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Credit Suisse

FINMA’s admission of helplessness

Par Fabien Liégeois le 28 December 2023

On December 19, 2023, FINMA published its report on Credit Suisse. This report discusses the background to the collapse (I.), and draws some “lessons learned” (II.).

I. In 1856, Alfred Escher helped set up a company that excelled in commercial lending. The Schweizerische Kreditanstalt borrowed from Paul or Virginie at a lower rate than that at which it lent to “Rail” or “Wagon SA”, and grew rich on the interest differential. One thing led to another, and the bank moved into asset and wealth management. Through mergers and acquisitions, it became more international : Credit Suisse no longer wanted to be local, but dreamed of being global. This far-reaching change brought with it its share of satisfactions, disappointments and happy rewards. Then business took a turn for the worse. Losses, strategic errors, costly reorganizations, haphazard governance and repeated scandals shake customer confidence. The markets were reeling from the collapse of Silicon Valley Bank and Signature Bank when a clumsy statement by the main shareholder precipitated the sinking of the drunken ship. On Sunday March 19, 2023, UBS bought out its rival, at the behest of the Federal Council. The price, which defies all competition, respects the rules (cf. LCart 10 III). The legal system will nevertheless have to reckon with “innovations galore”. Ironically, today’s winner was saved in extremis yesterday. How can we fail to see this as a threat for tomorrow ? Let’s lift our noses from the handlebars for a moment.

In 1933, when Paul and Virginie anxiously went to the counter to claim their deposit, every banking establishment was embarrassed : the funds were immobilized on the rails or in the carriages. At the same time, bank run had its physical limits : you had to queue at the corner, which left the bank with the hope of closing at 5pm. X (formerly Twitter) didn’t relay the press to disseminate continuous information.
By 2023, things had changed : Credit Suisse customers could transfer their deposits (the bank’s liabilities) elsewhere in Switzerland or abroad at the click of a button. However, on the assets side, the funds are still blocked (in optical fiber or blockchain…). Digital bank run”, the modern version of this self-fulfilling phenomenon, is even more devastating than its predecessor. Digital technology makes it even more devastating. For me, this is the main lesson of the banking year 2023. Incidentally, the problems are not new.

II. Let’s list six of the lessons FINMA has learned.

While the authority reiterates that its role is not to take the place of the board of directors, in future it will analyze “even more systematically” the risks associated with the strategic reorientation of the institutions it supervises. In particular, it will focus on loss potential. Additional capital will be required to cover higher risks (cf. LB 4 III, OFR 45 and 131b). This measure may require a change in the law.

In risk management, FINMA will also make "even more systematic use" of the possibility of requiring additional capital. It points out in passing that such a measure will never make up for shortcomings in corporate governance.

Credit Suisse SA, the parent company, was the least capitalized of the group. The authority deplores the fact that two recent legislative amendments have hampered its ability to deal with this problem (see OFR 125 for details, pp. 58-65). It will therefore be asking for adjustments to be made when the "Too Big to Fail" rules are revised.

Faced with the problem of governance (or ill-defined responsibilities), FINMA is calling for (i) the introduction of a senior managers' regime (on the concept, see p. 86), (ii) the power to impose fines and (iii) the right to "communicate openly" on enforcement proceedings. The law would therefore have to be amended.

The supervisory authority will continue to exert pressure on "abusive variable remuneration". However, it does not recommend legislative intervention.

In the summer of 2022, Credit Suisse, which had been downgraded by the rating agencies, still met the liquidity requirements. In the autumn, rumours of the collapse of a "major investment bank" led to an "unprecedented" withdrawal of deposits. Wealthy customers in the Wealth Management division were the first to suffer, and retail customers were the second to suffer before the spring of 2023. FINMA intervened on several occasions. In particular, it demanded "plausible" estimates of how the situation would develop, but failed to obtain answers of "sufficient quality" (p. 71).

After the departure of controversial executive B. Dougan (2007-2015), T. Thiam (2015-2020), T. Gottstein (2020 to 2022) and U. Körner (2022-2023) failed to win back investor confidence. By failing to implement a coherent strategy, they bear a major collective responsibility for the fiasco. In Switzerland, state intervention in the financial sector has traditionally taken a back seat. FINMA denies having failed in its mission : in its report, it lists the measures it has taken against Credit Suisse. Since 2012, it has "closed" 14 enforcement proceedings and filed 16 criminal complaints. Between 2018 and 2022, it carried out 108 on-site inspections and identified 382 issues to be resolved. According to her, "[t]hese figures clearly illustrate the limits of FINMA's legal powers, as well as of supervisory activity even when it reaches its maximum intensity." That's a bit short, but what could we expect from this exercise in self-criticism ? When the authority says it has used all the means available to it under banking regulations, its statement sounds like a terrible admission of powerlessness. I think we can also read between the lines that, at times, it lacked firmness. In any case, the worst was avoided : the takeover of Credit Suisse by UBS was the least bad option available in mid-March. The operation stopped the bleeding and stabilized the financial system. However, the risk is now too great for our small country. When history repeats itself (a "full casco supervision of financial institutions is impossible", p. 43), we won't have the luxury of another local buyer. We therefore need to change course without delay, which requires reflection and political courage. To be continued.
