CREDIT SUISSE | GROUP

Basel II Implementation in Switzerland:

SFBC ORDINANCES and CIRCULARS

(Issued for comment September 30, 2005)

Official comments of Credit Suisse Group

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1. Introduction

Credit Suisse Group welcomes this opportunity to give direct feedback to the Swiss Federal Banking Commission (EBK) on the Basel II Swiss Implementation Consultation Package, published by the EBK on September 30, 2005.

We have taken a keen interest in a pragmatic and efficient Swiss implementation of the Basel II reforms throughout and have voiced our opinions directly to the EBK staff in bilateral IRB and AMA dialogues, as well as through our representatives in the national working group (Sigrist Group) and the Swiss Bankers' Association, and through contributions in public media.

In formulating our views throughout this process we have referred primarily, not to our own special business interests or objectives, but to our central belief that the implementation of Basel II in Switzerland should serve the stability and soundness of both, the Swiss and the international financial system, and be formulated rationally, based as far as possible on the Basel II rules and sound principles applied with common sense, and in a spirit of cooperation with the industry.

In this document we have tried to help the EBK by being as forthright, definite and constructive as possible. The remainder of this document is accordingly organized in two sections as follows.

Section 2 – key issues

In Section 2, we address our key areas of concern. These are important aspects of the draft Accord where either the concern is general in nature and can only be articulated at an overview level, or where we wish to explain our rationale in more depth but have also made detailed suggestions which are found in Section 3.

Our broad issues, for which we have not made specific comments in Section 3, are:

- Calibration principles;
- Cost issues
- Selected areas of the Swiss implementation of Basel II, including the slotting of retail residential mortgages and the non-recognition of an allocation mechanism under AMA.

The areas where we seek to expand on the rationale for our comments in Section 3 related to the following aspects of the Swiss implementation of Basel II:

- Captive insurance consolidation;
- Use of pro-rata vs. equity method-based consolidation;
- Multiplier for non-counterparty related risks;
- Private equity.

Section 3 – detailed constructive comments and suggestions

Section 3 has been structured along the various documents (ordinances and circulars) contained in the consultation package. It provides our detailed recommendations for changes to the consultation package. This section contains all our actual recommendations where we are able to articulate a specific set of changes (that is, everything except the "Erläuterungsbericht" and the broad issues of calibration principles and cost). Each recommendation on the right of the page is generally formulated in German so that it could readily been taken over in the rules making and is accompanied by a stated rationale on the left hand side.

2. Our key concerns

2.1. Calibration principles

We support an alignment of the Swiss implementation of Pillar 1 IRB and AMA risk weights to the international standards as foreseen by the EBK. The reservations of the industry regarding the use of QIS5 results also without considering Pillar 2 add-ons for the determination of an IRB scaling factor have been made through the Institute of International Finance (IIF) to the supervisory community and thus – while we fully share these – we will not reiterate these here.

We are concerned about the Swiss institute specific multipliers foreseen by the EBK under Pillar 1 for IRB banks. These would come on top of the international scaling factor – ensuring maintenance of the same level of capital in the system – derived from QIS5 results. Some of these multipliers – e.g. M for credit risk and participations and m_2 for non counterparty related risks – have been made explicit[1] while others – e.g. a potentially intended floor for AMA in terms of a given percentage of the Basic Indicator – have not even been made explicit.

The introduction of such Swiss specific multipliers under Pillar 1 will distort the level playing field for Swiss IRB banks vs. their international competitors even more as under the current superequivalent regime.[2] By basing the calibration of these Pillar 1 multipliers on current capital requirement levels – implied by the existing regulatory regime requiring capital much above international standards and factoring in systemic considerations for the two large banks – instead of BIS Basel I capital requirements and excluding potential implicit considerations, Swiss IRB banks will be sanctioned as compared to their international peers. We believe that such a basis for the calibration of Swiss specific multipliers goes much beyond the goal of Basel II – fully secured by the international scaling factor – and will result in higher Pillar 1 capital requirements than under the current Basel I regime for Swiss IRB banks. We also believe that the systemic relevance of the two large banks, in accordance to the Basel II spirit, should not be addressed via a Pillar 1 multiplier.

2.2. Cost

The EBK is of course aware that the monetary cost of complying with the Basel II rules will be significant. We estimate that our initial consolidated costs will be above $100mm just to implement the rules, plus substantial ongoing costs also partly generated by the EBK and mandated external audit firms.[3] Some of these costs will be passed on to consumers and corporations, and some of these costs may force Swiss banks to exit certain activities leaving these markets to unregulated entities or foreign competitors.

A major driver of the cost / benefit ratio of the Swiss implementation of the Basel II rules will depend on how they are applied, and in particular, how the parts of the rules which tend to be prescriptive are interpreted and reviewed/audited in practice. There are for example more than 50 specific requirements that must each be met to use the A-IRB credit system. If each is interpreted and tested to rigorous audit standards, there will be enormous costs in compliance though the relevance to better risk management will be small. Similar aspects apply for using the AMA operational risk system.

[1] See "Erläuterungsbericht" Table 1 and 2 p. 20f.

[2] The observations made in the "Erläuterungsbericht" p. 22 in this context are misleading. In particular the link of banks' past profitability to high voluntary capital holdings is by no means an indication that the current superequivalent capital regime has not impeded Swiss banks' competitiveness.

[3] These estimates are for Credit Suisse Group and its subsidiaries. Our internal assessment indicates that most of the additional resources required will not be in the risk control departments, but rather in the financial reporting and IT support systems areas, in order to generate the volume of data, documentation and reports that Basel II requires to a reliable, audit quality standard. While further systems development does provide some benefits, this result suggests that the gains in risk management quality from the new proposal are likely to be relatively modest.

The EBK indicates that it will use rigorous approval and review standards for banks applying A-IRB and/or AMA systems.[4] We are concerned that such standards, if superequivalent to those used by supervisors of our peers, will result in a high and costly regulatory burden for Swiss banks and may deteriorate their the level playing.

We appreciate that the EBK is ahead of other supervisors and has started the review process for the advanced approaches. However, as a result, there is little or no benchmarking information on the scope, deepness, routines and practices for the review work performed by other supervisors for the approval of such approaches. We are concerned that the lack of such benchmarking information disadvantages Swiss banks in negotiating appropriate and competitive terms with the external audit firms mandated by the EBK to perform such reviews. We expect that the EBK will ensure that such review work will be pragmatic and risk-based, independently of whether it is performed by EBK itself or the mandated audit firm, and provide for a trilateral arbitration mechanism, if appropriate.

2.3. Selected areas of the Swiss Implementation of Basel II

We support a reasonable degree of "superequivalence" to enhance the stability reputation of Switzerland as a financial center. Selected areas of the "Basel II Swiss Finish" proposals however, add additional layers of conservatism that are generally burdensome and resource intensive to implement and which we strongly believe add little to the risk sensitivity/differentiation of the Swiss Pillar 1 provisions and can be more pragmatically addressed via other mechanisms e.g. Pillar 2. We are concerned about the following aspects in particular:

- The consolidation restriction on captive insurance entities exclusively covering operational risk (ERV Art. 8) is unnecessarily specific also in view of the fact that an EBK approval is required for consolidating such captives.
- The pro-rata consolidation method for qualifying minority/majority holdings (ERV Art. 9) is not aligned with standard – equity method based – accounting practice and unduly costly to implement, as it would require banks to set-up entirely new systems exclusively for regulatory purposes.
- The reliance on a Swiss-specific Pillar 1 multiplier (m_2) for non-counterparty related risks (ERV Art. 80) is a major misalignment to Basel II standards.
- The restricting of private equity (CRC Rz 280) eligible for a comparable treatment to the US and EU to highly diversified portfolios, as it requires a monitoring of the portfolio diversification and results in a distortion of level playing field, advantaging US banks.
- The reliance on EU rules deviating from Basel II for the slotting of retail residential mortgages, as it is not consistent with our risk management practice and requires Swiss banks to set-up new and less risk sensitive portfolio bucketing procedures.
- The non-recognition of the allocation mechanism for operational risk to subsidiaries under the AMA,[5] as it imposes deviations from firms' practice, and can potentially lead to retaliatory treatment by host regulators – allowing for such an allocation – against Swiss banks' subsidiaries in other areas.

[4] See "Erläuterungsbericht" p. 21.

[5] In view of the ability to use Pillar 2, the two rationales ("Erläuterungsbericht" p. 43) provided for not recognizing an allocation mechanism appears unconvincing. Or should this rationale be understood as a confirmation that no Pillar 2 will be applied at the subsidiary level?

3. Detailed comments

We offer the EBK our detailed suggestions for modifications to Swiss Rules texts.

These suggestions cover our points made in Section 2.

We thought it would be helpful to indicate the grounds on which we have criticized and made alternate suggestions for those parts of the new rules text targeted by this document.

- Uncertainty, ambiguity or clarification

In some cases we believe the consultation package as currently worded generates essential doubt as to the resulting capital treatment of a product or risk type, or in effect leaves the treatment entirely up to supervisory opinion. Fundamental uncertainty in capital treatment is a serious matter for businesses.

In addition, some paragraphs of the consultation package where we have no essential disagreement, nevertheless are drafted in a way which in our view is unnecessarily ambiguous. We believe that for these paragraphs the EBK's intentions can be clarified by a simple change of wording or a minor restructuring of the document.

- Alignments with the latest Basel II document

In some cases we believe the consultation package as currently worded, probably due to timing reasons, does not reflect the latest status of the Basel II rules, particularly with regards to the trading book banking book developments. We have identified a number of specific provisions where we believe full correspondence can be achieved by minor modification of the wording or technical modification of formulae.

- Cost/complexity

In some cases we believe the consultation package as currently worded generates a high implementation burden while adding little to the risk sensitivity of the overall framework. We have identified a number of specific provisions where we believe operational smoothness can be achieved by minor modification of the wording.

We have tried to make all of these suggestions as self-explanatory and motivated as possible. Our recommendation is in each case merely a suggestion, and we naturally suppose that the EBK may want to make changes of its own design where it agrees there is a case to answer. In any event, we would naturally be delighted to discuss any or all of these points with the EBK or the national working group or other designates.

3.1. Capital Adequacy Ordinance (CAO)

CAO ref	CAO critical text and comment	RECOMMENDATION
Art. 4 letter c	The market risk related ERV guidance starts with Art. 81. Art. 4 c refers to Art. 82ff.	We suggest rewording Art.4 c as follows: "*Marktrisiken (Art. 81 ff.);*"
Art. 4 letter e	The circular on risk concentration / large exposures referred to in Art. 4 e is not yet available. We assume that no "parallel run" will be required for the planned revised treatment of risk concentrations.	We suggest the joint EBK-SBA working group to be involved in the drafting of the circular and SBA to be allowed to comment on the proposed text. We suggest to align the introduction of the new risk concentration rules with the roll-out of Basel II, i.e. Jan 1, 2007 for SA-CH banks and Jan 1, 2008 for A-IRB banks
Art. 5 letter f	The notion "Zahlungsverpflichtung" is very general.	We suggest replacing "*Zahlungsverpflichtung*" in Art. 5 f by "*vertraglich vereinbarte Verpflichtungen* "
Art. 5 letter h	Direct or indirect holdings in real estates or other fixed assets are included in the definition of non-counterparty related assets. A "look through" approach for real estate companies results in the same regulatory capital requirement, as if a real estate company would have to be consolidated. Art.5 h treatment – where real estate companies are not subject to consolidation – is not in line with Basel II and ERV (Art. 6 par 3).	We suggest removing "*direkt oder indirekt gehaltene Liegenschaften*" or at the least the term "*indirekt*" from Art. 5 h ERV

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Art.6 para 2	Detailed definitions are missing in the ordinance or circulars, regarding the following items: - Banks - Finance entities - Insurance companies - Fund type vehicles (kollektive Anlagevermögen) We suggest define these items under Art. 5.	We suggest to adding the following definitions in Art.5: „*(A) Banken sind definiert als:* *a) in der Schweiz dem Bankengesetz gemäss Art. 1 Abs. 1 unterstellte Institute, sowie auch Effektenhändler, welche dem Effektenhändlergesetz unterstehen;* *b) im Ausland tätige,* *I. Gesellschaften, wie Zentralbanken, Kreditkartenorganisationen- oder andere Institute, welche als Banken gelten gemäss der lokalen Gesetzgebung;* *II. sowie auch Effektenhändler, Broker und Agenten, welche als solche gemäss der lokalen Gesetzgebung gelten.* *Dies jedoch nur insofern, als dass diese Institute einer adäquaten Überwachung unterstehen, welche mit der Schweizer Bankenaufsicht vergleichbar ist.* *(B) Finanzgesellschaften sind definiert als:* *a) Alle Gesellschaften, welche unter den im Ausland tätigen Banken genannt wurden, sofern diese die Kriterien für die Anerkennung einer adäquaten Überwachung nicht erfüllen;* *b) Börsen;* *c) Clearinghäuser;* *d) Fondsleitungsgesellschaften, welche kollektive Anlagen verwalten;* *e) Gesellschaften, welche Beratung im Zusammenhang mit der Vermögensverwaltung anbieten sowie Verwahrungsdienstleistungen erbringen;* *f) Gesellschaften, welche im Finanzierungsbereich oder im Finanzleasing tätig sind;* *g) Gesellschaften, welche Kreditkarten herausgeben;* *h) Gesellschaften, welche ähnliche Tätigkeiten ausführen, wie die obgenannten und eng mit dem Bankgeschäft verbunden sind.* *(C)Versicherungsgesellschaften haben ihr Kerngeschäft im Bereich der Ausstellung von Versicherungsverträgen. Versicherungsgesellschaften haben eine entsprechende Lizenz*

CAO ref	CAO critical text and comment	RECOMMENDATION
		gemäss der lokalen Gesetzgebung und sind im allgemeinen überwacht. *(D) Kollektive Anlagevermögen sind definiert als:* *a) Anlagefonds gemäss lokaler Regulierung und adäquater Überwachung; sowie* *b) Andere kollektive Anlagen, solange sie nicht in Gesellschaften investieren, welche aktiv im Bank- und Finanzbereich tätig sind.* *Für die Qualifikation als kollektives Anlagevermögen müssen folgende Kriterien erfüllt sein:* *a) Es handelt sich um ein SPE, welches das Vermögen einer Vielzahl von Investoren, für die Anlage in Finanzinstrumente poolt;* *b) Die Vermögenszuteilung gilt für alle Investoren gleich (i.e. sie ist kollektiv);* *c) Die Anlagen werden von einem externen Anlageberater verwaltet;* *d) Die Gesellschaft hat weder Angestellte noch Direktkunden;* e) *Anteile sind variable und der Transfer der Anteile ist erlaubt.* "
Art. 6 para 2 letter a Art. 23 para 1 letter b	We understand, that insurance companies are treated as banking and finance entities for eligible capital purposes (refer to Art. 6 ERV), which do not have to be consolidated for capital adequacy purposes. The deduction treatment follows Art. 23 par 1 b).	We suggest including clear guidance on the treatment of insurance companies in Art. 23 par 1b. "… *berechneten Netto-Longpositionen der nicht zu konsolidierenden Beteiligungen an im Finanzbereich tätigen Gesellschaften, insbesondere auch Versicherungsgesellschaften gemäss Art. 6 par 2 a)* …"
Art. 6 para 2 letter b	We understand that by including fund type vehicles as a sub-letter to par 2 these vehicles would classify as finance entities and follow the treatment outlined in Art. 23 par 1 b) ERV. We note that under Basel II [§360], investments in fund-type vehicles are either treated under the "look through	We suggest clarifying in Art. 6 ERV that fund-type vehicles do not constitute banking and finance entities by default by removing letter b of par 2 and making it a separate paragraph: "[3] *Kollektive Kapitalanlagen: Die Verwaltung von kollektiven Kapitalanlagen für Rechnung von Anlegern oder das Halten von Gründungskapital an Anlagegesellschaften begründet keine Konsolidierungspflicht an der kollektiven Anlage*." As a consequence, Art. 6 par 3 and par 4 should respectively be numbered as par 4 and par 5.

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	approach" or according to the majority of the fund's holdings. We strongly disagree with the proposed EBK treatment of fund-type vehicles – by qualifying those entities as finance entities, regardless in what assets they invest – as it is not aligned to Basel II guidance. We also fully support the comment and suggestion made by SBA in this context.	
Art. 7 para 2	We assume that this paragraph aims to address waivers from consolidation requirements.	We suggest clarifying Art. 7 par 2 by replacing "… *von der Konsolidierung, namentlich* …" with "… *von der Konsolidierung ausschliessen, namentlich* …"
Art. 8	We do not understand the restriction of captive insurance entities to the insurance coverage of operational risk. A captive insurance company should also be able to absorb other risks, such as e.g. credit risk. Also such a requirement would result in costly tracking of the detailed activities of the captive. We note that Art. 8 already provides for any potential consolidation or solo consolidation of captives for capital adequacy purposes to be approved by the EBK.	We suggest not limiting the definition for captive insurance entities to "operational risks" and replacing "… *gruppeninternen Versicherung operationeller Risiken* …" by "… *gruppen internen Versicherung von Risiken* …"
Art. 9 para 1	Pro-rata consolidation is not consistent with the consolidation methodology applied for accounting purposes. Also pro-rata consolidation is not foreseen as being mandatory under Basel II (see §24 and §28). Such a consolidation on qualifying entities (where the bank holds between 20% and 50% of the voting rights) requires detailed information for calculation of regulatory capital requirements on the respective assets of these entities (type, rating, PD, LGD etc.) which is not readily	We suggest replacing " … *sind nach der Methode der Quotenkonsolidierung Methode zu erfassen*" by " … *sind nach der Methode der Quotenkonsolidierung oder nach der Equity Methode zu erfassen*" in Art. 9 par 2.

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	available to the bank. It would result in a high cost burden. We strongly disagree to have a mandatory pro-rata consolidation for entities where a bank holds between 20% and 50% of the voting rights. We fully support the comment and suggestion made by SBA in this context.	
Art. 11	The reference to Art. 4 par 4 of the banking law is unclear. We understand from discussions in the national working group that the reference is not correct.	We suggest replacing "*Artikel 4 Absatz 4* …" by the correct reference.
Art. 14 para. 1 letter e	Innovative core capital has step up features under the current regulation: such features are not specified in Art.14. Also it is not specified, where the line to upper Tier 2 capital should be drawn.	We suggest including a sentence regarding moderate step ups and distinction criteria to upper Tier 2 capital along the respective specifications in EBK Bulletin 40/2000.
Art. 17 letter c	We wonder whether this paragraph is realistic. Could you provide an example of such a situation?	We suggest deleting Art. 17c
Art. 17 letter d	We understand that Art. 17d on deduction of goodwill (Kapitalaufrechnungsdifferenzen) applies at the consolidated level only.	We suggest amending Art. 17d as follows: "…Kapitalaufrechnungsdifferenzen (Goodwill*) im Finanzbereich tätigen Gruppengesellschaften resultierend aus einer Vollkonsolidierung.*"
Art. 20	It is unclear how eligible provisions are defined. We assume that such a definition will be included in the ERV and guidance provided on how to determine eligible provisions.	We suggest including such a definition according to Basel II §380 or deleting "*anrechenbare*" from the text of Art. 20.
Art. 27	Art. 27 does not specify that Pillar 2 requirements would not have to be disclosed in the Pillar 3 reporting. Given that Pillar 2 requirements are specific to the bank-supervisor dialogue and therefore not comparable among institutions, their disclosure may potentially enhance confusion of market participants	We suggest explicitly excluding Pillar 2 requirements from Pillar 3 disclosure by introducing following paragraph in Art. 27: "[4] *Die zusätzlichen Eigenmittel (Säule 2) sind von den Bestimmungen von Artikel 28 (Säule 3) ausgenommen.*"

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Art. 28 para 2	From the general wording in par 1, the extent of disclosure of risk information which would be required is unclear: it could potentially lead to full qualitative and quantitative disclosure, although this is clearly not the intention if one reads the Capital Adequacy Disclosure Circular document.	We suggest rewording Art. 28 par 2 as follows: "*Die Bankenkommission bestimmt insbesondere, welche nach Abs. 1 nicht bereits in der Jahresrechnung oder in den Zwischenabschlüssen enthaltenen zusätzlichen risiko- oder eigenmittelrelevanten Informationen offen zu legen sind.*"
Art. 30 letter a	We note that Art. 30b and Art. 30c are subcomponents of Art. 30a.	We suggest combining a-c) under one letter only as follows: "*a. Forderungen einschliesslich nicht in den Aktiven erfassten aus Verpflichtungskredite, Verbriefungen und übrige in ihr Kreditäquivalent umgerechnete Ausserbilanzgeschäfte.*" and deleting Art. 30b and Art. 30c.
Art. 33	We assume this article provides a default risk weight for all approaches. It is unclear what happens in cases where the risk weight implied by the rating of the corresponding sovereign is lower than 100%.	We suggest amending Art. 33 as follows: "… *ohne Rating das Risikogewicht von 100 Prozent oder des zugehörigen Zentralstaates, sofern dieses höher ist als 100 Prozent*."
Art. 34	The term "Positionsklasse" is not used consistently in the text. Also the terms "Forderungsklasse" and "Exposureklasse" are used (e.g. Art. 30, 33, 35 etc). Also the terms "Positionsklasse", "Forderungsklasse" are not defined.	We suggest applying a consistent terminology, ideally based on either "Exposure" or "Forderung", throughout the ERV. Also in Art. 34 par 1 we suggest deleting: "… *(Design Eigenmittelausweis abwarten)*" We suggest to define the terms either under Art.5 for the various approaches or to provide an overview table of the "Forderungsklassen" in the circular: see also our suggestion to the credit risk circular (CRC) margin no. 3.
Art. 35	We assume this article, given that it is in the general section, applies to all approaches. We therefore do not understand why the IRB approach is not listed in the text.	We suggest rewording Art. 35 as follows "*Forderungen, die keiner Positionsklasse zugeordnet werden können, werden mit 100 Prozent gewichtet*. "
Art. 38 para 1	It is unclear how the present value for "Eventualverpflichtungen" and "unwiderrufliche Zusagen" can be determined and when the present value has to be used instead of the notional amount.	We suggest to amend this paragraph as follows (add a sentence at the end of par 1 of Art. 38): "*Der Barwert von Eventualverpflichtungen und unwiderruflichen Zusagen wird wie folgt bestimmt:* … (to be completed by EBK,). *Beispielweise kann in den folgenden Fällen der Barwert statt des Nominalwertes verwendet*

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		werden: …(to be completed by EBK, e.g. via reference to new guidance in circular)."
Art. 38 para 4 letter a	Art. 38 par 4a, no. 4 does not have content.	We suggest deleting no. 4 in Art. 38/4a
Art. 38 para 4 letter b	The example mentioned for this conversion factor does not make the rules clearer. Letters of credit are a legal form and may also be used for credit guarantees	We suggest deleting "… *wie zum Beispiel Verpflichtungen aus Warenakkreditiven* …" in letter 4b and 3c of Art. 38.
Art. 40 para 2	The 10% add-on factor for credit derivatives in Art.40 par 1 ERV is too high compared to the add-on factors for equity. From a risk perspective, equity (like credit derivatives) is a first loss position; however, equity receives lower add-on factors than credit derivatives. It is not clear, why the time to maturity should not have an impact on the add-on factor. The probability of the occurrence of a credit event is related to the time of observation. In addition, there should be no add-on requirement for sold credit derivatives	We suggest: • In the line "Kreditderivate (mit Referenzforderung der Kategorie "Übrige")" replacing the 10.0 percent add-on factor associated to a maturity below 1 year by "*6.0*" and replacing the 10.0 percent add-on factor associated to a maturity above 1 year and up to 5 years by "*8.0*". • Under the line "Kreditderivate (mit Referenzforderung der Kategorie "Übrige")" introducing the following sentence: "*Für verkaufte Kreditderivate (Short-Positionen) beträgt der Add-on 0.0.*"
Art. 40 para 3, 4 and 5	The text in Art. 40 par 5 ERV reflects the Basel I regulatory guidelines, which were not applicable under the application of the current EBK rules. In this context, for Basel II purposes we note that: • The add-on waiver (Art. 40 par 3 ERV) can only be applied by banks using the SSA. • The add-on netting (Art. 40 par 4 ERV) can only be applied for banks using the SSA. From a risk perspective, we do not fully understand why,	

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	neither the specific add-on waiver nor the add-on rules should not be applicable to banks using sophisticated risk management practices until they implement the EPE method. For the level playing field among Swiss Banks, we note that the divergence of Basel rules for SSA banks in this matter, may result in distortions particularly for ISA vs SSA banks.	
Art. 42 para 3	We note EBK´s intention to apply a multiplier of at least 1.2 for the EPE. We wonder whether the multiplier size should not be aligned to international standards, once these have been determined, e.g. in UK or US. A misalignment of the multiplier size vs international standards would result in a distortion of level playing field for Swiss Banks.	We suggest deleting Art. 42 par 3 and determine the multiplier level once clarity has been obtained on practice in the UK and the US.
Art. 43 para 2	For physical holdings in the banking book, the book value has to be applied (Art. 43 par 2 ERV). It is unclear, if the book value also has to be applied to positions within the trading book. Using the book value for calculation of the net position (NP) for trading book positions may lead to strange results, because this value/price may be different for indirect holdings. A net position created purely by valuation differences should not lead to capital requirements	We suggest adding a par 3 in Art.43: "[3] *Bei Positionen im Handelsbuch ist der phyische Bestand zum Marktwert zu berücksichtigen.*"
Art. 52	We do not agree with the foreseen regulatory capital	Clarify in Art. 52 and 69 that "Einzahlungsverflichtung in die Einlagensicherung" do not have

CAO ref	CAO critical text and comment	RECOMMENDATION
and Art. 69	treatment of "Einzahlungsverflichtung in die Einlagensicherung" as (i) the amount (EAD) cannot be determined, (ii) the applicable CCF of 0.5 for the standard approaches does not sufficiently consider the remoteness that the amount will be drawn as well as the senior liquidation rights, specifically the latter does not sufficiently consider the differences to the regulatory capital implications of a guarantee and (iii) banks are obligated to hold liquidity against their respective portion of the "Einzahlungsverflichtung in die Einlagensicherung" an additional regulatory capital charge is unjustified.	regulatory capital implications. We suggest deleting Art. 52 and 69.
Art. 62 para 3 letter b2	A distinction is made between investments funds, which are / are not allowed to be distributed in Switzerland.	We suggest not distinguishing between these two cases.
Art. 76 para 2	The reference to Art. 64-75 is potentially confusing, as Art. 72-75 are not relevant in this context.	We suggest replacing "*64-75*" by "*64-71*" in Art. 76 par 2.
Art. 80	A factor of 5.5 for IRB banks for non-counterparty related risks (NCR) is a) overly conservative and b) should not be included in Pillar 1. If maintained under Pillar 1, the factor level should be reconsidered – based on QIS5 results and in line with EU / US practice – in the calibration phase. Our initial assessment indicates that a level of about 4.0 is more reflective of the current composition of NCR risks.	We suggest to follow Basel II in this respect (i.e. 100% risk weight) and not applying a Swiss specific multiplier, and if not reconsider the level of m_2 in the calibration phase.
N/A	There is no capital treatment stated for cash (coins and bank notes) in neither the ERV nor the Credit Risk Circular. For the 0% risk weight for cash positions see also Basel	We suggest adding a new paragraph in Art. 80 ERV stating "*Bei der Eigenmittelunterlegung von flüssigen Mitteln ist ein Risikogewicht von 0% anzuwenden.*"

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	II footnote 28 stating that it is a national discretion to allow banks following the Standardized Approach to use a 0% risk-weight for cash [§81]. In general, for banks using the IRB approaches, PD & LGD must be calculated for all balances. Where an IRB treatment is not specified a 100% risk weight has to be applied [§214].	
Art. 96	No reference to the methodology for calculation of available capital	We suggest rewording Art. 96 as follows: *"… 10 Prozent der nach dem von der Bank gewählten Ansatz unter Kapitel 2 anrechenbaren Eigenmittel …*"
Art. 98 para 1	No reference to the methodology for calculation of available capital	We suggest rewording Art. 98 par 1 as follows: *"… 800 Prozent der nach dem von der Bank gewählten Ansatz unter Kapitel 2 anrechenbaren Eigenmittel …*"
Art. 98 para 2 letter b	We note an inconsistency between Swiss and International Large Exposure Risk approach. The Swiss approach allows exclusion of all interbank (and security dealers) exposure with maturity up to one year from the 800% limit. The EU / International approach does not allow this. For the level playing field among Swiss banks, we note that the divergence of EU rules and the Swiss approach in this matter, may result in distortions for the interbank market.	We suggest amending Art. 92 par 2 b as follows: "… *ausgenommen sind, sowie Positionen nach Artikel 67 mit einer Ursprungslaufzeit bis zu einem Jahr;*"
Art. 101 para 2 letter c	Letter c appears to be redundant considering that in such a case either letter a or b of Art. 101 par 2 would apply.	We suggest deleting letter c of Art. 101 par 2.
Art. 110	In connection with exposures from unsettled transactions the reference to Art. 46 using the term "Risikogewichte" is unclear. Are the conversion factors as per Art. 46 to be applied or other factors to determined in the circular?	We suggest clarifying whether "*Risikogewichte*" refer to "*Multiplikationsfaktoren nach Art. 46*" or to other still to be specified risk weights. If the latter is the case, we suggest making a reference to the document where these would be specified.

CAO ref	CAO critical text and comment	RECOMMENDATION
Art. 111	The applicable calculation method of credit equivalents is not specified. Art. 131 only lists exclusions of certain derivative exposure. Are the calculation methods of Art. 39-42 to be applied?	We suggest clarifying which is the applicable calculation method by introducing an explicit referencing e.g.: "… *in ihr Kreditäquivalent, wie nach Art. 39-42, umgerechnet.*" in Art. 111.
Art. 113	Considering that Art. 114 par 2 letter g allows EBK to set hard limits for banks' real estate ownerships, the second sentence in Art. 113 appears redundant. Also such ownerships do not fit under the title "Market Risk".	We suggest deleting the second sentence of Art. 113: "*Solche Beschränkungen sind ebenfalls für Bankgebäude und andere Liegenschaften vorzusehen.*"
Art. 125 para 3	We assume that exposures to US government agencies, which are not explicitly guaranteed by the state (e.g. Freddie & Fannie), can be treated according to Art.125 par 3.	We suggest confirming e.g. in EBK´s frequently asked questions, that exposures to US government agencies, which are not explicitly guaranteed by the state, can be treated according to Art. 125 par 3, if they are rated 1 or 2.
Art. 128 para 2	The interpretation to be given to "angemessen begrenzen" is unclear and suggests another set of limits, which is overly conservative. Also, clarification of the scope of controlling any concentration risk in collateral is required, i.e. does this have to be on a centralized global scale, or can it be local? This is of relevance as it may call for IT system upgrades. We support UBS's suggestion to enter in a trilateral discussion with EBK to agree on the exact scope of this requirement, e.g. whether this includes SLB/Repo and Lombard business.	We suggest rewording "… *angemessen begrenzen und überwachen* …" into "… *angemessen überwachen* …" in Art. 128 par 2. This ensures adequate controlling and is in line with EU's implementation proposal.
Art. 130 para 1	We do not understand the rationale for including credit derivatives – i.e. instruments used for risk mitigation, unless protection is sold - in Art. 130 par 1. We also note that the referenced Art. 38 provides guidance on	We suggest deleting "*und Kreditderivate*" in the title of Art. 130 and deleting "… *durch Kreditderivate* …" in Art. 130 par 1. We suggest relying on Art. 126 exclusively when referencing to credit derivatives and

CAO ref	CAO critical text and comment	RECOMMENDATION
	treatment of contingent liabilities and irrevocable commitments but not on credit derivatives.	provide details on the treatment as part of the large exposure circular.
Art. 132	We are not entirely clear, based on the wording, as to whether netting has to be calculated "issue-specific", or "issuer-specific". The former would significantly restrict the netting possibilities, whereas the latter corresponds to the current ruling on the calculation of net-long positions.	We suggest confirming in EBK´s frequently asked questions, that the issuer-specific calculation is applicable.

3.2. Banking Ordinance

BankO ref	BankO critical text and comment	RECOMMENDATION
Art. 11	The definition of financial sector is very high level. Also a definition of insurance companies referred to in the ERV is not provided.	See our suggestion to ERV Art.6 par 2 for a detailed definition of the financial sector, incl. of insurance. It would have to be decided whether to further specify the financial sector in the ERV or move selected aspects into the banking ordinance.
Art. 13	Is our understanding correct that this article will constitute the basis for the determination of the scope of consolidation. It differs from the corresponding article of the current BankO.	We suggest clarifying e.g. under the frequently asked questions.
Art. 14 letters a, f	Is f also applicable on a consolidated level?	We suggest clarifying e.g. under the frequently asked questions.
Art. 14 letters a, h	Is h a task of the EBK, is it not rather the auditors?	We suggest clarifying in the text of Art. 14 or e.g. under the frequently asked questions.

3.3. Credit Risk Circular (CRC)

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	We understand that the following margin no. of the CRC are not mandatory for IRB-banks: • 3-32 • 72-79 • 85-134 • 173-214 • 289, 291-296, 298, 300, 333	We suggest confirming that the provisions made for the standardized approaches, with explicitly specified exceptions, do not apply to IRB banks e.g. in the frequently asked questions to EBK.
1	The reference to Art. 28-78 ERV should start with Art. 29.	We suggest replacing "… *Artikel 28-78* …" with "… *Artikel 29-78* …" in margin no. 1.
3	In the current drafting this margin number appears to exclude central banks, MDBs and PSEs from the portfolio "sovereign claims". These counterparts can explicitly be assigned to "sovereign claims" in Basel II (see §229). Uncertainty prevails as to how these exposures should be treated under the IRB Approach (differentiation to be made between asset classes Sovereigns, Banks and corporates). We suggest aligning the exposure classes definitions between ERV and this circular and between the Approaches (STA and IRB).	We suggest inserting a new section „***Forderungsklassen (Art. 5 ERV) für alle Ansätze***" and corresponding margin numbers before section III: „*Forderungen gegenüber Staaten beinhalten auch Forderungen gegenüber Zentralbanken, Multilaterale Entwicklungsbanken (siehe Liste im Anhang 2) und öffentlich rechtliche Körperschaften (siehe Liste im Anhang x)*". "*Forderungen gegenüber Banken beinhalten auch Forderungen gegenüber Multilaterale Entwicklungsbanken (sofern nicht in Liste im Anhang 2 angeführt) und gegenüber Effektenhändler.*" "*Forderungen gegenüber Unternehmen beinhalten auch Forderungen gegenüber Gemeinschaftseinrichtungen, Börsen und öffentlich rechtliche Körperschaften (sofern nicht in der Liste im Anhang x aufgeführt).*" "*Forderungen gegenüber Retail beinhalten Forderungen gegenüber natürlichen Personen und Kleinunternehmen, wenn der Gesamtwert der Forderungen nach Artikel 30 Absatz 1 ERV ohne grundpfandrechtliche Sicherung gegenüber einer Gegenpartei 1.5 Mio. CHF oder*

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
		1 Prozent aller Retailforderungen nicht übersteigt." Alternatively we suggest using the exposure spreadsheet we shared with EBK in the context of the National Working Group.
11	We assume that "Verbindlichkeiten" should read as "Forderungen".	We suggest replacing "… *vergleichbar geratete Verbindlichkeiten* …" by "… *vergleichbar geratete Forderungen* …"
17-71, 171-172, 299, 39-42 CAO	The regulatory capital treatment for derivatives for different approaches is not described in a consistent way; rules for derivatives can be found in three different sections of CRC (Rz 17-71, Rz 171, Rz 299); different Basel II rules are not implemented in an harmonized way: Art. 39-42 ERV and Rz 17-71, 299 CRC deal with EAD; Rz 171 CRC (implementing Basel II §186), deals with recognition of collateral and calculation of regulatory capital requirements Calculation of regulatory capital requirements should not be described in the CRC, but in ERV (e.g., Art. 26, 29 par 1, 39ff.); in the current version of ERV, calculation of capital requirements is not described for derivatives.	We suggest describing regulatory capital requirements for derivatives in a structured, consistent way for all approaches in the CRC: For example, Rz 171, 172 CRC should be included in other Derivatives-sections (e.g., in Rz 17-71 CRC).
17-32 ; Art.40 CAO	Add-on netting: Rz 23 CRC duplicates Art. 40 par 4 ERV	We suggest moving Art. 40 par 4 ERV to CRC, Rz 17ff.; if this is done, Art. 40 par 3 and 5 ERV should also be moved to Rz 17ff. CRC
23-30 Art.40, 44 CAO	Minimum requirements for bilateral Margin Netting Agreements: Duplication and lack of consistency between ERV and CRC: in Art. 40 par 4 and 5 ERV reference to Art. 44 par 1 and 2; in Rz 23 CRC reference to Rz 27-29	We suggest replacing "… *sofern die Anforderungern des Artikel 44 Abs. 1 Best. A und Abs. 2.*" by the respective Rz in CRC: "… *sofern die Anforderungen der Randziffern 23 bis 30 des Kreditisiko-Rundschreibens erfüllt sind.*" in Art. 40 par 4 and 5

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	CRC. Minimum requirements should be described in a consistent way; there should be no duplication.	
76	The current wording of "wertmindernd" between credit quality of the counterparty and the value of the collateral appears superequivalent vs Basel II. A more pragmatic approach as regards the requirement "wertmindernd" should be followed, as it is virtually impossible to statistically prove "no correlation" in the sense of "wertmindernd". We therefore suggest using the wording of the German Bundesbank translation of Basel II §124.	We suggest replacing "… *nicht wertmindernd* …" by "… *nicht wesentlich wertmindernd* …"
78	It is correct that both repo and reverse repo as well as securities lending and securities borrowing transaction are subject to capital adequacy requirements. However if securities are posted as collateral for OTC derivatives or any other borrowing, the bank normally has not lent these securities to the counterparty. They are merely deposited with the counterparty in a custody account. Such securities are not part of the inventory of the counterparty, nor does this counterparty disclose an obligation to return these securities to the bank. The securities pledged will never be part of a bankrupt's asset, i.e. "Konkursmasse", and are therefore not exposed to the credit risk of the counterparty.	We suggest replacing *"… mit einer Forderung aus einem Derivat oder einer anderen Kreditaufnahme*." by *"… mit einer Forderung aus einem Derivat oder einer anderen Kreditaufnahme, sofern die Bank einem Kreditrisiko ausgesetzt ist*." in order to clarify that the specification of Rz 78 only relates exposures to those that expose the bank to credit risk.
80	Basel II §203 takes into account any applicable grace period, whereas the circular does not state this.	We suggest replacing "… *ihre Verpflichtungen erfüllt haben muss* ..." by "….. *ihre Verpflichtungen, unter Berücksichtigung von allfälligen Nachfristen, erfüllt haben muss* ... " in Rz 80.

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
83	The term "gesetzliche Aufrechnung" is used as a substitute for "on balance sheet netting". This term does not fully apprehend the meaning of "netting". The German Bundesbank also uses "Netting" in its translation of Basel II.	We suggest replacing "*gesetzliche Aufrechnung*" by "*Netting*" in the whole credit risk circular and in the ERV.
83	We note that Basel II §188 c) and d) term "controls" is translated in German by "steuert". We want to confirm that "steuert" is to be interpreted as "controls" and not as "manages".	We suggest confirming that "steuert" is to be interpreted as "controls" and not as "manages" in e.g. the EBK frequently asked questions.
135-161	Section XI.F in CRC on minimum requirements for 0%-haircut is confusing; 2 subsections (one rule implementing Basel II §170, one EBK specific rule for the SIS platform); both subsections contain similar, but in detail deviating requirements that are not harmonized with each other; scope of both sub-sections should be clarified more clearly than in Rz 135.	We suggest restructuring section XI.F (Rz 135-161): One possibility could be to define general requirements for both 0%-haircut rules and then to define specific requirements for each rule. If this is not done, a sentence at the beginning (before Rz 135) should clarify the scope of the two rules in a clear way. If this is not done, at least Rz 152-161 should be included before Rz 135, because Rz 135 refers to these paragraphs.
151	It is mentioned that a list of countries will be published for which the carve out treatment (0%-haircuts) is applicable. This list has not been published yet. Will this list be an appendix to CRC?	We suggest publishing this list and to include it as an annex in the CRC. If this is done, we suggest replacing "… Die *Bankenkommission publiziert … gemacht werden können.*" by "… *In Anhang z sind die Länder aufgeführt, für welche diese Ausnahmen geltend gemacht werden können*. " in Rz 151.
198-203	In the current valid circular for credit derivatives the different type of credit derivatives are defined.	We suggest including these definitions in the circular or including appropriate references to the credit derivatives circular.
152	From the current wording, we understand that the 0%-haircut rule for electronically processed transactions is	We suggest replacing "…*für Repo-Geschäfte* ..." by "... *Repo- und Repo-ähnliche Geschäfte* …" in Rz 152.

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	applicable only to Repo transactions. We suggest to extend the scope to Repo-like transactions (Securities lending and borrowing transactions) if, as required, these are electronically processed.	
162	The last term of the formula, i.e. the product of ? (E_{FX}) and (H_{FX}), is not consistent with Basel II §176 and might lead to high currency mismatch haircuts in case of under collateralization, which are not justified. Such a big haircut could potentially eliminate the entire collateral. An FX haircut should be applied only to collateral, the currency of which is different from the agreed currency.	We suggest replacing the last term of the formula "? (E_{FX}).(H_{FX})" by "? (E_{FX} . H_{FX})", thereby aligning the formula with Basel II and specifying that this term only relates to positions where there is a currency mismatch between the exposure and the collateral denomination.
168	Basel II §180 dealt with backtesting requirements and multipliers for repo VaR. It was deleted from the Accord as a result of the July 2005 trading book review (its inclusion in the circular is possibly a mistake or due to timing).	We suggest deleting Rz 168.
168-170	The VaR model approach as described in Rz 163-170 does not reflect the BIS July 2005 paper through which the respective Basel II §§178-181 have been amended. In the BIS July 2005 paper the backtesting multiplier has been deleted. CRC still reflects the Basel II Accord from June 2004 To our understanding, the alpha multiplier is not applicable to banks implementing a VaR model approach (applicable only to banks implementing an EPE approach), because §128 of BIS July 2005 states that the VaR model instead of an EPE approach may be used "in place of alpha times	We suggest amending Rz 169-170 CRC in accordance with §128 and §129 of the BIS July 2005 paper. This includes: Deleting Rz 168 and 169 Deleting the term "*x Multiplikator*" in the formula of Rz 170

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	Effective EPE…".	
171	Basel II §186 uses RC = "replacement costs" instead of "replacement value".	We suggest replacing "*Wiederbeschaffungswert*" by "*Wiederbeschaffungskosten*" in Rz 171 and Rz 172.
173-211	To our understanding the Basel II §§306-307 and §§480-489 are applicable to A-IRB banks regarding guarantees and credit derivatives. To our understanding, additional / deviating rules (e.g., Rz 184 "Bürgschaften") in Rz 173-214 CRC are not applicable. We suggest explicitly stating this in Rz 173.	We suggest replacing "… *Mindestanforderungen dar (EBK-RS 04/2, Anhang I).*" by "… *Mindestanforderungen dar (EBK-RS 04/2, Anhang I), sofern die Bank nicht einen IRB-Ansatz anwendet. Für Banken, welche einen A-IRB Ansatz anwenden, gelten, an Stelle der Vorgaben unter Kapitel XIII Unterkapitel A bis F EBK-RS 06 EMKR, die Vorgaben der Basel II §306, §307 und §§480-489.*"
173-210, 211-214, FN 3	The scope of CRC differs from the respective scope of Basel II. Basel II covers: CDS, TRS (§§189-201), first-to-default credit derivatives, second-to-default credit derivatives (§§207-210) CRC (FN 3) covers: CDS, TRS, Credit Linked Note, First-to-default credit derivatives It is not clear if Basel II §§209-210 are applicable; through the general reference in Rz 2 CRC these §§ are applicable; Rz 199ff. CRC refer only to first-to-default credit derivatives	We suggest aligning CRC to Basel II by rewording: FN 3 as follows: "… *Credit Default Swap, Credit Linked Note, First-to-Default Swap, Second-to-Default Swap und Total Return Swap*." Rz 188 CRC as follows "… *bei einem Credit Default Swap, einer Credit Linked Note, einem First-to-default Swap und einem Second-to-Default Swap….*" And incerting: After Rz 202 an additional Rz should be included implementing Basel II §209. After Rz 212 an additional Rz should be included for second-to-default swaps implementing Basel II §210.
180	Compared to the current circular 03/2 for credit derivatives this Rz was amended by "... in allen relevanten Rechtsordnungen für alle Beteiligten bindend …". Legal enforceability implicitly includes in all relevant jurisdictions and for all parties.	We suggest rewording Rz 180 as follows "*muss rechtlich durchsetzbar sein;*"

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
187	Total Rate of Return Swap should read Total Return Swap.	We suggest rewording "… *Total Rate of Return Swap* …" into "… *Total Return Swap* …"
202	Rz 202 implements Basel II, §207; a reference to Basel II, §207, is missing	We suggest rewording "*First-to-default Swap* …" into *"[§207] First-to-default Swap …*"
204	Basel II CP3 §162 allowed banks to exclude restructuring from the list of credit events, provided they had complete control over the restructuring decision. We do understand why the Final Accord does not allow banks to exclude "restructuring" under these circumstances. The standard ISDA agreement (Section 4.9 of the 2003 ISDA Credit Derivatives Definitions) includes restructuring only with regards to "Multiple Holder Obligations": "Multiple Holder Obligation" means an Obligation that (i) at the time of the restructuring event is held by more than three non-affiliated holders and (ii) with respect to which a two third holders (determined pursuant to the terms of the Obligations as in effect on the date of such event) majority is required to consent to the restructuring." Also guarantees do not normally cover restructuring losses, which are left for the creditor to bear. Therefore we do not understand why credit default swaps should be treated differently as financial guarantees in this respect, provided there are more than three holders of the underlying obligation. We are concerned that protection buyers under such a differentiated treatment will view financial guarantees as a superior hedging instrument. This could dramatically	We suggest incerting following sentence at the beginning of Rz 204: "*Eine Restrukturierung wird nicht als Kreditereignis betrachtet, falls nicht mehr als drei nicht-verbundene Parteien die abgesicherte Forderung halten*."

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	reduce liquidity in the credit derivatives market and frustrate years of efforts by industry to optimize liquidity by means of standardizing the terms of credit derivative contracts.	
209	Rz 209 CRC and Rz 24 MRC refer to recognition of credit derivatives in the trading book as hedging instruments; the wording of the two Rz is not aligned	We suggest aligning the wording of Rz 209 CRC and Rz 24 MRC or introducing a cross reference to the respective regulations of the MRC included in the CRC to avoid inconsistencies / redundancies.
210	Rz 210 refers to the calculation of the net position and to Art.30 ERV. The net position is regulated in Art.31 ERV.	We suggest rewording "… *nach Art. 30 ERV …*" into "… *nach Art. 31 ERV …*".
227	It is unclear, if the minimum requirements for bilateral Master Netting Agreements as described in Basel II §173 are applicable to A-IRB banks. From a Basel II perspective, these minimum requirements apply to A-IRB banks (see Basel II Annex 8, and §§6-7, §299, §293, §173, §177). In the EBK drafts, Basel II §173 is not implemented, but possibly applicable through the general reference to the final Basel II Accord via Rz 2 in Rz 227 CRC.	We suggest clarifying the minimum requirements for bilateral master netting agreements accordingly.
248	We note that a requirement of 90% minimum coverage of IRB relating to credit exposures has been explicitly introduced. We support the current wording implying that the coverage is computed based on risk-weighted assets and not on exposures. In other jurisdictions the minimum IRB coverage requirement ranges from 35% to 80% and is thus significantly lower than in Switzerland. This will potentially	We suggest reassessing the "90%" once the definite figures in the US, UK and German implementation are known.

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	lead to distortions of the level playing field. We suggest aligning IRB coverage requirements to major international peers.	
263-274, 342, 132	Treatment of Lombard Lending vs. margin lending for purposes of haircut-scaling. To our understanding, the Lombard Lending treatment does not preempt any treatment for margin lending / prime brokerage along Basel II, under which margin lending / prime brokerage qualify for a VaR-type approach. Also Rz 264 appears too detailed and prescriptive.	We suggest rewording Rz 264 as follows: "*Die grosse Mehrzahl der Lombardkredite der Bank qualifiziert sich aufgrund ihrer Höhe und Gegenpartei als Retailforderungen*."
277	Private equity is not defined in CRC, but should be included there. "Private equity refers to any type of long-term equity investment in companies where the equity is not freely tradable on a public stock market (i.e., illiquid equity securities of unlisted companies). Investors in private securities generally receive their return through one of three ways: an initial public offering, a sale or merger, or a recapitalization. Categories of private equity investment include e.g., leveraged buyouts, venture capital, growth capital, angel investing, mezzanine capital and others."	We suggest to include the following generic definition: "*Private equity Positionen beinhalten jegliche Investitionsformen in Unternehmen, deren Beteiligungstitel auf einer Börse nicht frei handelbar sind, d.h. illiquide Beteiligungen an nicht quotierten Firmen. Private equity Investoren erhalten ihre Rendite entweder über einen Initial Public Offering, einen Verkauf oder Merger, oder eine Rekapitalisierung. Private equity Positionstypen umfassen u.a. Leveraged Buyouts, Venture Kapital, Wachstumskapital, Angel Investing, Mezzanine Kapital*."
280	Definition of diversified portfolios (for private equity) is very strict with the 5% threshold, given the nature of this business. This would result in a disadvantageous level playing field for Swiss banks. Also from an economic	We suggest following the proposal of the SBA, i.e. using a 10% threshold.

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	perspective it would constrain the role of banks in providing capital to new businesses, a key motor of economic growth.	
298	As per reference, for banks using the A-IRB – the CCF's of the standardized approach have to be selected. Further, as an exception, some exposures (e.g. note issuance facilities) have to use a conversion factor of 75%. In Basel II this regulation is only applicable for F-IRB banks. Art. 37 par 2 ERV states, that IRB banks have to determine CCF values according to the International Standardized Approach (ISA) except IRB provides an explicit deviating rule. We understand, that according to Basel II §316, A-IRB-banks are allowed to estimate CCF's by their own, in case the minimum requirement of Basel II §§474-478 are met.	We suggest explicitly stating, that this Rz is not applicable to A-IRB banks. We suggest amending Art.37 par 2 ERV as follows: "… *des internationalen Standardansatzes (Art. 38 Abs. 4), sofern unter dem Basel II IRB Framework keine explizit abweichende Regelung vorgesehen ist. A-IRB Banken können selbst-geschätzte Kreditumrechnungsfaktoren anwenden, sofern die entsprechenden Mindestanforderungen erfüllt werden*."
299	Basel II includes more sophisticated approaches for the determination of EAD (e.g. EPE).	We suggest updating the CRC to the latest status of Basel II.
311	Defaulted exposures are multiplied by 100% (after recognition of provisions). However any collateral available to cover the net exposure cannot be recognized. This leads to a capital charge even if the exposures are fully collateralized and provided for adequately.	We suggest rewording Rz 311 (and Rz 281) as follows: "*Die Risikogewichtung ausgefallener Retailforderungen, nach Abzug von Einzelwertberichtigungen sowie partiellen Abschreibungen und der Berücksichtigungen von risikomindernen Massnahmen, beträgt 100%*."
313	We are not fully clear on the interpretation of FN 59 in Basel II §237.	We suggest amending Rz 313 as follows: "*Verbindlichkeiten, deren Ertrag an diejenigen von Beteiligungspositionen gekoppelt ist (zum Beispiel im Falle von equity swaps)*..."

CRC Margin Number	CRC critical text and comment	RECOMMENDATION
	We interpret that this footnote refers to equity swaps.	
326-328	Certain equity position an IRB bank holds (e.g., those in entities whose debt obligations qualify for a zero risk weight under the standardized approach) can be excluded from calculation of regulatory capital requirements according to Basel II. SFBC's practice should be in line with Basel II or at least with EU practice (see Art. 89 par 1 f and g and par 2 of current Basel II EU-directive draft, released on 20 October).	We suggest rewording Rz 326-328 as follows: Replace "…*sind die Eigenmittelanforderungen nach dem IRB zu berechnen.*" by "... *sind von der Berechnung der Eigenmittelanforderungen nach dem IRB ausgeschlossen.*"
329	We understand that only "partielle Abschreibungen" and specific write-downs (Einzelwertberichtigungen) for defaulted securities positions are recorded in the income statement.	We suggest clarifying in Rz 329, whether any entries in the income statement have to be considered as a partial write-off or a specific write-down.
N/A	The regulatory capital treatment of fund type vehicles (i.e., collective capital investments) is not explicitly defined in the CRC. Based on Basel II §360 & §361 relating to the treatment in "holdings in funds" within "equity treatment", we assume that the guidelines provided on "majority shareholding" and "the look through approach" apply. However following the net position concept on the fund's equity is a deviation from a Basel II pure approach.	We suggest clarifying, whether in accordance to Basel II §360 and §361, the treatment of fund type vehicles and add a new margin number after Rz 329 CRC stating that "for determination of EAD fund type vehicles must follow the net position concept [refer to Art.31] where the "look though approach" is not applied - Swiss specific and a deviation from Basel II).

3.4. Market Risk Circular (MRC)

MRC margin number	MRC critical text and comment	RECOMMENDATION
21	The Trading Book Review requires this assessment based on short-term, rather than immediate, liquidation. The latter is an unrealistic standard.	We suggest replacing "*sofort*" by "*kurzfristig*"
24	The first two sentences appear to contradict each other. To improve clarity we suggest linking the two sentences. See also our comment to CRC Rz 209 suggesting to cross-reference or harmonize wording with Rz 24 MRC.	We suggest rewording "*… für die Berechnung der Eigenmittelanforderungen als nicht abgesichert betrachtet. Ein Kreditrisiko im Bankenbuch kann nur mit … abgesichert werden*." as follows: "*… für die Berechnung der Eigenmittelanforderungen als nicht abgesichert betrachtet, es sei denn die Position wird mit .... abgesichert..*"
28, 29, 31, 32	The general wording about positions that are to be excluded from the trading book is to be avoided, because of the enhancement of models and changing market situations. The requirements, as outlined in section C and D are sufficiently clear to provide appropriate guidance.	We suggest deleting the bullet points Rz 28, 29, 31 and 32
53	Not all factors will be relevant in each case.	We suggest rewording "*… sind folgende Faktoren zu überprüfen: ....*" as follows: "*… können u.a. folgende Faktoren Berücksichtigung finden: ...*"
270	With the use of "titelspezifisch", the requirement appears to refer only to equities – it should also refer to debt positions	We suggest replacing "*titelspezifisches …*" by "*namespezifisches …*" in Rz 270
272	Wording departs from BCBS/IOSCO Trading Book Review text.	We suggest replacing "*… muss das Institut nachweisen können, dass dieser den Standards des IRB für Kreditrisiken entspricht*." by *"… muss das Institut aufzeichnen können, dass dieser einen mit der Solidität des IRB für Kreditrisiken vergleichbaren Standards entspricht*. " to align with Trading Book Review.
327	The wording of the requirement is unclear. For example, how are we supposed to evaluate scenarios that "render risk monitoring difficult or impossible"?	We suggest replacing "*Zu berücksichtigen sind Szenarien, die zu ausserordentlichen Verlusten führen und/oder die Kontrolle der Risiken erschweren oder verunmöglichen können*" by "*Szenarien müssen die Portfolioeigenschaften und die unter extremen Marktbedingungen benötigte Zeit für Risikoabsicherung oder –bewirtschaftung*

MRC margin number	MRC critical text and comment	RECOMMENDATION
		berücksichtigen."
334	Validation for risk aggregation models does not need to be carried out by an independent unit.	We suggest replacing "…*durch eine Stelle, die unabhängig vom Entwicklungsprozess des Modells ist* ..." by "… *durch Mitarbeiter, die unabhängig vom Entwicklungsprozess des Modells sind*..."

3.5. Operational Risk Circular (ORC)

ORC margin number	OpRisk Circular critical text and comment	RECOMMENDATION
13	The reference to Rz 119 f RRV-EBK is unclear. Rz 120 RRV-EBK is defining, where gains/losses on sold participations have to be recognized. This is not above the line – included in the GI.	We suggest only refering to Rz 119 RRV-EBK and to delete the "*f.*" in Rz 13.
13	It is unclear, for financial statements prepared under the true and fair principle, whether equity pick-up of all participations (above 20% holding) on a parent company level have to be included in the GI calculation. We understand that equity pick-up on all participations (above 20% holding) in banking and finance entities are recognized in Tier 1, but at the same time deducted as part of the investment. However, in the current wording of Rz 13 the equity pick-up would have to be recognized in the GI calculation, independently of whether or not the participation is consolidated. For banks not applying the true and fair principle, no income from investments (above 20% holdings) would have to be considered on a stand-alone parent company level as opposed to banks using the true and fair view principles. For the GI on a consolidated basis the equity pick-up's should not be included in the GI, in case these amounts are already deducted from capital (e.g. participation above 20% in a banking and finance entity).	We suggest explicitly excluding the equity pick-up from the GI calculation for banks preparing financial statements based on the true and fair principle. We suggest rewording Rz 13 as follows: "*Beteiligungsertrag (RRV-EBK Rz 119) aus nicht zu konsolidierenden Beteiligungen. Der Equity pick-up ist bei Banken, welche nach internationalen Rechnungslegungsstandards bilanzieren oder diesen bereits von den Eigenmitteln abgezogen haben, vom Beteiligungsertrag auszuschliessen; und*" Note that the German correspondence to an equity pick-up is: *Differenz zwischen Buchwert (Anschaffungskosten) der Beteiligung und ihrem effektiven Eigenkapital*

ORC margin number	OpRisk Circular critical text and comment	RECOMMENDATION
14 ff	The basis for the calculation of the GI on a consolidated basis is the capital adequacy scope of consolidation	We suggest adding following sentence in Rz 15: "*Die Grundlage zur Bestimmung des Etragsindikator auf konsolidierter Ebene entspricht dem Konsolidierungskreis für die Eigemittelunterlegung.*"
36	"Systems" suggests IT related incentives – incentives are likely to be established in broader ways than using a system, hence "processes" is a more appropriate word.	We suggest replacing "… *über Anreizsysteme verfügen* …" by "… *über Anreizprozesse verfügen* …".
68	The EBK interpretation is stricter than the Basel stance on this issue, which allows the deduction of EL if covered by business practices (Basel Committee Newsletter No 7 – November 2005). This narrower interpretation than Basel is super-equivalent to Basel, and puts Swiss banks at an economic disadvantage.	We suggest replacing *"... Rückstellungen gebildet hat*." by "… *Rückstellungen gebildet hat oder aufzeigen kann, dass erwartete Verluste angemessen durch Geschäftspraxis abgedeckt werden*." in the second sentence of Rz 68.
Annex 1, para 4	The wording of this requirement is too prescriptive/onerous, as it could be applied to any system change, or minor change to a process. It is not feasible to perform a thorough evaluation over any change in process in the firm.	We suggest replacing the current text by *"Banken müssen die operationellen Risiken aus materiellen Aktivitäten, Produkten, Prozessen und Systemen identifizieren und beurteilen können. Vor einer materiellen Veränderung der Struktur von Aktivitäten, Produkten, Prozessen und Systemen sind diese mit Blick auf ihre operationellen Risiken sorgfältig zu prüfen.*"

3.6. Capital Adequacy Disclosure Circular (CDC)

CDC margin number	CA Disclosure critical text and comment	RECOMMENDATION
Table 2	In the sample table 2, the row "Auswirkungen der Multiplikatoren für nicht gegenparteibezogene Risiken und Kreditrisiken" is not in line with Basel II. From an "international" stand point this disclosure would lead to more confusion than clarification for market participants.	We suggest deleting the row "*Auswirkungen der Multiplikatoren für nicht gegenparteibezogene Risiken und Kreditrisiken*".