



St. Gallen, 13 May 2025

## Media Release

regarding judgment B-3655/2023 of 31 March 2025

### No bonus reductions for former CS Managers

**The reduction or cancellation of variable remuneration ordered by the Federal Department of Finance for the three top management levels of Credit Suisse was unlawful. The Federal Administrative Court upholds the joint appeal of twelve affected parties insofar as it was admitted.**

On 16 March 2023, after the federal government had granted Credit Suisse a liquidity assistance loan earlier that month, the Federal Council issued an emergency ordinance instructing the Federal Department of Finance (FDF) to take remuneration-related measures in accordance with Article 10a of the Banking Act. Thereafter, on 23 May 2023, the FDF ordered Credit Suisse to reduce or cancel outstanding bonus payments (“variable remuneration”) across the Group: at the highest management level (executive board), they were to be cut altogether, one level below the executive board, they were to be reduced by 50%, and two levels below the executive board by 25%. Some of the approximately 1000 persons concerned lodged appeals with the Federal Administrative Court (FAC). In a pilot judgment, the FAC ruled on the joint appeal of twelve appellants. Four further appeals are pending and will be stayed until the pilot judgment is final and binding.

#### Definitive payment ban is unlawful

The variable remunerations reduced by the FDF were binding, employer-guaranteed claims deriving from a contractual employment relationship. Such contractual claims are protected by the guarantee of ownership. Guarantee of ownership is enshrined in the Constitution. Any serious interference with such claims must rely on a clear and explicit statutory basis. According to the FAC, Article 10a of the Banking Act does not provide any such basis. This Act merely provides that measures may be adopted for the duration of the claimed state aid. The wording of the law limits the temporal horizon of such measures to the duration of the support claimed; they can therefore only be of a temporary nature.

All state aid to Credit Suisse had ceased by 11 August 2023 at the latest. However, the FDF ordered that the remuneration of the affected employees be definitively – i.e. beyond the end of the duration of the state aid – reduced or cancelled. This order is considerably more onerous than a temporary payment ban and is not foreseen in the law. In absence of a sufficient statutory basis for the reductions, the FAC deemed that the FDF ruling was unlawful. The Court

upheld the joint appeal of twelve affected parties insofar as it was declared admissible. This Judgment may be appealed to the Federal Supreme Court.

### **Responsibility is not the issue**

In the Banking Act, remuneration-related measures do not constitute sanctions for any misconduct by the employees of the bank receiving state aid. Therefore, responsibility of the managers concerned is not a legally relevant issue.

Notwithstanding, the FDF and UBS, which took over Credit Suisse, argued across the board that the reductions and cancellations were justified because the employees concerned had belonged to the three upper management levels of Credit Suisse and were therefore responsible for its strategy and complete failure. However, neither the FDF nor UBS could demonstrate that even a single one of the twelve managers concerned had caused excessive risks and jeopardised the financial situation of Credit Suisse through their wrongful actions or omissions. None of the managers concerned by this Judgment belonged to the top management level of Credit Suisse.

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### **About the Federal Administrative Court**

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 395 employees (334 FTE) and its 78 judges (70 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 6,500 judgments every year.