"Too big to fail" (TBTF) consultation: Main thrust is right: Swiss Bankers Association backs the Committee of Experts report – but some individual measures go beyond this – implementation needs to take account of international developments – abolition of stamp duty welcomed – change in system should be gradually phased in

Basel, 23 March 2011 – In its response for the "Too big to fail" consultation (amendment of the Swiss Banking Act), the Swiss Bankers Association (SBA) supports the main thrust and the measures proposed. The SBA recognises the need for action, backs the report by the Committee of Experts published on 4 October 2010 and supports the efforts to improve the stability of the financial system. The stamp duty exemption should apply more widely. The introduction of an appropriate paying agent system must be phased in over time.

The proposed package of measures takes Swiss rules beyond the international norm in terms of both content and timetable. Against this backdrop, and in the interests of Switzerland's competitiveness as a financial centre, it needs to be ensured that Swiss requirements can be adjusted in appropriate fashion at a later date in response to international developments. At present, any further tightening of the rules is to be avoided.

In addition, some elements of the submission for consultation go beyond the final report by the "Too big to fail" Committee of Experts, particularly in terms of organisational measures. Of particular concern is that the principle of subsidiarity in connection with the continuation of systemic functions has been weakened in part in favour of direct intervention into organisational autonomy. With a view to practicability, the relevant proposals need to be looked at again.

The SBA recognises that the capital adequacy proposals put forward by the Committee of Experts are necessary and appropriate. However, two points are decisive. Firstly, additional stringency in the rules on lending could have a negative effect on the real economy. The high degree of uncertainty in the predictions about macroeconomic effects therefore points to the need for restrained and proportionate implementation. Secondly, the proposed tightening in capital adequacy rules makes them very strict even in comparison with Basel III requirements. Therefore, the ability to reassess the rules in this area at a later date against the background of international developments is of particular importance.

As far as taxation is concerned, the abolition of the stamp duty on debt capital is welcomed. However, the SBA believes that the exemption should also apply to banks that are not of systemic relevance and to instruments other than just mandatory convertibles. The move to a paying agent system for withholding tax is appropriate. However, in order to take due account of national and international problem areas, the proposed amendments to the law should be gradually phased in.

Information for editors
The full text of the two statements for the TBTF consultation can be found at www.swissbanking.org. There you will also find the statement on the planned new FINMA Circular "Capital buffer and capital planning", which will apply to the whole banking sector except for the large banks.

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