AFBS News February 2021

Legislation and Regulation: Switzerland

E-ID in Switzerland

On 7 March, the Swiss electorate will vote on the Federal Act on Electronic Identification Services (e-ID Act). The act regulates how people can be uniquely identified on the internet by means of their e-ID, for example to open a bank account or to request an official document. The e-ID is voluntary. Concerns were raised that without an e-ID, Switzerland would fall behind in the digital transformation, to the detriment of its status as a centre for innovation and business. The SBA is in favour of a standardised e-ID for the whole country.

Info: Federal Council on the vote: DE FR IT EN / SBA on the E-ID: DE FR EN

Tonnage Tax

The Federal Council publishes for comments its draft legislation on the introduction of tonnage tax. The scheme is widely used at international level for taxation of shipping companies, as an alternative to income taxation. The proposal has been raised in the context of the corporate tax reform and aims at strengthening competitiveness of Switzerland by aligning its regime to the international practice. Consultation ends on 31 May 2021.

Info: Federal Council DE FR IT

FINMA Small Banks' Panel

This year's edition of the Panel took place on 21 January 2021. Keynotes addressed two of the FINMA's major concerns which are transition from LIBOR and cyber resilience. The FINMA also underlined the strong resilience of the Swiss financial sector during the COVID pandemic given the fact that no major incidents occurred, and continuity and stability could be assured.

With respect to LIBOR transition, it insists on agreement with fallback clauses be signed by the parties and reminds that sufficient time should be reserved as such agreement cannot be met easily in all instances. As a major risk for the financial centre the FINMA considers cyber threats, which increased again during the COVID19 crisis. It expects supervised firms to immediately report relevant incidents, also in case of outsourcing. Reporting needs to occur within 24 hours / one working day. The FINMA intends to publish statistics and aggregate reporting on incidents.

Info: FINMA DE FR

Equal Pay Assessment

The revised Swiss Gender Equality Act (GEA), which is in force since 1 July 2020, requires employers with more than 100 staff to perform an equal pay analysis, latest by June 2021. The analysis needs to be executed by a recognised provider, certified by an external auditor. The results of the analysis shall be communicated to the

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employees in written form (i.e. by circular letter or a letter on the occasion of an employee assembly). Listed companies must also disclose the results in their annual report. If equal pay is confirmed, no further analysis is required after 2020/2021. If equal pay is not confirmed, the analysis must be repeated within 4 years and the results communicated again.

Info: AFBS Topic "Equal Pay Assessment": LINK

Updated Swiss guidelines on AEoI

On 11 January 2021, the Swiss Federal Tax Authorities (SFTA) published the revised version of the Swiss guidelines on the Automatic Exchange of Information. The updated guidelines replace the previous version of 23 January 2019. It comes into force upon publication.

Info: The guidelines are available in DE FR IT

Banking Ombudsman

The new Financial Services Act (FinSA) introduced the obligation for financial intermediaries to affiliate to an ombudsman. Since the introduction of the FinSA, six new offices were established in Switzerland. The Swiss Bankers' Association amended the regulation of affiliation to offer provisional membership to group entities of an SBA member to affiliate to the Swiss Banking Ombudsman. Such provisional affiliation offers full compliance with the FinSA also for foreign entities of a banking group with presence in Switzerland. The scope of affiliation exclusively covers the services provided under FinSA. Terms of affiliation will be determined in 2021. Institutes providing services to institutional and professional clients exclusively are exempt from the affiliation duty.

Legislation and Regulation: International

Stock Exchange Equivalence between the UK and Switzerland

On 3 February 2021 the FINMA updated its list of recognised foreign trading venues. Based upon the BREXIT and the decision by the British Parliament to recognise the Swiss stock exchange regulation as equivalent, the Federal Council and the FINMA decided to recognise as equivalent the UK regulation. Therefore, the FINMA adapted the list of recognised trading venues.

Info: FINMA DE FR IT EN

Brexit and Migration

With Brexit becoming effective, special agreements on the movement of persons and residence rights become applicable. In particular, Swiss and UK citizens resident in the other country maintain their rights as acquired on 31.12.2020 upon the Agreement on Free Movement of Persons. For UK workers the Federal Council allotted 3500 contingents (consisting of 2100 B permits and 1400 L permits / short term). Cantons are attributed the contingents on a quarterly basis.

Info: Federal Council DE FR IT EN

OECD on Impact of COVID-19 on Business

The OECD issued an update of its guidance on the taxation of business activities in the cross-border context. The guidance summarises the OECD recommendations regarding application of international treaties regarding cross-

border situations of workers. In particular it confirms that work from home due to sanitary measures adopted by countries do not lead to the creation of a permanent establishment at the place of domicile of the employee. The conventions against double taxation between Switzerland and its bordering countries have been amended accordingly already. Extensions have been confirmed.

Info: OECD LINK and Deloitte Tax Blog: LINK

Sustainable Finance

EU: Partnership for the green and digital transition

On 22 February 2021, the European Commission proposed to set up 10 new European Partnerships between the EU, Member States and the industry. The goal is to speed up the transition towards a green, climate neutral and digital Europe, and to make European industry more resilient and competitive. The EU will provide nearly EUR 10 billion of funding that the partners are expected to match with at least an equivalent amount of investment. The proposed partnerships aim to improve preparedness and response in fields of health care, digitalisation, low carbon technology and infrastructure, or transportation.

Info: EU Commission Press Release EN

Transparency on climate-related financial risks

Since 12 January 2021, Switzerland is officially a supporter of the Task Force on Climate-related Financial Disclosures (TCFD), as the State Secretariat for International Finance (SIF) announced. The Federal Council called on Swiss companies from all sectors of the economy to implement these recommendations on a voluntary basis. It was further decided to draft a bill to make the recommendations binding. The drafting process is expected to start this year, with the private sector and financial associations being consulted. The TCFD has received the support of more than 1'700 signatory organisations worldwide. Major Swiss companies are already adopting its recommendations.

The FINMA is in the process of amending its Circular Disclosure in view of integrating the standards for disclosure. The rules will apply to institutes of category 1 and 2 in a first instance, but scope must be expected to be extended to all institutes in the longer term. In any case, international institutes are held to comply through the group company.

Info: Press Release SIF: DE FR IT EN / FINMA: DE FR IT EN / TCFD website LINK

Green Fintech Network

With the launch of the Green Fintech Network, which has fintech and venture capital firms, as well as consultancies, law firms and universities as members, Switzerland is further pathing the way to make the Swiss Financial market a leading location for sustainable financial services. The Green Fintech Network's mandate is to identify areas where links between green finance and fintech could be strengthened. With the network, the SIF intends to establish a mode of close cooperation between key experts of the green fintech ecosystem and the government. It should then submit concrete proposals to both the government and the private sector.

Info: SIF Info DE FR IT EN

ECB: Climate Change Centre

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The European Central Bank is to set up a climate change centre, uniting the work streams operating across the bank. The climate change centre will shape and steer the ECB's climate agenda internally and externally, building on the expertise of all teams already working on climate-related topics. Its activities will be organised in workstreams, ranging from monetary policy to prudential functions, and supported by staff that have data and climate change expertise. The climate change centre will start its work in early 2021.

Info: Press Release ECB EN

Digital

Launch of finance.swiss

The Federal Department of Finance (FDF) and the Federal Department of Foreign Affairs (FDFA) launched the new information platform "finance.swiss" on 7 December 2020. The platform is targeted at an international audience and aims to highlight the framework conditions and qualities of the Swiss financial sector. It is coordinated by the State Secretariat for International Finance (SIF) and Presence Switzerland, and the FDFA. The Swiss Bankers Association, the Asset Management Association, SIX, Zurich Insurance Group and the reinsurer Swiss Re are involved on the financial sector side. The financial sector is contributing CHF 1 million to the project, spread over five years.

Info: www.finance.swiss

Cyberincident Reporting Duty

The Swiss Federal Council intends to strengthen Switzerland's resilience in the realm of cyber security by regulating reporting of cyber incidents. It therefore mandated the Federal Department of Finance FDF to prepare a draft legislation for comment before year-end 2021. The Federal Council intends to establish fundamentals for a reporting obligation for critical infrastructures in the event of cyber-attacks and the detection of security vulnerabilities. Reports and related data shall be used for early warnings by the National Cyber Security Centre (NCSC).

In this context, the NCSC is also in the process of establishing a Financial Services Information Sharing and Analysis Center (FS-ISAC), which will provide sector-specific information and warnings for the Swiss financial market. The platform is intended as a follow-up of the Centre for Information Assurance MELANI and information shall be introduced gradually to encompass all market participants.

Info: Federal Council DE FR IT

Swiss Cloud Infrastructure

The Federal Department of Finance published an internal assessment for the need of a "Swiss Cloud". Based on this report, the Federal Council decided to determine legal and regulatory issues relating to the use of a Swiss Cloud, as a label for the secure use of cloud services while meeting special data sovereignty requirements. The Swiss Cloud solution aims to increase data sovereignty in Switzerland and reduce dependence on international cloud providers. It is in particular focused on to the needs of the cantons, the economy and science.

Info: Press Release DE FR IT / Evaluation Swiss Cloud (DE only) LINK

Internal

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New Member

- Quintet Private Bank (Switzerland) Ltd.

AFBS Events

- 15 April 2021: AFBS Conference **Consolidated Supervision in Europe**, with expert opinions from Dr. Veit Bütterlin, Alix Partners, and Dr. Joel Fischer, Bär & Karrer Ltd.
- Foreign Banks go to the Cloud: Risks and Opportunities. Series of four events with speakers from Microsoft Switzerland, Walder Wyss AG, Deloitte Consulting AG, Banco Itaú (Suisse) SA and Temenos SA.
- Cyber Resilience for Foreign Banks: series of three events with speakers from the ETH Zürich Center for Security Studies; Cyverse SA; the National Cyber Security Center.

Last Minute

- Brexit has become effective on 1.1.2021. A series of bilateral agreements with Switzerland remain in place: DE FR IT EN
- The SFTA tax synopsis updates details on different types of taxes due in Switzerland: DE FR
- Presence Suisse presents the perception of Switzerland abroad. The country ranks seventh among the top 50 and is the best-ranked among the medium-sized countries: DE FR IT EN
- The SBA publishes the update of the Banking Barometer: DE FR IT EN
- The European Banking Authority (EBA) published the 2020 annual Risk Assessment of the European banking system: EN
- Basel Committee on Banking Supervision: Basel III Monitoring Report: EN
- The Federal Office for Gender Equality publishes a report on the rulings rendered by the Federal Supreme Court's: DE FR IT EN
- European Central Bank ECB: Annual accounts 2020: LINK
- European Banking Authority EBA: Launch of 2021 EU-wide stress test exercise: LINK
- UK Finance, with the support of PwC: Guide for banks and lenders on the discontinuation of LIBOR: LINK
- Bloomberg: ESG Risks Top the List of Near-Term Concerns for Bank Executives: LINK

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