



Switzerland: Implementation of Article 126 of the Swiss Constitution – The “Debt Brake”

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Switzerland: Implementation of Article 126 of the Swiss Constitution – The “Debt Brake”

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SUMMARY Article 126 of the Swiss Constitution codifies a fiscal rule for the federal government called “debt brake,” which is designed to finance expenditures through revenues instead of new debt. It was first applied in the federal budget of 2003. Details of the debt brake are implemented in articles 13 to 18 of the Financial Budget Act. Compliance is monitored by the Swiss Federal Audit Office.

I. General Overview

Article 126 of the Swiss Constitution codifies a structurally balanced budget rule for the federal government called the “debt brake.”¹ The debt brake was designed to prevent structural deficits that lead to an increase in debt, as happened in the 1990s in Switzerland. Furthermore, by allowing limited deficits during times of economic downturn and requiring surpluses in times of economic growth, the fiscal rule provides for a countercyclical fiscal policy.²

The provision was approved by a popular referendum with an approval rate of 85% at the end of 2001³ and the new constitutional provision was applied to the federal budget of 2003 for the first time. As Switzerland still had a structural deficit in 2003, two budget relief programs were conducted (EP 03 and EP 04) and from 2004 to 2007 the structural deficit was gradually reduced.⁴ In 2010, a supplementary rule entered into force to deal with special budgets for

¹ BUNDESVERFASSUNG DER SCHWEIZERISCHEN EIDGENOSSENSCHAFT [BV] [FEDERAL CONSTITUTION OF THE SWISS CONFEDERATION], Apr. 18, 1999, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS [SR] [SYSTEMATIC COLLECTION OF FEDERAL LAWS] 101, <https://www.admin.ch/opc/de/classified-compilation/19995395/201601010000/101.pdf>, archived at <http://perma.cc/G8D9-Q4H2>, unofficial English translation at <https://www.admin.ch/opc/en/classified-compilation/19995395/201601010000/101.pdf>, archived at <http://perma.cc/PP7H-XM39>.

² *Debt Brake. 1. Motivation and Aim*, FEDERAL FINANCE ADMINISTRATION (May 18, 2016), https://www.efv.admin.ch/efv/en/home/themen/finanzpolitik_grundlagen/schuldenbremse.html, archived at <http://perma.cc/G4FW-NUN6>.

³ Bundesratsbeschluss über das Ergebnis der Volksabstimmung vom 2. Dezember 2001 [Decision of the Federal Council on the Referendum of December 2, 2001], BUNDESBLETT [BBL] [FEDERAL GAZETTE] 1209 (2002), <https://www.admin.ch/opc/de/federal-gazette/2002/1209.pdf>, archived at <http://perma.cc/MX3X-V5N6>.

⁴ Botschaft zum Entlastungsprogramm 2003 für den Bundeshaushalt (EP 03) [Message Concerning the Budget Relief Program 2003 for the Federal Budget (EP 03)], BBL 5615 (2003), <https://www.admin.ch/opc/de/federal-gazette/2003/5615.pdf>, archived at <http://perma.cc/D6L6-Q98U>; Botschaft zum Entlastungsprogramm 2004 für den Bundeshaushalt (EP 04) [Message Concerning the Budget Relief Program 2004 for the Federal Budget (EP 04)], BBL 759 (2005), <https://www.admin.ch/opc/de/federal-gazette/2005/759.pdf>, archived at <http://perma.cc/QZM7-NETG>.

extraordinary expenses (extraordinary budgets).⁵ Details of the debt brake were implemented in articles 13 to 18 of the Financial Budget Act.⁶

II. Details of the Debt Brake Rule

A. Constitutional Provision

Article 126, paragraph 1 of the Swiss Constitution provides that the Swiss Confederation must keep income and expenditures balanced over time. In order to achieve that purpose, a ceiling for total expenditures must be presented with the budget (debt brake).⁷ Extraordinary circumstances may justify an increase in the ceiling if approved by an absolute majority in both chambers of the Federal Assembly (Parliament).⁸ If the actual expenditures at the end of the year deviate from the expenditure ceiling, the debit or credit is charged to a compensation account, which must be balanced in subsequent years.⁹

B. Financial Budget Act

Details of the debt brake formula are codified in the Financial Budget Act. The formula states that the expenditure ceiling in the applicable calculation period must equal the estimated revenues multiplied by the business cycle adjustment factor.¹⁰ Extraordinary revenues are not included in the determination of the estimated revenues.¹¹ Neither the Swiss Constitution nor the Financial Budget Act contain formulas or guidelines on how to calculate estimated revenues.

The business cycle adjustment factor is calculated by dividing the trend real gross domestic product (GDP) with the actual real GDP.¹² A deficit is allowed if that ratio is larger than one, whereas a surplus is required if the ratio is below one.

If the compensation account runs a deficit, excess expenditures must be balanced in subsequent years by reducing the expenditure ceiling.¹³ No exact timeline is specified in the Act. If

⁵ Botschaft über die Ergänzungsregel zur Schuldenbremse (FHG-Revision) [Message Concerning the Supplementary Rule for the Debt Brake (Financial Budget Act Revision)], BBL 8491 (2008), <https://www.admin.ch/opc/de/federal-gazette/2008/8491.pdf>, archived at <http://perma.cc/WSH4-4CKQ>.

⁶ Bundesgesetz über den eidgenössischen Finanzhaushalt (Finanzhaushaltsgesetz, FHG) [Financial Budget Act], Oct. 7, 2005, SR 611, <https://www.admin.ch/opc/de/classified-compilation/20041212/201601010000/611.0.pdf>, archived at <http://perma.cc/X3CT-2KF8>.

⁷ SWISS CONSTITUTION art. 126, para. 2.

⁸ *Id.* art. 126, para. 3, art. 159, para. 3c.

⁹ *Id.* art. 126, para. 4; Financial Budget Act art. 16.

¹⁰ Financial Budget Act art. 13, para. 1.

¹¹ *Id.* art. 13, para. 2.

¹² *Id.* art. 13, para. 4.

¹³ *Id.* art. 17, para. 1.

expenditures exceed the ceiling by more than 6%, the excess amount must be compensated within the next three years.¹⁴

If both chambers of the Swiss Parliament approve an increase in the expenditure ceiling due to exceptional circumstances, expenditures are debited to an amortization account.¹⁵ The amortization account must be balanced within the following six years by reducing the expenditure ceiling.¹⁶ The Swiss Parliament can extend the amortization deadline.¹⁷ If the shortfall of the amortization account is foreseeable, the reduction of the expenditure ceiling can be made in advance at the time it is agreed upon by the Federal Assembly.¹⁸

III. Compliance

Compliance with the debt brake rules is monitored by the Swiss Federal Audit Office (SFAO). According to article 6(b) of the Federal Audit Office Act,¹⁹ the SFAO examines the preparation of federal budgets. The SFAO interprets this provision as including a duty to examine whether financial statements are in line with the debt brake provisions²⁰ and reports its findings in its annual report.²¹

The Swiss Federal Finance Administration publishes the national accounts on their website at the end of each fiscal year, which includes a section on the debt brake.²²

¹⁴ *Id.* art. 17, para. 2.

¹⁵ *Id.* art. 17a.

¹⁶ *Id.* art. 17b, para. 1.

¹⁷ *Id.* art. 17b, para. 3.

¹⁸ *Id.* art 17c.

¹⁹ Bundesgesetz über die Eidgenössische Finanzkontrolle (Finanzkontrollgesetz, FKG) [Federal Act on the Swiss Federal Audit Office (Federal Audit Office Act, FAOA)], June 28, 1967, SR 614, <https://www.admin.ch/opc/de/classified-compilation/19670112/201201010000/614.0.pdf>, archived at <http://perma.cc/FJ4Z-2FJS>, unofficial English translation available at http://www.efk.admin.ch/images/stories/efk_dokumente/gesetz/FKG%20English%202011.pdf, archived at <http://perma.cc/TSN6-3FCK>.

²⁰ EIDGENÖSSISCHE FINANZKONTROLLE [SWISS FEDERAL AUDIT OFFICE], ÜBERBLICK ÜBER DIE STELLUNG UND TÄTIGKEIT DER EIDGENÖSSISCHEN FINANZKONTROLLE (EFK) [OVERVIEW OF THE POSITION AND ACTIVITY OF THE SWISS FEDERAL AUDIT OFFICE (SFAO)] 9, § 5.5 (Aug. 2010), http://www.efk.admin.ch/images/stories/efk_dokumente/efk_stellung/efk_stellung_d.pdf, archived at <http://perma.cc/B55D-KTUD>.

²¹ *See, e.g.*, SWISS FEDERAL AUDIT OFFICE, 2015 ANNUAL REPORT 11, http://www.efk.admin.ch/images/stories/efk_dokumente/publikationen/jahresberichte/2015/CDF_act_2015_en_WEB.pdf, archived at <http://perma.cc/25RV-F3CT>.

²² *State Financial Statements*, Eidgenössische Finanzverwaltung [Federal Finance Administration], <https://www.efv.admin.ch/efv/en/home/finanzberichterstattung/finanzberichte/staatsrechnung.html> (last visited Sept. 16, 2016).

Appendix: Relevant Provisions of the Financial Budget Act*

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Federal Law for the Confederation's Budget (Financial Budget Act) (Bundesgesetz über den eidgenössischen Finanzhaushalt)

Section 2: Debt Brake

Article 13. Ceiling on Total Expenditure.

1. The ceiling for the estimated authorized total expenditure under Article 126 paragraph 2 of the Federal Constitution corresponds to the product of the estimated revenue and the business cycle adjustment factor.
2. In determining the estimated revenue, extraordinary revenues are not taken into account. This includes, in particular, extraordinary investment income as well as extraordinary income from state taxes and fines and licenses.
3. The business cycle adjustment factor equals the quotient of the trend real gross domestic product (GDP) and the expected actual real GDP in the budget year.

Article 14. Consideration of the Ceiling.

The Federal Council and the Federal Assembly take the ceiling into account when considering any legislative proposals with financial implications.

Article 15. Increase of the Ceiling.

1. When adopting the budget or its amendments, the Federal Assembly may increase the ceiling provided for in Article 126, paragraph 2 of the Federal Constitution in the case of:
 - a. extraordinary developments outside of the control of the Confederation;
 - b. adjustments to the accounting model;
 - c. booking-related expenditure peaks.
2. An increase of the ceiling, however, is possible only if the additional payment required reaches at least 0.5 percent of the ceiling.

Article 16. Compensation Account.

1. Upon approval of the government's budget, the ceiling for the total expenditure of the previous year is corrected to reflect the actually obtained ordinary revenues.
2. If the total expenditure reported in the government's budget is higher or lower than the corrected ceiling, then the deviation from the government's budget is debited or credited to a compensation account.

Article 17. Shortfall in the Compensation Account.

1. A shortfall in the compensation account shall be offset over the course of several years by reductions to the ceiling under articles 13 or 15.
2. If the shortfall exceeds 6 percent of total expenditures in the prior fiscal year, then this excess shall be eliminated within the following three fiscal years.

* Unofficial translation.

Article 17a. Amortization Account.

1. Extraordinary revenue or expenditures reported in the government's budget shall be credited to or charged against an amortization account that does not figure in the budget.
2. The following shall not be posted to the amortization account, however:
 - a. Extraordinary income with purpose specified by statute;
 - b. Extraordinary expenditure covered by revenue under (a).

Article 17b. Shortfalls of the Amortization Account.

1. A shortfall of the amortization account in the prior fiscal year will be offset within the next six fiscal years by reductions to the ceiling determined under article 13 or 15.
2. The period under paragraph 1 starts again if the shortfall of the amortization account increases by more than 0.5 percent of the ceiling under article 126, paragraph 2 of the Federal Constitution.
3. In special cases, the Federal Assembly may extend the periods referred to in paragraphs 1 and 2.
4. The obligation to compensate for the amortization account is postponed until a shortfall in the compensation account under article 17 is eliminated.
5. The Federal Assembly decides the extent of reductions annually with the adoption of the budget.

Article 17c. Precautionary Savings.

1. To compensate the foreseeable shortfall of the amortization account, the Federal Assembly may reduce the ceiling determined under article 13 or 15 when approving the budget.
2. The reduction assumes that the compensation account under article 16 is at least balanced.

Article 17d. Credits to the Amortization Account.

Reductions under article 17b, paragraph 1 or article 17c are credited to the amortization account, provided that the credit does not burden the compensation account.

Article 18. Savings Measures.

1. The Federal Council implements reductions under articles 17, 17b paragraph 1, or 17c as follows:
 - a. It decides on additional savings that fall within its competence.
 - b. It proposes to the Federal Assembly the necessary changes in legislation for additional savings; it will take into account the participation rights of the cantons.
2. When considering the draft and the enforcement of the budget, the Federal Council shall use the available savings opportunities. For this purpose it may lock in already-granted commitment credits and estimated credits. Statutory rights and individual guaranteed payments are excluded.
3. If the shortfall of the compensation account exceeds the percentage established in article 17, paragraph 2, the Federal Assembly shall decide on proposals from the Federal Council under paragraph 1, point b, in the same session, designate their corresponding decrees as urgent and put them into effect immediately (article 165); it is bound by the amount of savings determined by the Federal Council.