AFBS News September 2022

Legislation and Regulation: Switzerland

Ongoing Legislation and Regulation Projects

17 August 2022: Publication for comments of the Ordinance for the minimum taxation of big corporate entities in accordance with the OECD-minimum taxation. The Ordinance is being used as a transitory mechanism to allow the taxation to come into force by 1 January 2024. The ordinance shall later be replaced by a law. The law will be elaborated as soon as all the details from the OECD are communicated. The deadline for the consultation is on 17 November 2022. **Info**: DE FR IT

4 May 2022: Adoption of changes regarding the intra-group reporting procedure in anticipatory tax matters. The threshold of shareholding allowing for reporting instead of payment and reclaim is lowered from 20 to 10% in intra-group relations. Also, the reporting will be available to all legal persons. The changes shall hopefully simplify administrative burden upon companies and the federal administration. **Info**: DE FR IT

Ongoing: Switzerland signed agreements with France, Germany, and Italy in view of extending applicability of the memoranda of understanding on treatment of cross-border commuters working from home. Situation in each relation are being updated on regular intervals to update the state of play. **Info**: France: DE FR IT and agreement: FR Italy: LINK Germany: DE

23 August 2022: The cantonal tax administrations have been provided with notes regarding the refunding of the withholding tax on lump-sum pension benefits to recipients resident in Italy. **Info**: DE FR IT

24 August 2022: Publication for comments of the draft revision of the law on intelligence services. The law plans to introduce regulation allowing the intelligence services to request financial intermediaries to disclose information on financial flows in view of combatting serious threats to Switzerland's internal security. **Info**: DE FR IT

31 August 2022: Publication of the final Ordinance on Data Protection, which will enter into force on 1 September 2023. This responds to one key demand made during the audition and offers one year transition for implementation. **Info**: DE FR IT

23 September 2022: Publication for comments of the draft revision of the Collective Investment Schemes Ordinance in view of introducing the Limited Qualified Investor Fund L-QIF into Swiss law. It shall offer short time to market without FINMA approval to funds managed by FINMA-supervised entities: **Info**: DE FR IT

The Swiss Federal Tax Administration published its synopsis on updates in legislation and regulation in tax matters for the years 2023-2025. The table contains references to the legislative texts as well as to background material such as explanatory and consultation reports, Federal Council dispatch, draft texts, etc. **Info**: DE FR IT

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It further updates guidance and publishes an FAQ governing the refund of VAT to foreign entities which deployed activities that faced VAT payments in Switzerland. **Info**: DE FR IT EN

AFBS comments on the ongoing revision of the Capital Adequacy Ordinance. It suggests aligning capital adequacy requirements for short term exposure in trade finance to EU standards thus lightening the burden and assuring competitiveness of the Swiss financial centre. It furthermore suggests easing disclosure burden for Swiss branch of a foreign banking group subject to equivalent supervision. The two concerns are shared with the SBA. Consultation lasts until end of October. **Info**: SIF: DE FR IT and FINMA: DE FR IT

FINMA

FINMA informs on the present state of EWMs applying for affiliation with a supervisory organisation. Per 31 July FINMA had received 689 applications and authorised 265 EWM and 11 trustees. The remaining 313 applications are being processed. Duration for processing lasts between 18 and 536 days. Supervisory organisations report that, as per 30 June 2022, 765 applications were pending. FINMA will not grant extension of deadlines for latecomers; institutes failing to file by 31 December 2022 are obliged to submit an application for authorisation is if they had been newly established and cannot do business prior to final approval. 661 entities declared to FINMA closing business; FINMA invites institutes intending to cease business to report nevertheless. Until 31 July 2022 FINMA filed 18 penal suits to the Federal Department of Finance and put 127 institutes on its warning list. **Info**: FINMA-News dd 11 August 2022 DE FR IT EN

FINMA had published for consultation its total revision of the Circular Operational Risks. SBA adopted its comments on the draft FINMA Circular Operational Risks. It invites for the principle of proportionality to be given more room and to more clearly define terminology. **Info**: FINMA: DE FR IT EN; SBA Comments: DE

Legislation and Regulation: International

Russia-Ukraine Conflict: Sanctions

On 3 August 2022 the Federal Council decided to adopt a sanctions package of the EU. This package included the prohibition to buy, import or transport Russian gold or gold products.
Furthermore, Sberbank is now subject to asset freeze and the provision ban. In order to ensure the orderly winddown of transactions or the sale of subsidiaries of Sberbank, new exemption provisions are introduced. **Info**: Federal Council: DE FR IT

Update QI Agreement / Publicly Traded Partnerships

The IRS published its Notice 2022-23 listing amendments to the QI Agreement. The QI needs to comply with section 1446(a) of the Internal Revenue Code regarding distributions from a PTP and section 1446(f) regarding transfer of interests in a PTP. The new rules will apply from 1.1.2023. **Info**: IRS Notice 2022-23: DOC

Singapore: Overseas Vendor Regime OVR

The Singapore OVR requires foreign services providers offering taxable services to residents (B2C) to register for the purposes of the GST (Goods&Services Tax, similar to VAT) and to levy it. There are no exemptions nor special regulation for banks. Thus, third country banks will be held to levy the tax if they provide such services to residents

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for a value in excess of SGD 100,000 (CHF 70,000). **Info**: Inland Revenue Authority of Singapore: LINK

Bank for International Settlement (BIS) and IOSCO

BIS and IOSCO have published a report regarding Central Counterparty (CCP) clearing and client-position portability. It aims at increasing the common understanding for new models that enable clients to directly access CCP services or transferring practices from their position. The report considers the benefits and challenges of the new models deployed by CCPs. **Info**: EN

Digital

Federal Law on Electronic ID

Following the rejection by the Swiss voters in 2021 the Federal Council elaborated a new draft legislation on a digital ID (E-ID). The proposal is based upon a self-sovereign identity approach which gives users full control of the data provided and assures storage on government-owned infrastructure. The infrastructure shall be available to other ID providers than government entities such as privates. **Info**: DE FR IT

National campaign on cybersecurity

The Federal Council started a national campaign on cybersecurity. The new webpage raises awareness on the dangers of scams through mails and messenger services. It confirms that the user remains the weakest link by clicking on links, opening email attachments and visiting websites which contain malware. **Info**: DE FR IT EN; Webpage: DE FR IT and a reduced version in EN

Guidance on stablecoin arrangements

On 13 July 2022 IOSCO and The Bank for International Settlements' Committee on Payments and Market Infrastructures (CPMI) released their final guidance on stablecoin arrangements confirming the application of Principles for Financial Market Infrastructures. The guidance is a start to apply the "same risk, same rules" approach to systemically important stablecoin arrangements. **Info**: Link

Roadmap for Crypto Assets 2022-2023

On 7 July 2022 the IOSCO Fintech Task Force released its Crypto-Assets Roadmap for 2022-2023. It will prioritise policy-focused work on crypto-asset markets and activities. There will be two workstreams which encompass Crypto and Digital Assets (CDA) as well as Decentralised Finance (DeFi). The focus will be on analysing and responding to market integrity and investor protection. **Info**: Link and Report: Link

Sustainable Finance

SBA Self-regulation

On 28 June 2022 the SBA issued two guidelines stipulating minimum requirements for integrating sustainability criteria into investment and mortgage advice. One document governs the inclusion of sustainability preferences

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and risks in investment advice and portfolio management. The other one encourages mortgage providers to consider climate impact of real estate when giving advice. The new guidelines are binding on SBA members. The "Guidelines for financial service providers on the integration of ESG preferences and ESG risks into investment advice and portfolio management" replace the existing "Guideline for the integration of ESG considerations into the advisory process for private clients". They enter into force on 1 January 2023. **Info**: DE FR IT EN

On 26 September 2022 the Asset Management Association adopted its self-regulation governing transparency on sustainability in collective investment products. It defines prescriptions on organisation of asset management institutes and requirements on transparency of investment products. The self-regulation has been elaborated in coordination with the SBA self-regulation; it is not defined as minimum standard by FINMA. **Info**: DE FR EN

Swiss Climate Scores

On 29 June 2022 the Federal Council has launched the Swiss Climate Scores. They provide institutional and private investors in Switzerland with comparable and information on compatibility of financial investments with international climate goals. The Federal Council recommends that Swiss financial market players apply the Swiss Climate Scores to financial investments and client portfolios where appropriate. The use of is voluntary. **Info**: DE FR IT EN

Net-Zero Initiatives

The SBA, AMAS, SVV and SFF published a study with PwC Switzerland which examines the current state of the net-zero initiatives. The results show that there is still a long way ahead, but the proportion of financial solutions, assets and insurance primes which support the net-zero goals is steadily growing. **Info**: Study: LINK

Federal Council

On 7 June 2022 leaders of Swiss banks, asset managers and financial sector associations met Federal Councillor Ueli Maurer for a roundtable on sustainable finance. The meeting focused on the sustainable finance opportunities and developments for wealth management in Switzerland. Federal Councillor Maurer emphasised that the Swiss financial centre already plays a pioneering role internationally in the area of sustainable finance, but that this position should be steadily strengthened. **Info**: DE FR IT EN

Last Minute

- On 18 August 2022 the Federal Council announced the upcoming issuance of its first national green bond in autumn 2022. **Info**: DE FR IT EN

- The European Central Bank (ECB) performed a climate stress test among 104 European banks. The report shows that the banks are very exposed to climate risks, even though there are significant differences among banks. The combined credit and market risk losses of 41 banks which underwent further analysis, would be expected at EUR 70 billion. **Info**: LINK

- The Federal Office of Police informs on the introduction of new passport documents per 31 October 2022: DE FR IT

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- The canton of Basel-City issued the first Swiss Social Bond. The fund invests into sustainable development and social housing. The bond is issued at a value of 110 million CHF with term of six years. It applies the internationally accepted "Social Bond Principles". **Info**: DE

- The European Commission published the results of a public consultation on the functioning of the ESG ratings market in the EU and the consideration of ESG factors in credit ratings. The large majority considers that the market of ESG ratings is not functioning well today, which is due to lack of transparency and biases in the methodology as well as potential conflicts of interest. **Info**: EN

- The Association of Swiss Private Banks and the Association of Swiss Asset and Wealth Management Banks published the status report 2022 on the achievement of sustainability goals. **Info**: DE FR EN

- The Building Bridges Week takes place from 4 to 6 October 2022 in Geneva: LINK

- The SFTA updates the article on tax assessment for direct tax of private and legal persons: DE FR

- BusinessFrance coordinates the FinTechTour 2022: LINK

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