Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Swiss Finance Department
State Secretariat for International Financial Matters
The State Secretary

CH-3003 Bern
SIF/scf

The Honorable
Neal Wolin
Deputy Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220
USA

Bern, April 23, 2013

Proposed Regulation by the Board of Governors of the Federal Reserve System for Enhanced Supervision of Foreign Banking Organizations

Dear Mr. Deputy Secretary,

I am writing to you to take the opportunity offered by the U.S. government to comment on the proposed rules issued by the Board of Governors of the Federal Reserve System (Fed) concerning foreign banking organizations (FBO). I support the rigor with which the U.S. addresses the issue regarding the stability of the international financial system. In that context, I would like to emphasize that the capital and liquidity requirements for systemically important Swiss banks, which entered into force in January 2013, go well beyond the international standard in the Basel III Accord. Nevertheless, I consider it important to express our concerns regarding the international implications of the Fed's proposal for enhanced supervision of FBOs. Let me mention four points:

My first concern regards the discriminatory impact these rules might have. Unlike under the current rules, capital requirements of a large subsidiary of an FBO under the proposed rules would no longer be based on its consolidated, worldwide assets, but on its U.S. portion alone. This is achieved by requiring the FBO to establish an intermediate holding company, which is subject to U.S. capital and liquidity requirements, even if it does not own a U.S. bank as a subsidiary. The capital requirements of the same large subsidiary owned by a U.S. holding company, however, would still be subject to its consolidated assets. In my opinion, this makes the playing field uneven and gives an arbitrary competitive advantage to the U.S. bank holding company. It should be clarified whether the proposed regulation is in accordance with the standards for foreign financial companies stated in section 165 of the Dodd-Frank Act, in particular the principle of equality of competitive opportunity and the consideration of the extent to which on a consolidated basis the FBO is subject to comparable home country standards.

State Secretariat for International Financial Matters
Michael Ambühl
Bundesgasse 3, 3003 Bern, Switzerland
Phone +41 31 32 26163, Fax +41 31 32 32402
michael.ambuehl@sif.admin.ch
www.sif.admin.ch

Second, the proposed rules raise concerns about the potential effect it could have on the ability to resolve global banking groups based on the single-point-of-entry approach. With its territoriality approach, the proposed rules seem to indicate a lack of confidence in international standards and in the ability of foreign home country regulators to oversee, and if necessary, resolve international firms in cooperation with the host country regulators concerned.

My third concern is the potential economic harm to the global economy, especially if other jurisdictions follow suit. In such a case, banks might be hampered in employing their capital where it is most productive. To prevent such an adverse outcome, capital requirements should continue to be based on consolidated balance sheets.

As my fourth and final point I would like to mention that, unlike the way it was presented by Fed officials at the end of last year, the FBO proposal is not comparable to the Swiss emergency plan to guarantee systemically relevant functions in the case of a failure of a systemically important financial institution. Furthermore, Switzerland strongly supports efforts to establish international standards on the resolution of globally systemically important financial institutions. By allowing a discount on capital requirements, Swiss law provides incentives to globally systemically important financial institutions in a nondiscriminatory manner to improve on their international resolvability in case of a crisis. In a world of large, diversified, global financial institutions, no country should act in isolation, particularly among jurisdictions with comparable regulatory structures and provisions.

I am confident that the competent authorities will find a consistent framework that strengthens the stability of the financial sector and prevents unintended consequences for the financial system or growth. I would like to thank you for your consideration of the abovementioned comments and would be pleased to discuss them further with you.

Sincerely,

i. V.

Michael Ambühl
State Secretary

Cc: Ben Bernanke, Chairman of the Board of Governors of the Federal Reserve System
Daniel Tarullo, Member of the Board of Governors of the Federal Reserve System