzerland

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Executive summary

The Swiss framework for LCR requirements came into effect on 1 January 2015 through the publication of Liquidity Ordinance (LiqO) and the associated FINMA circulars. The LCR applies to all banks in Switzerland.

Overall, as of 30 June 2017 (the cut-off date for the RCAP assessment), the LCR regulations in Switzerland are assessed as compliant with the Basel LCR standards. This is the highest grade. All four components, the definition of high-quality liquid assets (HQLA), liquidity outflows, liquidity inflows and disclosure requirements, are also assessed as compliant. The Assessment Team compliments FINMA for their implementation of, and alignment with, the Basel LCR framework.

The Assessment Team identified one material finding with respect to liquidity outflows. The finding concerns the treatment of retail deposits insured by esisuisse, the Swiss deposit insurance scheme. The particular feature of the Swiss deposit insurance scheme (a system-wide cap on the insurance payout) may imply that, in a stress situation, only a much lower amount than that potentially recorded as "stable" deposits could benefit from this scheme.

The Assessment Team also noted another specific characteristic of the Swiss LCR framework concerning the general unwind mechanism for securities financing transactions (SFTs) involving Level 1 and Level 2A HQLA with maturities of less than 30 days. Under the Swiss regulations, a bank calculates its LCR as if it had not executed any of those SFTs. This approach has been deliberately put in place to ensure an effective implementation of central bank liquidity operation and the general participation in the Swiss repo market in the context of a shortage of Swiss franc-denominated securities and a requirement to meet the LCR also on a Swiss franc (CHF) basis.

In addition to the formal assessment of the LCR standard and disclosure requirements, this report contains annexes that summarise Switzerland's implementation of the LCR monitoring tools and the Basel Committee's Principles for sound liquidity risk management (see Annexes 9 and 10). Further, a summary is provided of the key national discretions and approaches that FINMA has adopted in its implementation of the LCR standard (Annex 14). These annexes show how national authorities implement certain aspects of the Basel standards that are not in scope of the formal RCAP-LCR assessment. Over time, the information detailed in these annexes will provide a basis for designing best practices and additional supervisory guidance that will benefit the regulatory community and the banking industry to raise the consistency of LCR implementation and improve the ratio's effectiveness in practice.

Response from FINMA

FINMA would like to express its sincere thanks to Mr Brad Shinn, Mr Brian Rumas and the Assessment Team for their professionalism, expertise and integrity throughout the whole assessment process, and welcomes the opportunity to respond to the Basel Committee on the report's findings concerning the Swiss implementation of the Basel LCR framework.

FINMA strongly supports the implementation of a globally consistent Basel framework in which member jurisdictions adhere to standards as strong as, or stronger than, the agreed minimum requirements. For this reason, FINMA very much appreciates the RCAP as an instrument to foster consistency, thereby strengthening the credibility of the Basel Framework.

FINMA concurs with the Swiss RCAP-LCR Assessment Report's overall rating of compliant. This result confirms that, in the view of the Assessment Team, all minimum provisions of the international framework have been adhered to, and no material differences were identified which could give rise to prudential concerns. The rating of compliant supports FINMA's self-assessment, which itself also came to the conclusion that the adjustments required to reflect national circumstances do not materially impact the LCR calculation.

FINMA agrees with the main findings by component and the compliant rating for all LCR standard components, as well as with the detailed assessment findings contained in the report. These reflect the data and information provided by FINMA during the course of the RCAP-LCR review. In particular, FINMA agrees with the finding relating to the Swiss deposit guarantee scheme.

Overall, FINMA believes that the RCAP facilitates robust discussions on the appropriateness of each member state's Basel framework implementation, thereby appropriately taking into consideration local circumstances and revealing areas where national regulations can be improved. This assessment shows that, even though local circumstances required some adjustments when implementing the Basel LCR standard, a faithful and robust application of the Basel LCR framework in Switzerland has been achieved.

1 Assessment context and main findings

1.1 Context

Status of implementation

Switzerland has put in place its national Basel III LCR framework in a timely manner applicable to all categories of banks in Switzerland. The main regulation for the Swiss LCR is the LiqO, which implemented Basel III LCR on 1 January 2015. The ordinance and the accompanying circular, frequently asked questions (FAQs) and data collection template (with and without calculations) are publicly available information. The regulations are published in German, French and Italian. For the purpose of the RCAP assessment, the regulations were translated into English.

The Basel standard allows jurisdictions that have a structural shortfall in HQLA to implement alternative liquidity approaches (ALAs). The Swiss authorities consider that the Swiss market has an insufficient supply of HQLA to meet the LCR requirements in CHF (excluding the current high levels of banks' sight deposits with the SNB). Therefore, the Swiss authorities have introduced two ALAs (of the three options set out in the Basel standard). Banks are permitted to include additional HQLA in foreign currencies when calculating the LCR. Banks that for operational reasons hold no HQLA in foreign currencies (ie domestic-oriented banks without significant business in foreign currencies) are allowed to hold a larger share of Level 2 assets in CHF than would otherwise be permitted.

Along with the LCR regulations, FINMA has also implemented the LCR monitoring tools and the Basel *Principles for sound liquidity risk management and supervision*. A factual description of how each of these frameworks has been implemented is provided in Annexes 9 and 10, respectively.

Structure of the banking system

The Swiss financial system is dominated by 299 banks. Of these, 98 banks are internationally active (Annex 7), with two of these classified as global systemically important banks (G-SIBs) and accounting for 66.8% of the banking sector in terms of total assets (using the leverage ratio exposure measure). Besides the two G-SIBs, there are four other broad types of bank, namely a number of domestic and foreign private banks focusing on asset management, savings banks operating in the Swiss regions ("Cantons"), a cooperative bank group, and other specialised banks focusing on retail banking.

Regulatory system and model of supervision

Swiss law is based on the continental European tradition of civil law. FINMA's regulatory approach has been a principles-based one and is reflected in the Swiss liquidity rules: (i) rules in several areas remain less specified than the Basel standards; and (ii) while a substantial part of Swiss Basel rules are established in primary legislation, a large part are also contained in secondary legislation and the remainder in tertiary legislation (see Annex 2).

Supervision by FINMA has traditionally been characterised by a two-tier system, ie substantial reliance on external auditors who perform an official supervisory function and are thereby part of the formal supervisory system, in addition to the supervisory role of FINMA. FINMA uses a risk-based approach to supervision, focusing its efforts on the larger banks.

1.2 Structure, enforceability and binding nature of prudential regulations

Structure of prudential regulations

The relevant hierarchy of prudential regulations through which FINMA implemented the Basel LCR framework in Switzerland consists of the following levels:

1. the LiqO, enacted under the Swiss Banking Act;
2. circulars issued by FINMA; and
3. FINMA rulings and other administrative procedures (notifications, newsletter and FAQs).

The LiqO is a legislative instrument and has the force of law. It is issued by the Federal Council empowered by the Swiss Banking Act. Additionally, FINMA issues circulars to ensure uniform implementation of LCR framework in Switzerland by specifying open, undefined legal norms and outlining generally abstract requirements for exercising discretionary powers. FINMA does so pursuant to article 7 paragraph 1 lit. b of the Financial Market Supervision Act (FINMASA), according to which FINMA may exercise its regulatory powers in by issuing Circulars on the application of financial market legislation. The content of FINMA Circulars must be materially related to, and must not conflict with, a superordinate enactment (ie Ordinances and Acts). Compliance with all FINMA Circulars (as well as Acts and Ordinances) applicable to banks is subject to the annual audit process and issues of non-compliance will be reported in the annual audit report, based an assessment of risk and materiality. Notwithstanding, a supervised institution may appeal against rulings issued by FINMA in a concrete case. The LiqO and FINMA Circulars are also supplemented by other administrative procedures that provide non-enforceable, non-binding guidance on certain prudential matters.

Enforceability and binding nature of prudential regulations

As a general principle, RCAP assessments only take into consideration "binding" regulatory documents that implement the Basel framework. This is to ensure that the Basel requirements are set out in a robust manner and that a formal basis exists for supervisors and third parties to ensure compliance with the minimum requirements.

The Assessment Team examined the binding nature of various prudential documents issued by FINMA using the criteria being applied in RCAP assessments (see Annex 6). Based on the assessment of these seven criteria, the Assessment Team concluded that the LiqO, which is legally binding, as well as the circulars issued by FINMA, which give further clarification to the Standards, meet the criteria and hence are eligible for the RCAP assessment. During meetings between the Assessment Team and banks in Switzerland, it was evident that FINMA Circulars are considered by all market participants to be as fully applicable as the LiqO. On that basis, the Assessment Team concluded that FINMA Circulars can be considered within the context of the RCAP assessment.

1.3 Scope of the assessment

Assessment grading and methodology

As per the RCAP methodology approved by the Basel Committee, the outcome of the assessment was summarised using a four-grade scale, both at the level of each of the four key components of the Basel LCR framework and the overall assessment of compliance. The four grades are: compliant, largely compliant, materially non-compliant and non-compliant.[3]

The materiality of the deviations was assessed in terms of their current or, where applicable, potential future impact (or non-impact) on the liquidity coverage ratios of the banks. Wherever relevant and feasible, the Assessment Team, together with FINMA, attempted to quantify the impact based on data collected from Swiss banks in the agreed sample of banks. The non-quantifiable aspects of identified

[3] This four-grade scale is consistent with the approach used for assessing countries' compliance with the Basel Committee's *Core principles for effective banking supervision*. The actual definition of the four grades has been adjusted to take into account the different nature of the two exercises. In addition, components of the Basel framework that are not relevant to an individual jurisdiction may be assessed as not applicable. For further details, see www.bis.org/bcbs/implementation/rcap_role.htm.

deviations were discussed and reviewed with FINMA, in the context of the prevailing regulatory practices and processes.

Ultimately, the assignment of the assessment grades was guided by the Assessment Team's collective expert judgment. In doing so, the Assessment Team relied on the general principle that the burden of proof rests with the assessed jurisdiction to show that a finding is not material or not potentially material. A summary of the materiality analysis is given in Section 2 and Annex 8.

In a few cases, Swiss LCR requirements go beyond the minimum Basel standards. Although these elements provide for a more rigorous implementation of the Basel framework in some aspects, they have not been taken into account for the assessment of compliance under the RCAP methodology as per the agreed assessment methodology (see Annex 13 for a listing of areas of super-equivalence).

1.4 Main findings

Summary assessment grading

Table 1

Key components of the Basel LCR framework	Grade
Overall grade	C
High-quality liquid assets (numerator)	C
Outflows (denominator)	C
Inflows (denominator)	C
LCR disclosure requirements	C

Compliance assessment scale (see also Section 1.3): C (compliant), LC (largely compliant), MNC (materially non-compliant) and NC (non-compliant).

Main findings by component

High-quality liquid assets (numerator)

The principles regarding the HQLA under the Swiss framework are assessed as compliant with the Basel standard. The Assessment Team identified two findings, neither of which is considered material.

The first finding is that the Swiss LCR framework does not contain the requirement to periodically monetise a representative proportion of a bank's HQLA pool. The Assessment Team viewed this as not material, as a significant proportion of Level 1 and Level 2A assets (for example, in CHF, simple average of 95% of the total) can be regularly used as collateral in repo transactions in the SNB general collateral (GC) basket. In addition, Level 2B assets are highly traded as part of the Swiss Market Index (SMI) or regarded as eligible Level 2B assets by foreign regulators. The second finding is that the Swiss LCR framework includes in Level 2A assets securities issued by Swiss cities, communities and the Emissionszentrale Schweizer Gemeinden (ESG) with a lower credit rating of A–. However, the Assessment Team viewed this as not material, as currently very few of the sample banks hold securities with a credit rating of A–. The highest contribution to total HQLA within the sample banks is 1.2%. It is also important to note that the securities with a lower credit rating of A– will be excluded from Level 2A assets once the new liquidity circular becomes effective on 1 January 2018.

Outflows (denominator)

The Swiss LCR rules regarding liquidity outflows are assessed as compliant with the Basel standard. The Assessment Team identified three findings, one considered to be material and two not material.

The material finding concerns insured deposits. The particular feature of the Swiss deposit insurance scheme (a system-wide cap on the insurance payout) may imply that, in a stress situation, only a much lower amount than recorded as stable deposits could benefit from this scheme.

A specific characteristic of the Swiss LCR framework is a general unwind mechanism for SFTs involving Level 1 and Level 2A HQLA, which has been implemented to ensure an effective implementation of central bank liquidity operations and the general participation in the Swiss repo market in the context of a shortage of CHF-denominated securities and a requirement to meet the LCR also on a CHF basis. In other words, banks calculate the LCR as if they had not executed any of those SFTs. This is assessed as not material. A further non-material finding is that all deposits from foreign jurisdictions that are not insured by a deposit insurance scheme are treated according to home jurisdiction rather than host jurisdiction run-off rates.

The Assessment Team identified two potentially material items in a draft regulation that is planned to become effective in January 2018. These items related to: (i) a probability-based approach in the determination of other contractual cash outflows for funding with market-based triggers; and (ii) medium-sized banks use pre-determined rates to determine the amount of operational deposit cash outflows instead of being required to develop internal models to identify operational deposits. Following discussions during the on-site assessment, FINMA ultimately decided not to pursue the incorporation of these elements into their LCR rules, given the potentially material impact of their introduction on the outflows component of the LCR.

Inflows (denominator)

The Swiss rules regarding the inflows are compliant with the Basel standard. The Assessment Team identified one non-material finding, which is an exemption in the recognition of inflows by allowing overdrafts granted on current account facilities to be counted as inflows.

Disclosure requirements

The Swiss disclosure requirements are compliant with the Basel LCR disclosure requirements. Only one finding has been identified, regarding the daily calculation of LCR. With effect from 1 January 2017, banks are required to calculate the LCR as simple averages of daily observations over the previous quarter under the Basel standard. However, the Swiss LCR framework permits systemically important banks to update data for some components on a weekly basis. The Assessment Team does not consider this finding to be material since it is confirmed that the components calculated on a weekly basis are treated as such due to limitation in access or calculation and that these components are demonstrated to be less volatile, having limited impact on the calculation of daily LCR.

2 Detailed assessment findings

The component-by-component details of the assessment of compliance with the risk-based capital standards of the Basel framework are detailed below. The focus of Sections 2.1 to 2.3 is on findings that were assessed to be deviating from the Basel minimum standards and their materiality. Section 2.4 lists some observations and other findings specific to the implementation practices in Switzerland.

2.1 LCR

Scope of application and transitional arrangements

Summary	Overall, the Assessment Team finds the scope of application and transitional arrangements to be in compliance with the Basel standards. The Assessment Team did not identify any deviation.

High-quality liquid assets (numerator)

Section grade	Compliant
Summary	The Swiss implementation of the HQLA standard is assessed as compliant with the Basel standard. The Assessment Team identified two non-material findings.
Basel paragraph number	30: periodic monetisation
Reference in domestic regulation	n/a
Findings	The Basel standard requires banks to periodically monetise a representative proportion of the assets in the stock of HQLA through repo or outright sale. The Swiss framework does not require periodic monetisation. However, in Switzerland, a substantial portion of banks' Level 1 and 2A assets are eligible collateral for the SNB GC basket, whose collateral assets underpin the vast majority (99%) of repo transactions as well as the SNB's open market operations. According to FINMA, an average of 95% of banks' CHF HQLA is collateral eligible for the SNB GC basket. The lowest percentage within the sample banks is 89%. Given that banks in Switzerland largely transact in repo transactions rather than outright sale as a means of monetisation, due to an insufficient supply of CHF-denominated HQLA to be used as collateral in SNB GC basket on a regular basis, it is important for banks to ensure that HQLA can be monetised through repo transactions even in a stress period. Further, Level 2B assets are restricted to equities that are part of the SMI and foreign equities considered eligible as Level 2B assets by foreign regulators. The SMI comprises the top 20 equities in terms of turnover in the Swiss stock market. These equities are thus highly traded on a regular basis. Consequently, this finding is not material.
Materiality	Not material
Basel paragraph number	52: Level 2A HQLA
Reference in domestic regulation	FINMA Circ.-15/2 Mn 126, 127, and 128 LiqO Art. 15b
Findings	Level 2A assets include corporate debt securities and covered bonds that satisfy certain conditions. These conditions include: either (i) a long-term credit rating from a recognised external credit assessment institution (ECAI) of at least AA– or, in the absence of a long-term rating, a short-term rating equivalent in quality to the long-term rating; or (ii) in the absence of a credit assessment by a recognised ECAI , an internal rating equivalent to a probability of a default corresponding to a credit rating of at least AA–; being traded in large, deep and active repo or cash markets characterised by a low level of concentration; having a proven record as a reliable source of liquidity in the markets even during stressed market conditions; and, in the case of corporate debt securities, not being issued by a financial institution or any of its affiliated entities.

	The Swiss LCR framework includes securities issued by Swiss cities, communities and the ESG (an entity issuing bonds for Swiss municipalities) as Level 2A assets. In addition to the securities with credit rating of higher or equal than AA– in Standard and Poor's ratings, securities with lower credit rating of A– are also included as Level 2A assets. This deviation is expected to be resolved when the new liquidity circular comes into force by 1 January 2018. Meanwhile, the Assessment Team noted that, according to FINMA, the deviation is not currently material. At present, very few of the sample banks hold securities with a credit rating of A–. The highest contribution to total HQLA within the sample banks is 1.2%. Consequently, this finding is considered to be not material.
Materiality	Not material

Outflows (denominator)

Section grade	Compliant
Summary	The Swiss rules regarding the outflows are assessed as compliant with the Basel standard. The Assessment Team identified three findings, one considered to be material and two not material.
Basel paragraph number	69: securities financing transactions
Reference in domestic regulation	LiqO Art.16.1-3, 5, 7
Findings	The Basel framework sets the run-off rates for SFTs with maturities of less than 30 days as a function of the collateral and the counterparty type. The run-off rates reflect the underlying assumptions for the liquidity of HQLA and the ability to roll over such transactions even under a scenario of severe market stress. The run-off rates are accompanied by a change in HQLA amount. Therefore, both the numerator (HQLA) and the denominator (net outflows) of the LCR will be affected, as will the ratio. If the same amount of collateral and cash is exchanged (ie zero haircuts are applied), the impact is merely a "ratio effect" as the number and denominator change by the same dollar amount (ie if the LCR was formulated as the differences between HQLA and net outflows, then the changes would simply cancel out). In contrast, if a positive haircut is applied (ie the amounts of collateral and cash in the two legs differ), then the impact on the LCR results from different changes in the numerator and the denominator (which would be visible if the LCR was calculated as the difference between HQLA and net outflows). The Basel framework provides for an unwind mechanism of SFTs involving HQLA only for the calculation of the cap on Level 2 assets. The Swiss LCR regulation allows for a general unwind ("Glattstellung") of all SFTs involving Level 1 or Level 2A HQLA if both legs of the transaction also fulfil the operational requirements (eg being treasury-controlled) with maturities of less than 30 days. In other words, a bank calculates its LCR as if it had not executed any of those SFTs. The Swiss approach is motivated by the shortage of CHF-denominated HQLA, the nature of the Swiss repo market (see below) and the operational framework of the SNB. A key element in this context also is that the Swiss regulation requires banks to meet the LCR minimum requirement not only cross-currency, but also on a CHF basis. The de facto collateral standard in the Swiss repo market is the SNB's GC basket, as 99% of SFTs in the interbank repo market are backed by SNB GC. The GC basket's eligibility criteria are aligned with Level 1 and Level 2A HQLA. The GC collateral comprises CHF- and non-CHF-denominated securities (non-CHF-denominated securities may be denominated in euros, US dollars, British pounds, Norwegian krone, Swedish krona and Danish krone). A considerable amount of repos are cross-currency, ie involving a cash leg in CHF and a securities leg in another currency. The current practice of the SNB, which was also maintained throughout the financial crisis, is to apply a zero haircut on collateral of the GC basket. The SNB is concerned that the treatment of SFTs according to the Basel framework could have a detrimental impact on the incentives of banks to conduct SFTs, thereby also hampering transmission of central bank policy, in two ways. First, to the extent that

	Level 2A HQLA are used as collateral, a repo has a negative effect on the LCR by way of the ratio effect. Second, if banks execute reverse repos involving foreign-currency-denominated securities being exchanged for cash in CHF, these transactions may lead to a deterioration of the CHF LCR as the non-CHF securities will not count towards meeting the CHF LCR requirement (ie such a reverse repo would lead to a lower LCR, not only due to the aforementioned ratio effect, but also in terms of differences, as the collateral received would not count towards the CHF HQLA). The Assessment Team recognises that the general unwind mechanism has merely a ratio effect on the consolidated LCR (for repos and collateral swaps backed by Level 2A assets) as long as haircuts are zero in the Swiss repo market as set by the SNB's operational framework. Given the evidence of zero haircuts during the crisis and the fact that the SNB's operational framework effectively puts a floor under the repo market, the Assessment Team assumes, for the materiality assessment, that this practice will continue and therefore that the general unwind mechanism has only a ratio effect. Nevertheless, any future changes to the operating framework that would deviate from the zero haircut practice could increase the scope for materiality. The available data across three observation points show that the average impact on banks' LCR ratios is between 0.1% and 0.2%. However, acknowledging that the ratio effect increases when LCR levels are above 100%, the maximum impact is disregarded (assuming that the ratio effect, ceteris paribus, increases in the level of the LCR). Given the quantitative evidence and taking the SNB policy of zero haircuts as exogenously given, the Assessment Team therefore concludes that this finding is not material.
Materiality	Not material
Basel paragraph no	75 and 76: deposit insurance
Reference in domestic regulation	FINMA Circ.-15/2 Mn, 178-186, LiqO Annex 2 1.1.1.
Findings	The Basel framework requires that stable deposits (receiving a run-off factor of 5%) are fully insured by an effective deposit insurance scheme. In the framework, "fully insured" means that 100% of the deposit amount, up to the deposit insurance limit, is covered by an effective deposit insurance scheme and where "effective deposit insurance scheme" is defined as a scheme (i) that guarantees the ability to make prompt payouts; (ii) for which the coverage is clearly defined; and (iii) of which public awareness is high. Furthermore, the deposit insurer in the scheme has formal legal powers to fulfil its mandate and is operationally independent, transparent and accountable. In Switzerland, depositor protection is based on a three-tiered system. First, preferential deposits (up to CHF 100,000 per client) are paid out immediately in and outside Switzerland from the bank's remaining liquidity available, ie before bankruptcy proceedings are instituted. Second, if the amount of liquidity available to cover preferential deposits does not suffice, the deposit insurance scheme comes into play and, after bankruptcy proceedings are initiated by FINMA, the remaining preferential deposits, provided that they are booked in Switzerland, are paid out by the deposit insurer – esisuisse – up to a maximum of CHF 6 billion. This is a system-wide limit (ie the deposit insurance scheme cannot attribute any funds to a second bank if one bank has used up the full amount). Third, other remaining preferential deposits are treated preferentially and paid out during bankruptcy proceedings as second creditor class claims. Deposits over CHF 100,000 per client are regarded as third creditor class claims and are treated equally with the claims of other creditors. The Assessment Team considers that the Swiss framework exhibits some particular characteristics. First, depositors do not know with certainty whether their deposits are actually covered by the deposit insurance scheme – they only know for certain that deposits up to CHF 100,000 are preferential deposits. Second, the CHF 6 billion sector limit (and the absence of an allocation rule among banks) is somewhat at odds with the assumed stress scenario of the LCR which foresees both idiosyncratic and systemic stress events. Notwithstanding, it should be noted that the Swiss Banking Act foresees that the government may raise the intervention limit in special circumstances. Considering these characteristics, the Assessment Team believes that there remain concerns about the definition of coverage of the deposit insurance scheme, both from a depositor's perspective (uncertainty about actual level of coverage) but also from a bank's perspective (it is not certain that a bank has recourse to the entire CHF 6 billion

	amount, as other banks may also have claims). The payouts in the first two levels of the depositor protection system, noted above, can be considered as prompt. The payouts in the third stage are not prompt and not certain, as these are governed in the normal bankruptcy proceedings. In order to assess the materiality, the Assessment Team assumed that, due to the uncertainty of coverage both from the bank and depositor perspective, no retail deposits should be classified as stable. This is a conservative view, but the Assessment Team saw no other way of establishing a degree of coverage that would allow for a certain amount of deposits benefiting from a full insurance coverage. It should be noted, though, that the new Swiss regulation (effective from 1 January 2018) requires that banks assign the CHF 6 billion insurance coverage first to term deposits, which implies that the amount of LCR-relevant sight deposits potentially being classified as stable decreases in the amount of term deposits. As the maximum amount is fixed, smaller banks can benefit proportionally more from the depositor protection scheme than larger banks, as a higher proportion (or all) of the preferred deposits might fall under the CHF 6 billion limit, implying that materiality of the impact is higher for banks with lower volumes of retail deposits. The Assessment Team calculated the impact of all banks to be equal to 0.9 percentage points (unweighted average). One bank would have a significantly lower LCR (5.4 percentage points). Due to the conservative assumptions (ie that a bank would receive zero funds from the deposit insurance scheme) in the calculation, the Assessment Team found it appropriate to consider mainly the average effect for grading purposes. Considering the average impact being close to 1% and evidence of significantly larger individual impacts, the Assessment Team assesses this finding as material.
Materiality	Material
Basel paragraph number	169 and 170: host parameters
Reference in domestic regulation	FINMA Circ 15/2 Mn 104, 188–192
Findings	For cross-border banking groups, the Basel framework sets out requirements with respect to the treatment of retail deposits of group entities that operate in host jurisdictions. On the one hand, the framework requires that such a group applies to retail deposits the liquidity parameters of the relevant host jurisdiction, as these host requirements better reflect the behaviour of local depositors. On the other hand, the framework stipulates that home requirements for retail deposits should apply to entities in host jurisdictions if (i) there are no local requirements; (ii) those entities operate in the jurisdictions that have not implemented the LCR; or (iii) the home supervisor decides that home requirements should be used that are stricter than host requirements. The Swiss LCR regulation applies host jurisdiction parameters only to insured deposits. Uninsured deposits (ie deposits beyond the CHF 100,000 limit per client) are treated according to Swiss regulation, which assigns a run-off rate of 10% to deposits from CHF 100,000 up to CHF 1.5 million per client and 20% to deposits exceeding CHF 1.5 million per client. The Assessment Team notes that, by applying home requirements, local stressed liquidity needs may be not appropriately reflected in the run-off rates, as the host jurisdictions would set such rates as a function of the behaviour of local depositors. These could be higher than the rates assumed for uninsured deposits in Switzerland. It is also possible that applicable local run-off rates are lower, in which the application of home requirements in Switzerland leads to a stricter standard. Discussions with FINMA and the Swiss banks revealed that some Swiss banks (ie the internationally active banks with a large wealth management business) have significant amounts of uninsured deposits in foreign jurisdictions. Reviewing the run-off rates in the relevant jurisdictions where Swiss banks collect deposits, the Assessment Team has found that only the US applies run-off rates which can be significantly higher than the Swiss run-off rates, reaching up to 40%. The impact of these higher outflow rates is restricted mainly to (i) brokered retail deposits; and (ii) deposits placed at the bank by a third party on behalf of a retail customer or counterparty which are not brokered deposits, where the retail customer or counterparty owns the account and where less than the entire amount is covered by deposit insurance. For these cases, the US regulation requires a 40% outflow rate versus a 40% outflow rate in the Swiss regulation

	for non-operational deposits placed via a trust or personal investment company (PIC), 25% for the operational deposits placed by a trust or a PIC, 20% for all other the deposits exceeding CHF 1.5 million and 10% for those below CHF 1.5 million. Due to a lack of information on the precise categorisation of US-based deposits and the lack of alignment between retail and wholesale definitions, the Assessment Team was unable to assess the materiality of this finding. From an economic perspective, the Assessment Team acknowledges that the Swiss and the US provisions for retail deposits and deposits from PICs are broadly equivalent. It therefore estimates that a consistently more favourable treatment of deposits under Swiss regulation compared to US regulation is unlikely.
Materiality	Not material.

Inflows (denominator)

Section grade	Compliant
Summary	The Swiss rules regarding the inflows are assessed as compliant with the Basel standard. The Assessment Team identified one non-material finding.
Basel paragraph number	151: roll over of existing credit facilities
Reference in domestic regulation	FINMA Circ.-15/2 Mn. 288. 289 and 294 New FINMA Circular Mn 294.1 - 294.4
Findings	The Basel framework takes a conservative approach on inflows and requires that inflows are only counted at their latest possible contractually due date, that existing loans are rolled over for credit facilities, and that only inflows from fully performing loans should be counted. Swiss regulation has introduced a provision allowing overdrafts on granted current account facilities to be counted as inflows. According to FINMA, such overdrafts are contractually due and banks have the right to negotiate the conditions or refuse rollover at all. In conversation with FINMA and the Swiss banks, it became clear that different products could be subject to this inflow exemption, ranging from Lombard credits to simple overdrafts on unsecured accounts. The Assessment Team is concerned that, in practice, such overdrafts could often be rolled over. Even though a bank may have the right to request immediate reimbursement, it may not have an incentive to do so in order to maintain the client relationship (or it could benefit from a rollover by setting higher interest rates). The impact of allowing such overdrafts to be counted as inflows is on average 0.01% and at maximum 0.6%. The Assessment Team therefore considered this finding to be not material.
Materiality	Not material

2.2 LCR disclosure requirements

Section grade	Compliant
Summary	The Swiss implementation of the Basel LCR disclosure requirements is assessed as compliant. The Assessment Team identified one non-material finding.
Basel paragraph number	13: daily averages
Reference in domestic regulation	FINMA Circ.-16/1 Annex 2 Table 48
Findings	The Basel LCR disclosure standard requires the quarterly LCR disclosure data to be presented in the template as simple averages of daily observations over the previous quarter (beginning with reporting periods after 1 January 2017). However, the Swiss LCR framework permits systemically important banks to update data for some components in the disclosure template on a weekly basis. Within the sample banks,

	some banks apply the treatment, but the data updated weekly differ on an individual basis. Areas where the data are updated weekly include the data of subsidiaries, margin requirements for derivatives, net asset values for certain investment funds (the ones which the banks have limitation in access or calculation). As this only affects minor components of the LCR calculation, the Assessment Team assessed this finding as not material.
Materiality	Not material

2.3 Observations specific to the implementation practices in Switzerland

The following observations highlight special features of the regulatory implementation of the Basel LCR standards in Switzerland. These are presented to provide additional context and informational. Observations are considered compliant with the Basel standards and do not have a bearing on the assessment outcome.

High-quality liquid assets (numerator)

Basel paragraph number	50: Level 1 HQLA
Reference in domestic regulation	FINMA Circ.-15/2 Mn 120 LiqO Art. 15a
Observation	Level 1 assets include marketable securities representing claims on or guaranteed by sovereigns, central banks, public sector entities, the Bank for International Settlements, the International Monetary Fund, the European Central Bank and European Community, or multilateral development banks that satisfy certain conditions. These conditions include being assigned a 0% risk weight under the Basel II standardised approach; being traded in large, deep and active repo or cash markets characterised by a low level of concentration; having a proven record as a reliable source of liquidity in the markets even during stressed market conditions; and not being an obligation of a financial institution or any of its affiliated entities. The Swiss framework includes securities issued by Emissionszentrale für gemeinnützige Wohnbauträger (EGW) as Level 1 assets. The EGW is a non-governmental organisation that acts as an issuing centre for the construction of housing. The funds raised by its security issuance are allotted to the members consisting of 360 non-profit housing associations. The issuance is guaranteed by the Swiss government until the maturity of securities. The guarantee fully covers the timely payment of principal and interest of the securities. In addition to being guaranteed by the government, EGW securities meet the other eligibility criteria for Level 1 HQLA in LiqO Article 15a and may only be included where they also meet the operational requirements. In general, EGW securities are eligible for the SNB GC basket (with the exception of five bonds whose issuance volume was below CHF 100 million each). At end-2016, the volume of outstanding securities was CHF 3.1 billion (of which CHF 2.8 billion were eligible for the SNB GC basket). The unconditional irrevocable guarantee is updated periodically between the EGW and the Swiss government, and is currently valid for securities issued before 2021. According to FINMA, since the EGW was founded in 1990, all 78 issuances have been guaranteed by the Swiss government. Even though the current guarantee is only valid for new issuances up to 2021, the current Swiss LCR framework does not exclude future issuances of the preferential treatment in the case that issuances after 2021 will not be covered. After exchanging questions and answers between FINMA and the Assessment Team, FINMA proposes to adjust its regulation, namely to rephrase marginal note 120 in FINMA Circ.-15/2 so that it is clearly stated that only those issuances guaranteed by the Swiss government are eligible as Level 1 assets. The amendment will become effective on 1 January 2018, when the new liquidity circular comes into effect, and accordingly before there could be hypothetical issuances without a guarantee by the Swiss government.

Outflows (denominator)

Basel paragraph number	81: foreign currency deposits
Reference in domestic regulation	Not applicable
Observation	The Basel framework requires supervisors to determine appropriate run-off factors for deposits in foreign currencies and to classify them as less stable if there are reasons to believe that such deposits are more volatile than domestic deposits. Swiss regulation does not make a distinction between foreign currency and CHF-denominated deposits but applies the same run-off rates on the grounds of empirically observed similar run-off rates during the financial crisis (self-reported by FINMA). According to FINMA, foreign currency deposits stem from a variety of customer activities, such as trading activities, a search for higher interest rates on euro deposits, and from foreigners living and working in Switzerland. In the view of FINMA, the potentially higher degree of sophistication of such customers is more adequately covered by the provision on high net worth individuals in the Swiss regulation. The Assessment Team agrees with this assessment and policy conclusion. Conversations with several Swiss banks also revealed that events such as the removal of the euro peg in January 2015 and a subsequent increase of the CHF-euro exchange rate did not generate any material effect.
Basel paragraph number	86: options in funding instruments
Reference in domestic regulation	FINMA Circ.-15/2 Mn. 210
Observation	The Basel framework requires that, for funding with options exercisable at the bank's discretion, reputational concerns should be considered and, in markets where the execution of such an option is expected, banks assume the execution for the LCR calculation. There is no explicit requirement in Swiss regulation to assume options at the bank's discretion are not executed. FINMA plans to amend the regulation by introducing an explicit requirement to consider such funding instruments as outflows if the market expects the exercise of the option (becoming effective 1 January 2018). The data shows that debt instruments issued by Swiss banks with a buy-back option are mainly instruments eligible for meeting total loss-absorbing capacity and capital (Additional Tier 1 and Tier 2) requirements. For a high proportion of these instruments, the time horizon of the execution of the options is four to five years ahead and the impact on the LCR would only apply for the 30-day window before the execution date. The Assessment Team also concurs with FINMA that not exercising the option to buy back such instruments is unlikely to be subject to reputational concerns.
Basel paragraph number	97: operational deposits
Reference in domestic regulation	FINMA Circ.-15/2 Mn. 225–231
Observation	The Basel framework requires banks to determine a methodology for identifying excess deposits on operational accounts. FINMA requires banks to obtain approval for their internal models used to identify excess deposits. Smaller banks may use an internal model, but can also make use of a standardised model (ie predefined rates). FINMA reviews and compares the banks' internal models on an annual basis, aiming at a high degree of conservativeness and ensuring a level playing field. The internal models used by banks can be categorised as either payment turnover models or corridor models. The former focuses on payment turnovers per client and defines an exposure-weighted minimum turnover ratio. If the minimum turnover of a client for example is 10, this means, that at most one tenth of the monthly turnover can be considered as being operational. In other words, if a month has 20 bank working days, the turnover of the customer of two bank working days is the maximum amount that is considered as being operational. The latter (corridor models) focuses on the variance of accounts per client. The variance during a predefined historic time window defines the maximum amount of operational deposits. Furthermore, correction factors adjust the results to be more conservative.

Basel paragraph number	109: personal investment companies
Reference in domestic regulation	New FINMA Circ.-15/2 242–247 Annex 5 LiqO Annex 2 2
Observation	The Basel framework defines run-off rates for unsecured wholesale funding by distinguishing between counterparties. For instance, funding provided by "other legal entity customers" (including financial institutions) receives a 100% run-off rate, while funding provided by non-financial corporates receives a 40% run-off rate. In Swiss regulation, PICs (including family trusts and foundations) are classified as non-financial corporates. The regulation provides some guidance that only PICs where the beneficial owner is a natural person or family members fall into this category; collective investment structures are explicitly excluded. The Assessment Team raised the question of whether, due to the governance of these entities, a classification as "other legal entity" would be more appropriate when the PIC has the mandate to act on behalf of the beneficial owner (active management) rather than simply being a legal construct around a natural person (or family member). FINMA explained that the empirical behaviour of such PICs is rather similar to retail customers (ie in the global financial crisis, outflow rates of these deposits had been lower than outflows of retail deposits). Furthermore, the more relevant factors to determine the behaviour of such deposits are the characteristics of the beneficial owner (eg whether it is a high net worth customer or not, the geographical location of the customer) rather than whether a natural person places the deposits directly or via a PIC structure. The Assessment Team gathered qualitative information from banks and found that there is indeed a wide range of different governance structure for PICs, ranging from legal shells to structures involving advisory or asset management mandates. In terms of compliance with the Basel standard, the Assessment Team found that the Swiss regulation nevertheless does not represent a deviation from the standard. Moreover, the 40% run-off rate appears to be relatively balanced given that some of the PICs are more akin to retail depositors (which attract run-off rates of less than 40%), offset by a smaller proportion of deposits by PICs that involve an asset management mandate (which would normally attract run-off rate of more than 40%). The Assessment Team recommends that the Basel Committee further inquire whether a more prescriptive standard with respect to the use of mandates for an active management should be envisaged, both with respect to natural persons and PICs.
Basel paragraph no	111: prime brokerage
Reference in domestic regulation	FINMA Circular 15/2 Mn. 250
Observation	The Basel framework requires the separation of customer cash balances arising from prime brokerage services from any required segregated balances related to client protection schemes and prohibits the netting of such balances against other customer balances. The Swiss regulation was lacking such a specific provision, but FINMA plans to amend the regulation by introducing a provision that is fully in line with the Basel standard (becoming effective 1 January 2018).
Basel paragraph no	123: outflows from derivatives
Reference in domestic regulation	New FINMA Circ.-15/2 Mn 250, 254, 263-265, LiqO 16.9.b, Annex 2 5.6
Observation	Banks are allowed to use internal models (calibrated conservatively against the Basel historical look-back approach, or HLBA, and subject to approval by FINMA) to determine outflows from derivatives. In practice, all banks use the Basel HLBA, no bank so far has a FINMA-approved internal model.

Annexes

Annex 1: RCAP Assessment Team and Review Team

Assessment Team Leader

Mr Brad Shinn	Managing Director – Bank Capital, OSFI

Assessment Team members

Ms Akiko Aiba	Bank of Japan
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Supporting members

Mr Brian Rumas	OSFI
Mr Nik Faris Sallahuddin	Basel Committee Secretariat
Mr Olivier Prato	Basel Committee Secretariat

Review Team

Mr Defri Andri	Indonesia Financial Services Authority
Ms Delia Novello	Central Bank of Argentina
Mr Alberto Munguia	Comisión Nacional Bancaria y de Valores México
Mr Toshio Tsuiki	Basel Committee Secretariat

Annex 2: Local regulations issued by FINMA for implementing Basel LCR standards

Overview of issuance dates of important Switzerland liquidity regulations — Table A.1

Domestic regulations	Time of issuance
Swiss Banking Act	Issued 8 November 1934, version January 2016
LiqO	Issued 30 November 2012, version January 2015
Amendment to LiqO	Issued January 2017, under consultation
FINMA Circular 15/2 Liquidity risks – banks	Issued 3 July 2014, in force since 1 January 2015, draft version issued 10 January 2017 under consultation
FINMA Circular 16/1 Disclosure – banks	Issued 28 October 2015, version December 2016. The LCR disclosure requirements effective 1 January 2015 have formerly been regulated in FINMA Circular 08/22 "Disclosure – Banks", which is meanwhile superseded by FINMA Circular 16/1 "Disclosure – Banks", that implements the Basel Disclosure requirements (phase I)

Hierarchy of Switzerland laws and regulatory instruments — Table A.2

Level of rules (in legal terms)	Legal instruments
Primary (1)	- Federal Acts (1.1) - Federal Council Ordinances (1.2) - FINMA Ordinances (1.3)
Secondary (2)	FINMA Circulars (2.1) Self-regulation (2.2)
Tertiary (3)	Legal administrative procedures: FINMA rulings (3.1) Other administrative procedures (3.2) - FINMA notifications - FINMA newsletter - FAQs

Definition and description of Swiss legal instruments (Source: FINMA)

Primary legislation

A legal instrument is enacted by the responsible authority (eg Parliament, the Federal Council, a certain authority). Legislative powers to do so are issued in the Federal Constitution. The enactment of the law is then published in the Classified Compilation of Federal Legislation as prescribed in the provisions of the Publication Act (SR 170.512). Legal instruments are binding. It is not possible to appeal against a legal instrument per se.

Federal Acts (1.1)

In the hierarchical structure of legislation, federal acts are subordinate to the Constitution. According to Article 164 paragraph 1 of the Federal Constitution, all important legislative provisions must be passed as a federal act. This includes, for instance, severe restrictions on constitutional rights (eg economic freedom),[4] as well as basic provisions on the rights and obligations of persons and on procedures followed by the federal authorities.

Examples: FIMASA, Banking Act

Federal Council Ordinances (1.2)

The Federal Council can pass legislative provisions in the form of an ordinance insofar as it is empowered to do so by the Constitution or an act. Ordinances are general abstract legal provisions that are subordinate to an act. By contrast with federal acts, they are passed through a simplified procedure.

Examples: Capital Adequacy Ordinance, Banking Ordinance, LiqO

FINMA ordinances (1.3)

FINMA ordinances impose obligations or confer rights or responsibilities on supervised institutions in general and abstract terms with directly binding force. FINMA ordinances may only be issued based on a superordinate legal foundation (federal act or Federal Council ordinance).

Examples: Banking Insolvency Ordinance

The delegation of law-making rights to groups and offices (also including organisations outside the Federal Administration such as FINMA) is only permissible if it is authorised by a federal act or a generally binding federal decision (see Article 48 paragraph 2 of the Government and Administration Organisation Act). Even in such cases, a decision on whether such delegation is justified must take the scope of the legal instruments into consideration.[5]

Secondary legislation

FINMA regulates by means of ordinances (if so prescribed in financial market legislation; see above) and circulars that define and explain how financial market legislation should be applied.

FINMA Circulars (2.1)

The purpose of FINMA circulars is to enable the supervisory authority to implement legislative rules in a uniform and proper manner by specifying open, undefined legal norms and outlining generally abstract requirements for exercising discretionary powers. Circulars must be materially related to, and must not conflict with, a superordinate enactment.

Circulars are binding for FINMA. Compliance with all FINMA Circulars (as well as Acts and Ordinances) applicable to banks are subject to the annual audit process and issues of non-compliance will be reported in the annual audit report, based on an assessment of risk and materiality.

Circulars, however, do not have the characteristics of Acts or Ordinances.

Examples: FINMA Circular 13/6 "Reporting requirements for short-term liquidity coverage ratio and qualitative requirements for liquidity risk management"

4 K Sutter-Somm, *St Gallen Commentary on Article 164 margin no. 10*, Zurich, 2002.

5 *Guidelines on legislation, Guidelines on the drafting of federal legislation*, second revised edition, margin no. 595.

Self-regulation (2.2)

Self-regulation takes a variety of different forms. A distinction is made between voluntary or autonomous self-regulation, self-regulation that is recognised as a minimum standard, and compulsory self-regulation based on a mandate from the legislator.

Voluntary or autonomous self-regulation is based solely on private autonomy and is by definition established without any government involvement (eg codes of conduct issued by professional associations).

Under Article 7 paragraph 3 of the Financial Market Supervision Act, FINMA may, either at the request of a self-regulatory organisation or on its own initiative, recognise self-regulatory measures as a minimum standard (see FINMA Circular 08/10 "Self-regulation as a minimum standard"). Once recognised, such norms in principle no longer apply only to members of the relevant self-regulatory organisation but must accordingly be observed as minimum standards by all other participants in the sector. Subsequent compliance with recognised minimum standards is enforced by FINMA or by the self-regulatory organisation. A list of currently recognised self-regulatory measures is included in the annex to FINMA Circular 08/10 "Self-regulation as a minimum standard".

Example: minimum requirements for mortgage financing issued by the Swiss Bankers Association, 4 July 2014

Compulsory self-regulation is based on self-regulatory organisations receiving a mandate from the legislator to deal with a given topic through self-regulation. Such regulatory mandates are contained in, for example, Article 37h of the Banking Act (deposit insurance), Article 4 paragraph 1 of the Stock Exchange Act (appropriate organisation), Article 4 paragraph 3 of the Collective Investment Schemes Ordinance (requirements for simplified documentation on structured products), and Article 25 of the Anti-Money Laundering Act (specification of due diligence obligations). Compulsory self-regulation may also be recognised by FINMA where the legislator has not already stipulated that state approval is required. Recognition increases the legitimacy, effectiveness and credibility of such norms, and contributes to self-regulation being perceived as an equal alternative to state regulation both in and outside Switzerland.

Tertiary legislation

Rulings are part of legal administrative procedures. Federal authorities that act to fulfil a public-law duty for the Confederation are empowered to issue a ruling. Rulings must set out reasons and instructions on the right of appeal; parties directly concerned are entitled to lodge an appeal with the Federal Administrative Court and, ultimately, with the Federal Supreme Court.

FINMA rulings (3.1)

Under Article 5 of the Federal Act on Administrative Procedure (SR 172.021), rulings are decisions of the authorities in individual cases that have the establishment, withdrawal or amendment of a specific administrative law issue as their subject matter. It does not therefore constitute a general and abstract legal instrument.

Other forms of administrative procedures (3.2)

Alongside legal administrative procedures (decrees or rulings), Swiss administrative law also permits other forms of administrative procedures. As an administrative authority, these principles also apply to FINMA.

If supervised institutions agree voluntarily to act as deemed appropriate, FINMA may, within its application of the legal framework, waive a formal and official order (ruling). Consultations and agreements (generally in writing) are then part of the informal and consensual administrative procedures undertaken in cooperative efforts between FINMA and the supervised institutions. If informal administrative procedures do not bring the desired results, FINMA can still at any time issue a (3.1) ruling.

Example: FINMA notification about the IRB multiplier for residential property

De facto or simple administrative procedures include, for example, information, instructions, recommendations, warnings, official reports and other statements, and are of an informative nature. If such procedures do not bring the desired results, FINMA can still at any time issue a (3.1) ruling.

FINMA newsletters about important and topical supervisory issues are directed at a specific audience. Since they express warnings, set out FINMA's expectations of the supervised institutions or remind them of certain duties, they are often of an appellative nature.

Example: FINMA newsletter about the short-term liquidity coverage ratio LCR

FAQs provide standard FINMA answers. FAQs are compiled in cases where there have been, or will be, numerous enquiries about regulatory rules. FAQs are not directly legally binding instruments, are not of a direct legislative nature and do not substantiate FINMA's practice. FAQs aim mainly at providing a better understanding of specific regulatory rules.

Example: FAQs about LCR

Annex 3: List of LCR standards under the Basel framework used for the assessment

Basel documents in scope of the assessment

- *The Liquidity Coverage Ratio* (January 2013), including the *Frequently asked questions on Basel III's January 2013 Liquidity Coverage Ratio*, April 2014
- *Liquidity Coverage Ratio disclosure standards*, January 2014

Basel documents reviewed for information purposes

- *Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools* (part on liquidity risk monitoring tools), January 2013
- *Monitoring tools for intraday liquidity management*, April 2013
- *Principles for sound liquidity risk management and supervision*, September 2008

Annex 4: Details of the RCAP assessment process

Off-site evaluation

- Completion of a self-assessment questionnaire by FINMA
- Evaluation of the self-assessment by the RCAP Assessment Team
- Independent comparison and evaluation of the domestic regulations issued by FINMA with corresponding Basel III standards issued by the Basel Committee
- Identification of observations
- Refinement of the list of observations based on clarifications provided by FINMA
- Assessment of materiality of deviations for all quantifiable deviations based on data and non-quantifiable deviations based on expert judgment
- List of observations sent to FINMA

On-site assessment

- Discussion of individual observations with FINMA
- Meetings with selected Swiss banks, esisuisse and SNB
- Discussion with FINMA and revision of findings to reflect additional information received
- Assignment of component grades and overall grade
- Submission of the detailed findings to FINMA with grades
- Receipt of comments on the detailed findings from FINMA

Review and finalisation of the RCAP report

- Review of comments by the RCAP Assessment Team, finalisation of the draft report and forwarding to FINMA for comments
- Review of FINMA's comments by the RCAP Assessment Team
- Review of the draft report by the RCAP Review Team
- Review of the draft report by the Peer Review Board
- Reporting of findings to SIG by the Team Leader

Annex 5: List of rectifications by FINMA

List of rectifications by FINMA — Table A.3

Basel reference	Reference in FINMA document	Brief description of the forthcoming correction
	HQLA	
Paragraph 50	FINMA Circ.-15/2 Mn 120 LiqO Art. 15a	FINMA will rephrase Mn 120 in FINMA Circ.-15/2 so that it is clearly stated that only those securities issued by EGW that are guaranteed by the Swiss government are eligible as Level 1 assets. The amendment will become effective on 1 January 2018.
Paragraph 52	FINMA Circ.-15/2 Mn 126, 127, and 128 LiqO Art. 15b	Securities issued by Swiss cities, communities, and the ESG with a lower credit rating of A–, which are currently accepted as Level 2A assets, will no longer be eligible as of 1 January 2018.
	Outflows	
Paragraph 96	FINMA Circ.-15/2 Mn 210.1	For funding with options exercisable at the bank's discretion, reputational concerns should be considered and, in markets where the execution of such an option is expected, banks assume the execution for the LCR calculation.
Paragraph 141	FINMA Circ.-15/2 Mn 248.2	FINMA will introduce a new marginal note to cover the requirement of the separation of customer cash balances arising from prime brokerage services from any required segregated balances related to client protection schemes and prohibits the netting of such balances against other customer balances.

Annex 6: Assessment of bindingness of regulatory documents

Assessment of seven criteria used to determine eligibility of Swiss regulatory documents

Table A.4

Criterion	Assessment
(1) The instruments used are part of a well defined, clear and transparent hierarchy of legal and regulatory framework.	The Liquidity Ordinance and the Capital Adequacy Ordinance are subordinate to the Banking Act. FINMA circulars do not need any explicit legal basis in the form of an act; their content, however, must be materially related to a superordinate enactment. The FINMA circulars used are materially related to the Banking Act, the Liquidity Ordinance and/or the Capital Adequacy Ordinance.
(2) They are public and easily accessible	The primary (the law and ordinances) and secondary (FINMA circulars) legislation are public and easily accessible on the FINMA website. Furthermore, the Banking Act, the Liquidity Ordinance and the Capital Adequacy Ordinance are published in the Official Compilation of Federal Legislation.
(3) They are properly communicated and viewed as binding by banks as well as by the supervisors.	The regulatory provisions are properly communicated and viewed as binding by banks as well as by FINMA. The Banking Act is enacted by Parliament, while the Liquidity Ordinance and the Capital Adequacy Ordinance are issued by the Federal Council. These legal instruments are binding for banks. FINMA's circulars aim to ensure that the authority applies financial market legislation consistently and appropriately. These circulars clarify partially defined legal norms and define how FINMA will exercise its available discretion. Circulars are binding for FINMA.
(4) They would generally be expected to be legally upheld if challenged and are supported by precedent.	It is not possible to appeal against a legal instrument such as Federal Acts or Federal Council Ordinances per se. A supervised institution may appeal against an individual decision taken by FINMA in a concrete case if the institution considers it not applicable for its particular circumstances.
(5) Consequences of failure to comply are properly understood and carry the same practical effect as for the primary law or regulation.	Compliance with all FINMA Circulars (as well as Acts and Ordinances) applicable to banks are subject to the annual audit process; and issues of non-compliance will be reported in the annual audit report, based on an assessment of risk and materiality. Circulars do not have the characteristics of Acts or Ordinances though. Accordingly, a supervised institution may appeal against an individual decision taken by FINMA in a concrete case if the institution considers it not applicable for its particular circumstances. FINMA issues its individual decisions based on the applicable financial market law and in accordance with the relevant circulars.
(6) The regulatory provisions are expressed in clear language that complies with the Basel provisions in both substance and spirit.	The LCR regulation is expressed in clear language and in compliance with the Basel provisions in both substance and spirit.
(7) The substance of the instrument is expected to remain in force for the foreseeable future	In the context of the reform package of the Basel Committee on capital and liquidity requirements, the LCR regulatory provisions have been introduced in Switzerland as per 1 January 2015 as a new minimum requirement, and will remain in force for the foreseeable future.

Annex 7: Key liquidity indicators of Swiss banking system

Data as of 31 December 2016		Table A.5
Size of banking sector (CHF millions)		
Total assets of all banks operating in Switzerland	3,354,506	
Total assets of all major locally incorporated banks	2,968,687	
Total assets of locally incorporated banks to which liquidity standards under the Basel framework are applied	2,968,687	
Number of banks		
Number of banks operating in Switzerland (excluding local representative offices)	299	
Number of G-SIBs	2	
Number of domestic systemically important banks (D-SIBs)	3	
Number of internationally active banks	98	
Number of banks required to implement Basel III liquidity standards	289	
Number of banks required to implement domestic liquidity standards	5	
Breakdown of LCR for 13 RCAP sample banks	Unweighted	Weighted
Total HQLA	639,840	629,379
Level 1 HQLA	573,954	573,954
Level 2A HQLA	64,235	54,600
Level 2B HQLA	1,651	826
ALA HQLA	8,521	8,359
Total cash outflows	3,236,731	759,681
Retail and small business stable deposits	70,117	2,843
Retail and small business less stable deposits	628,399	76,810
Wholesale unsecured operational deposits	86,845	21,480
Wholesale unsecured non-operational funding	438,036	265,630
Secured funding	417,870	143,479
Debt issued instruments (including) credit and liquidity facilities)	406,880	169,751
Other contractual outflows	4,869	1,610
Contingent funding obligations	902,274	78,078
Total cash inflows	839,302	370,045
Secured lending	520,669	162,052
Fully performing unsecured loans	208,721	98,208
Other cash inflows	109,912	109,785
LCR		161.3%

Annex 8: Materiality assessment

As a general principle, and mirroring the established RCAP assessment methodology for risk-based capital standards, the RCAP-LCR materiality assessment is based on both quantitative and qualitative information with an overlay of expert judgment. Where possible, teams also take into account the dynamic nature of liquidity risks and seek to assess the materiality of deviation at different points in time.

In line with underlying RCAP principles, the quantitative materiality assessment for the LCR is based on a determination of the cumulative impact of all identified deviations on the reported LCRs of banks in the RCAP sample. Where deviations are quantifiable, the Assessment Team will generally base the assessment on the largest impact reported across three data points.

Number of gaps/differences by component

Table A.6

Component	Not material	Potentially material	Material
Definition of HQLA (numerator)	2	0	0
Outflows (denominator)	2	0	1
Inflows (denominator)	1	0	0
LCR disclosure requirements	1	0	0

Note: materiality is defined based on quantitative benchmark thresholds (for the quantifiable gaps) and expert judgment (for the non-quantifiable gaps). See Section 2 with the detailed assessment findings for further information.

RCAP sample of banks

Table A.7 shows the Swiss banks that were selected for materiality testing of the quantifiable deviations. Together, these banks hold about 76.2% of the total assets (in terms of the leverage ratio exposure) in the Swiss banking system. The sample covers internationally active banks and all Swiss D-SIBs, and is a good representation of the various types of bank operating in Switzerland.

RCAP sample banks

Table A.7

Banking group	Share of banks' assets of the assets of internationally active Swiss banks
UBS AG	32.2%
Credit Suisse Group AG	34.6%
Raiffeisen-Gruppe	0.0%
Zürcher Kantonalbank	5.7%
HSBC Private Banking Holdings (Suisse) SA	1.1%
Julius Bär Gruppe	3.1%
Banque Cantonale Vaudoise	1.7%
PostFinance AG	4.4%
BNP Paribas (Suisse) SA	1.0%
EFG Bank European Financial Group SA	1.0%
Pictet et Cie	1.6%
Credit Agricole (Suisse) SA	0.8%
Edmond de Rothschild Holding SA	0.7%
Total	87.9%

Share of banks' assets measured using the leverage ratio exposure measure.

Annex 9: Switzerland implementation of the liquidity monitoring tools

In addition to the minimum standard for the LCR, the Basel LCR framework also outlines the metrics to be used to monitor liquidity risks ("the monitoring tools"). The monitoring tools capture specific information related to a bank's cash flows, balance sheet structure, available unencumbered collateral and certain market indicators. The monitoring tools supplement the LCR standard and are a cornerstone for supervisors in assessing the liquidity risk of a bank. This annex provides a qualitative overview of the implementation of the monitoring tools in Switzerland.

A list of the monitoring tools prescribed in the Basel Committee's January 2013 document and the corresponding monitoring tools prescribed by the Swiss authorities is given in Table A.8.

List of monitoring tools prescribed by the Swiss authorities

Table A.8

No	Basel monitoring tool	SNB's corresponding reporting template	Effective since	Frequency of submission	Deadline for submission to SNB
1	Contractual maturity mismatch	Contractual maturity mismatch	September 2015	Quarterly	Within 60 days
2	Concentration of funding	Concentration of funding	September 2015	Quarterly	Within 60 days
3	Available unencumbered assets	Available unencumbered assets	September 2015	Quarterly	Within 60 days
4	LCR by significant currency	(Same format as LCR)	January 2015	Monthly	Within 20 business days
5	Market-related monitoring tools	*None*	*Individually*	*Individually*	*Individually*

Source: FINMA, March 2017.

Some monitoring tools have been in effect in Switzerland since 2015, while some are being fully implemented in 2017 based on LiqO Article 3, ie by moving from a test reporting phase with around 40 banks to a regular data collection applicable to all banks. The article specifies that FINMA is authorised to collect further data on a group and entity level.

Contractual maturity mismatch, funding concentration and unencumbered assets

In 3Q 2015, FINMA started to collect data on banks contractual maturity mismatch (item 1), on funding concentration (item 2) and on the availability of unencumbered assets (item 3) during a predefined monitoring tool test reporting phase. By the end of 2017, it is planned to convert the test reporting into a regular data collection applicable by all banks in Switzerland.[6]

Data collected from banks support FINMA's evaluation and assessment of banks' liquidity risk and in initiating a dialogue with banks when necessary. FINMA uses the collected data only for monitoring purposes, and has in principle no intention of using them in regulation to set any minimum quantitative targets or requirements.

[6] System-wide data collection in Switzerland is executed by the SNB on behalf of FINMA. In the case of the liquidity monitoring tools, the test reporting covered around 40 institutions, including all RCAP sample banks.

FINMA has posted a data collection form on its website with information for supervised institutions on how to prepare the report. Background information is also provided on the concept behind the observation ratios and how the data collection form is structured.

LCR by significant currency

As part of the LCR requirements applicable by banks as of 1 January 2015, banks must submit the LCR by significant foreign currency. A currency is considered as significant if significant liquidity risks exist in that currency. Significant liquidity risks in a currency exist if the liabilities in all maturity bands for the relevant currency make up more than 5% of the total balance sheet liabilities.

Furthermore, banks must monitor the LCR in all significant currencies in order to react to any currency mismatches between the HQLA and the net cash outflows in times of stress. The monitoring using the LCR by significant foreign currency includes a regular internal reporting to management, or a committee reporting directly to management, and the presentation of differences between results from internal (stress) models used to manage foreign currencies and results from the LCR by significant foreign currency.

Market-related monitoring tools

Market-related monitoring tools are implemented differently. The information necessary is already available in other reports (including bank internal risk reports) available to FINMA.

Annex 9b: Switzerland's implementation of the monitoring tools for intraday liquidity management

The management of intraday liquidity risk forms a key element of a bank's overall liquidity risk management framework according to principle 8 of the *Principles for sound liquidity risk management and supervision*, which provides guidance for banks focusing specifically on intraday liquidity risk. It states that a bank should actively manage its intraday liquidity positions and risks to meet payment and settlement obligations on a timely basis under both normal and stressed conditions and thus contribute to the smooth functioning of payment and settlement systems.

Implementation calendar

Switzerland implemented the intraday liquidity monitoring tools and the corresponding data exercise based on Article 3 paragraph 2 of the LiqO (in force since 1 January 2015).

The implementation of the Swiss intraday monitoring tools complements the qualitative guidance in the Sound Principles as mentioned above. The form provided to capture the relevant data and the instructions largely follows the structure outlined in the Basel Committee's *Monitoring tools for intraday liquidity management* ("the Basel monitoring tools"), issued in April 2013 with a view to enhancing the monitoring of intraday liquidity risk and the bank's ability to meet payment and settlement obligations on a timely basis under both normal and stressed conditions.

The monitoring instructions and reporting forms were in place until the end of 2014. The reporting of the intraday monitoring tool started on 1 January 2015 except with respect to numbers under stress. The reporting of stressed figures started at the end of 2015 with the first submission at the end of January 2016 for the stress scenarios defined in the Basel intraday monitoring tools.

Scope of application and legal entity scope

The scope of application for the data survey on the intraday liquidity monitoring tools is limited to banks of Supervision Categories 1 and 2, which means global and domestic systemically important banks (see FINMA, *Annual Report 2015*, page 96, for details).

In general, the legal entity scope for reporting is defined at a significant individual legal entity level, ie considering any potential impediments to moving intraday liquidity between entities within a group including the ability of supervisory jurisdictions to ring-fence liquid assets, timing differences and any logistical constraints on the movement of collateral. However, where there are no impediments or constraints to transferring intraday liquidity between two (or more) legal entities intraday, and banks can demonstrate this to FINMA's satisfaction, the intraday liquidity requirements of the entities may be aggregated for reporting purposes.

Systems and currency scope

In general, it is expected that banks manage their payment and settlement activity on a system-by-system basis. As such, individual banks should report on each large-value payment system in which they participate on a system-by-system basis.

Banks have to report on an individual significant currency basis. A currency is considered as significant if the aggregated volume in outbound payments in that currency amounts to 5% or more of the bank's total volume in outbound payments.

Reporting requirements

The intraday liquidity monitoring form has to be reported monthly. The reference date for reporting is the last calendar day of the month. The deadline for submitting the report is the last calendar day of the following month at the latest.

Information monitored

Within the monthly submission and in line with the Basel intraday monitoring tools, Switzerland monitors the following factors influencing a bank's usage of intraday liquidity in payment and settlement systems and its vulnerability to intraday liquidity shocks:

- daily maximum intraday liquidity usage;
- available intraday liquidity at the start of the business day; and
- total payments and time-specific obligations.

Further banks providing correspondent banking services have to report additional figures:

- value of payments made on behalf of correspondent banking customers; and
- intraday credit lines extended to customers.

In addition, banks that are direct participants also monitor the intraday throughput by tracking the percentage of payments completed at different times of the day.

As mentioned above, banks have to incorporate intraday liquidity stress-testing figures into the submissions beginning from the end of 2015. The stress scenarios are based on the definitions in the Basel intraday monitoring tools:

- own financial stress (a bank suffers or is perceived to be suffering from a stress event);
- counterparty stress (a major counterparty suffers an intraday stress event which prevents it from making payments);
- customer bank's stress (a customer bank of a correspondent bank suffers a stress event); and
- market-wide credit or liquidity stress (adverse implications for the value of liquid assets).

Annex 10: Switzerland's implementation of the *Principles of sound liquidity risk management and supervision*

This annex outlines the implementation of the Basel Committee's *Principles for sound liquidity risk management and supervision* (Sound Principles) in Swiss regulations.

The Swiss authorities have implemented all the principles of sound liquidity risk management and supervision through the LiqO and the FINMA Circular for liquidity risk. For banks in Switzerland the qualitative requirements are as binding as the quantitative requirements. The qualitative requirements provide guidance on sound liquidity risk management practices, and set the expectation that banks will embed the Sound Principles into their liquidity risk management frameworks. The extent and degree to which a bank adopts these requirements is proportionate to the size, nature and complexity of its activities.

Implementation of the Sound Principles in Swiss regulations — Table A.9

Principle		Description	Swiss reference
Fundamental principle for the management and supervision of liquidity risk	1	Liquidity risk management framework and processes in place to actively monitor and manage liquidity risk	LiqO Art. 2.1, 5 FINMA Circ.15/2 Mn. 9-10
Governance of liquidity risk management	2	Liquidity risk tolerance	LiqO Art. 6.1 FINMA Circ.15/2 Mn. 11-12
	3	Liquidity risk management strategy	LiqO Art. 6.2 FINMA Circ.15/2 Mn. 13-26
	4	Allocating liquidity risks to business activities	LiqO Art. 6.3 FINMA Circ.15/2 Mn. 27-29
Measurement and management of liquidity risk	5	Processes used to Identify, measure, monitor and control liquidity risks	LiqO Art. 7.1 FINMA Circ.15/2 Mn. 30-38
	6	Managing liquidity risks within and across significant legal entities, business lines and currencies	LiqO Art. 7.2 FINMA Circ.15/2 Mn. 39-46
	7	Funding diversification	LiqO Art. 8 FINMA Circ.15/2 Mn. 59-62
	8	Intraday liquidity requirements	LiqO Art. 7.3 FINMA Circ.15/2 Mn. 47-49
	9	Collateral management	LiqO Art. 7.4 FINMA Circ.15/2 Mn. 50
	10	Stress tests	LiqO Art. 9 FINMA Circ.15/2 Mn. 72-90
	11	Contingency funding plan	LiqO Art. 10 FINMA Circ.15/2 Mn. 91-103
	12	Liquidity reserves	LiqO Art. 2.2 FINMA Circ.15/2 Mn. 63-71
Public disclosure	13	Public disclosure	LiqO Art. 17e FINMA Circ.16/1 Annex 2 table 48

All elements defining the role of supervisors within the Sound Principles are taken into account by FINMA as part of its supervisory processes. Notably, communication with other relevant supervisors and public authorities is crucial in successfully resolving a liquidity crisis.

Annex 11: Areas for further guidance from the Basel Committee

The Assessment Team identified one issue for further guidance from the Basel Committee, on the treatment of PICs as non-financial corporates.

The Basel LCR standard stipulates that unsecured wholesale funding provided by "other legal entity customers" (including financial institutions) receives a 100% run-off rate, while unsecured wholesale funding provided by non-financial corporates receives a 40% run-off rate.

In Swiss regulation, PICs (including family trusts and foundations) are classified as non-financial corporates provided that the beneficial owner is a natural person or family members. The Assessment Team considered whether, due to the governance of these entities, a classification as "other legal entity customers" would be more appropriate when the PIC has the mandate to act on behalf of the beneficial owner (ie conduct active management) and is not simply a legal construct around a natural person or family members. From discussions with FINMA and representatives of Swiss banks, it appeared that deposits from such entities are, in practice, often similar to retail deposits and that the relevant criteria for determining the appropriate run-off rate are volumes and geographic location rather than the legal form. Nevertheless, the Assessment Team believes that the legal form could allow for different governance structures, including structures that involve active asset management mandates and would normally attract a run-off rate higher than 40%.

While it concluded that the Swiss approach of applying a 40% run-off rate to deposits from PICs (as deposits from non-financial corporates) does not constitute a deviation from the Basel LCR standard and is balanced overall (PICs that are more akin to retail depositors could normally attract a run-off rate lower than 40%), the Assessment Team recommends that the Basel Committee further inquire whether a more prescriptive standard with respect to the use of mandates for active management should be envisaged, both with respect to natural persons and PICs.

Annex 12: List of issues for follow-up RCAP assessments

The Assessment Team identified one issue for follow-up and for future RCAP assessments of Switzerland: on the treatment of the outflow rate for insured deposits.

The Basel framework requires that stable deposits (receiving a run-off factor of 5%) are fully insured by an effective deposit insurance scheme. The Assessment Team believes that the particular feature of the Swiss deposit insurance scheme (a system-wide cap on the insurance payout) may imply that, in a stress situation, only a much lower amount than recorded as stable deposits could benefit from the deposit insurance scheme. This finding is assessed as material and, as such, could be reviewed in a future RCAP.

Annex 13: Areas where Switzerland LCR rules are stricter than the Basel standards

In several places, FINMA has adopted a stricter approach than the minimum standards prescribed by Basel or has simplified or generalised an approach in a way that does not necessarily result in stricter requirements under all circumstances but never results in less rigorous requirements than the Basel standards. The following list provides an overview of these areas. It should be noted that these areas have not been taken into account as mitigants for the overall assessment of compliance.

Scope of application

The Swiss regulation is super-equivalent to that set out in Basel paragraph 10, as the LCR standard in Switzerland has required a minimum LCR of 100% for systemically important banks (G-SIBs and D-SIBs) from 1 January 2015.

Definition of HQLA

The Swiss LCR regulation is super-equivalent to Basel paragraph 50, as cantonal banks, which benefit from the guarantee of their respective canton, cannot consider the bonds of the home canton as HQLA.

Cash outflows

- Basel paragraph 74: the Swiss LCR regulation is super-equivalent, as a higher run-off rate is applied for retail deposits with a portion above CHF 1.5 million.
- Basel paragraph 91: the Swiss LCR regulation is super-equivalent, as the thresholds to define SMEs are set by a total funding of less than CHF 1.5 million and a total loan volume of less than CHF 1.5 million, while paragraph 91 considers only total funding.
- Basel paragraph 97: the Swiss LCR regulation is super-equivalent, as under the LCR standard in Switzerland banks must have their model/methodology approved by FINMA to calculate any excess cash balances. The same holds for the inflows (paragraph 156).

Annex 14: Implementation of LCR elements subject to prudential judgment or discretion in the Switzerland

The following tables provide information on elements of LCR implementation that are subject to prudential judgment and national discretion. The information provided helps the Basel Committee to identify implementation issues where clarifications and (additional) FAQs could improve the quality and consistency of implementation. It should also inform the preliminary design of any peer comparison of consistency across the membership that the Committee may decide to conduct, in similar fashion to the studies on risk-weighted asset variation for the capital standards.

Elements requiring judgment (non-exhaustive list) Table A.10

Basel paragraph	Description	Implementation by FINMA
24(f)	Treatment of the concept of "large, deep and active markets"	As per Article 15.1.a of the LiqO and FINMA Liquidity Circular 2015/2, "Liquidity Risk – Banks, marginal notes 139–150", "large, deep and active markets" are in place if a bank can easily convert HQLA into cash at all times within the next 30 calendar days at little or no loss of value. HQLA are traded in large, deep and active markets characterised by a low level of concentration and with a proven record as a reliable source of liquidity in repo or spot markets, even during stressed market conditions. By the alignment of the GC basket with the HQLA criteria, it is ensured that a large portion of the HQLA held by Swiss banks are repo-able.
50	Treatment of the concept of "reliable source of liquidity"	As per FINMA Liquidity Circular 2015/2 "Liquidity Risk – Banks, marginal notes 141–144", the requirements for a reliable source of liquidity are that, even during stressed market conditions: - Level 2A assets must not have had a drop of more than 10% in repo or spot markets within 30 calendar days; and - Level 2B assets must not have had a drop of more than 40% in repo or spot markets within 30 calendar days.
52	Treatment of the concept of "relevant period of significant liquidity stress"	As per FINMA Liquidity Circular 2015/2 "Liquidity Risk – Banks, marginal notes 141–144", a period of significant liquidity stress is defined as a 30-day period of stressed market conditions. FINMA did not further specify the relevant period, as it can be different for different products and markets.
74–84	Retail deposits are divided into "stable" and "less stable"	As per FINMA Liquidity Circular 2015/2, "Liquidity Risk – Banks, marginal notes 178–184", retail deposits are divided into "stable" deposits and "less stable" deposits based on the criteria prescribed by the Basel III LCR Standard. Requirements for "stable" deposits: - Fully covered by an effective deposit insurance scheme. - Established relationship with transactional account that makes a withdrawal highly unlikely. An established relationship exists if: • the contractual relationship has lasted at least 24 months; or • the client is in a long-term lending transaction with the bank; or • the client makes use of a minimum of three banking products. A deposit not fulfilling the "stable" deposit standards is considered as "less stable".
83 and 86	Treatment of the possibility of early withdrawal of funding with maturity above 30 days	As per FINMA Liquidity Circular 2015/2, "Liquidity Risk – Banks, marginal notes 194–199", (retail and unsecured wholesale) deposits with a contractual remaining maturity of more than 30 days that can be withdrawn within 30 days have to be treated as demand deposits. However, if deposits include certain features that make an early withdrawal highly unlikely, such deposits can be treated as if they had a remaining maturity beyond 30 days. The features must comprise:

		- a penalty of 2% of nominal amount; - interest on the deposit is due only until the withdrawal date; and - for term deposits, interest for alternative financing through the interbank market until the original maturity date has to be charged to the customer. The updated FINMA Liquidity Circular 2015/2, marginal note 199.1–199.6, also defines hardship cases and other instances for which the above mandatory features can be waived.
90–91	Definition of exposure to small business customers	Small business customers are defined as per FINMA Liquidity Circular 2015/2, "Liquidity Risk – Banks, marginal note 211". Small business customers are non-financial legal entities with a total credit volume (on a consolidated basis where applicable) and total funding (on a consolidated level where applicable) of less than CHF 1.5 million. The conversion rate applied ensures consistency with the capital requirement. The credit volume and funding must be considered separately; netting is not allowed. Consolidated level means that all companies under common control ("group of small companies") have to be considered as a single creditor or debtor. The bank can treat such deposits in the same way as deposits from retail clients if they have characteristics that are similar to those of retail client deposits.
94–103	Deposits subject to "operational" relationships"	As per FINMA Liquidity Circular 2015/2, "Liquidity Risk – Banks, marginal notes 213–231", banks are entitled to distinguish wholesale deposits between non-operational deposits and operational deposits with a preferential run-off rate of 25%. The Swiss regulation allows a differentiated distinction of operational deposits between large and medium-sized banks and small banks. Large and medium-sized banks need to distinguish operational and non-operational deposits by an internal model that needs to be approved by FINMA. The bank needs to adhere to the following conditions: **Qualitative conditions** Operational deposits are deposits from corporate or wholesale clients that are generated from clearing relationships, custody or cash management services where: - services are provided in the course of an established relationship and the customer is reliant on the bank to perform these services; - the services do not consist of prime brokerage or correspondent banking services; - the customer is not able to withdraw deposits which are legally due within the 30-day time horizon without impacting its normal banking activities; - the services are provided under a legally binding agreement; - the deposits are held in specifically designated accounts (such as current cash management or security settlement accounts) and are priced without giving an economic incentive to the customer to leave any excess funds on these accounts. **Quantitative conditions** - Banks must establish an internal model to quantify and substantiate the minimum balances of operational deposits; - A bank can for example choose to apply a model based on account turnover, any difference in payment practice of the counterparties must be taken into account when setting the parameters; - Prior to application, the internal model must be approved by FINMA. Small banks can benefit from a simplified approach when determining operational deposits. These banks are allowed to apply a haircut on wholesale deposits, differentiated by counterparty type, to quantify operational deposits. The differentiation is as follows: - Non-financial corporates, central governments, central banks, subordinated local authorities and other public sector entities and multilateral development banks: 80% of their deposits are not operational;

		- Financial institutions which are not banks and for all other legal entities and corporate clients: 90% of their deposits are not operational; - Banks: 100% of their deposits are not operational.
131(f)	Definition of other financial institutions and other legal entities	As per FINMA Liquidity Circular 2015/2 "Liquidity Risk – Banks, marginal note 242", "other legal entities" comprises accountancy firms, beneficiaries, conduits, special purpose entities and other legal entities. Other financial institutions are defined by Annex 1 of the LiqO, which provides an explicit list of entities qualifying for financial institutions.

Elements left to national discretion (non-exhaustive list)

Table A.11

Basel paragraph	Description	Implementation by FINMA
5	Parameters with elements of national discretion should be transparent to provide clarity both within the jurisdiction and internationally.	All parameters used in the local liquidity regulations are clearly described in the Swiss Liquidity Ordinance and/or the FINMA Liquidity Circular, which are published on the Swiss Governmental webpage and the FINMA webpage, and are easily accessible.
8	Use of phase-in options	As per Article 31a of the LiqO, banks that are not systemically relevant are required to comply with the LCR minimum requirements as follows: - 2015, an LCR of at least 60%; - 2016, of at least 70%; - 2017, of at least 80%; - 2018, of at least 90%. As per Article 14 pf the LiqO, systemically relevant banks have been required to comply with the minimum LCR of 100% since 2015.
11	Supervisory guidance on usability of HQLA; implementation schedule for countries receiving financial support for macroeconomic and structural reform purposes	As per the LiqO, Article 17b, and FINMA Liquidity Circular 2015/2 "Liquidity Risk – Banks, marginal notes 326–334", should extraordinary events cause a drastic liquidity shortfall, the minimum requirement may temporarily be breached. In addition, the regulation prescribes that banks shall inform FINMA if the LCR might fall or has fallen below the required threshold. Banks need to assess why they are below the minimum requirement, what remedial actions they have initiated, and by when they will again comply with the minimum requirement.
50(b)	Eligibility of central bank reserves	Central bank reserves held at the SNB are eligible as Level 1 assets. However, required minimum cash reserves are not eligible.
50(c)	Marketable securities that are assigned a 0% risk weight under the Basel II Standardised Approach for credit risk	Article 15a of the LiqO has adopted the same language as that used in the Basel III LCR standard.
53–54	Eligible Level 2B assets	As per LiqO article 15b, 5, 6 and FINMA Liquidity Circular 2015/2 "Liquidity Risk – Banks, marginal notes 133–138", equities listed in the Swiss Market Index count as Level 2B assets. Stocks listed in an equity index outside Switzerland and accepted by the host regulator as HQLA Level 2B assets are eligible as HQLA Level 2B in a non-Swiss domiciled subsidiary or branch.
54a	Provision relating to the use of restricted-use committed liquidity facilities	Not applicable
55(f)	Treatment for jurisdictions with insufficient HQLA	See FINMA paper on "Report on the principles for implementing ALA options in Switzerland",

	(subject to separate peer review process)	www.finma.ch/en/~/media/finma/dokumente/dokumentencenter/myfinma/2ueberwachung/20161123-grundlage-der-anwendung-von-ala.pdf?la=en.
68	Treatment of Sharia-compliant banks	Not applicable
78	Treatment of deposit insurance	Switzerland does not apply the 3% outflow rate for the Swiss deposit insurance. However, foreign-insured deposits can be considered according to FINMA Liquidity Circular "Liquidity Risk – Banks, marginal note 188".
79(f)	Categories and run-off rates for less stable deposits	As per LiqO, Annex 2, 1.1.2, less stable deposits have a run-off rate of 10%. However, deposits provided by retail clients with deposits greater than CHF 1.5 million are considered as high-value deposits with a run-off rate of 20%.
123	Market valuation changes on derivative transactions	As per LiqO, Annex 2, 5.6, banks can apply the HLBA but as per FINMA Liquidity Circular 2015/2 "Liquidity Risk – Banks", institutions (category 1 and 2) are also entitled to quantify the net cash outflow by an in-house model which needs to be approved by FINMA prior to implementation.
134–140	Run-off rates for other contingent funding liabilities	As per LiqO, Annex 2, 8–12, the following run-off factors for the other contingent funding obligations apply: - Potential requests for debt repurchases of the bank's own debt: 0%; - Potential requests for repurchase of debt of related conduits, securities investment vehicles or other such financing facilities which, due to their structure, transfer a liquidity risk to the bank: 20% of the debt maturing after 30 calendar days; - Structured products with special liquidity requirements or with the commitment of the bank to ensure ready marketability. Products which do not generate any funding and which can be unwound in a liquidity neutral way are excluded: 5% of the issue volume; - Managed money market funds that are marketed with the objective of maintaining a stable value, such as constant-net asset value money market funds: 5% of the issue volume; - Unconditionally revocable "uncommitted" credit and liquidity facilities: 0%; in recent liquidity cases of Swiss banks, data did not support a higher outflow rate; - Guarantees, letters of credit: 100% of the average net cash outflow across the entire portfolio during 30 calendar days over the last 24 months or 5% of the outstanding volume; - Customer short positions covered by other customers' collateral: 50%.
160	Weight assigned to other contractual inflows	As per Swiss Liquidity Ordinance, Annex 3, 6.3, contractually agreed, irrevocable cash inflows within 30 calendar days not included anywhere else qualify for an inflow weight of 100%.
164–165	Scope of application of LCR and scope of consolidation of entities within a banking group	As per Article 1.1 of the LiqO, in principle, all banks in Switzerland, both on a consolidated and non-consolidated basis, need to adhere to LCR rules and principles. Exceptions can be made based on Article 14.4.
168–170	Differences in home/host liquidity requirements due to national discretions	Currently not reflected in Swiss requirements.
Annex 2	Principles for assessing eligibility for ALA	See FINMA paper on "Report on the principles for implementing ALA options in Switzerland", www.finma.ch/en/~/media/finma/dokumente/dokumentencenter/myfinma/2ueberwachung/20161123-grundlage-der-anwendung-von-ala.pdf?la=en.

[1] See www.bis.org/publ/bcbs274.htm.