AFBS News June 2017 EN

Legislation and Regulation – Domestic

Corporate Tax Reform III

The Federal Council received proposals for a revised legislation on corporate tax, which it will draft in view of consultation in autumn and a dispatch to Parliament in Spring 2018. The proposals encompass deductions for research and development and partial taxation of dividends. They increase compensation from Confederation to cantons and communes as well as child allowances. **Info**: DE FR IT EN and KPMG: EN

Labour Law and Migration

The National Council mandates the Federal Council with the assessment of the **labour law** and the identification of possible improvements in view of enhancing competitiveness. The rules on registration of worktime have been criticised for being excessively complex to administer and out of time. **Info**: DE

The Federal Council adopted the draft Ordinance for the implementation of the Constitutional Article on **mass immigration**. It proposes to require reporting of open posts in the occupations where unemployment is above 5%; at present this would concern three out of ten new employments. Thresholds can be changed annually. Short term employments of 14 or 30 days shall be exempt from the duty. Publication for comments is due shortly; entry into force in 2018. **Info**: DE ; FR ; IT

Payment Standards

From 2018 the new ISO 20022 standards will apply to domestic and international payment transfers. Key novelties encompass * the exclusive availability of the IBAN as account number and * the introduction of new pay-in slips with a QR-code allowing for automatic processing. From mid-2018 only the new ISO 20022 payment messages will be available. **Info**: DE FR EN – DE FR EN – DE FR EN

Mortgage Business and foreign banks

Foreign banks pursuing mortgage business in Switzerland are commenting the draft revision of the law on acquisition of real estate by foreign persons (Lex Koller). They ask for clarification that any bank established in Switzerland and duly authorised by the FINMA be entitled to grant mortgage loans along the standard principles, irrespective of its legal structure. Binding rules are necessary to prevent the diverging interpretation of the law by cantonal real estate registries as at present. **Info**: doc

Legislation and Regulation – International

Compensation and Misconduct

The Financial Stability Board has published for comments draft guidance on implementation of its "Standards on Compensation". The guidance aims at establishing a framework for the identification, prevention and remediation

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of misconduct; it applies to the systemically relevant banks. **Info**: link

Automatic Information Exchange AIE

Parliament debates a **second group** of agreements on AIE. They will include an activation clause, allowing the Federal Council to suspend an agreement if it appears that the partner country does not sufficiently respect the speciality principle and data protection.

However, Switzerland has to **increase the number** of agreements, as Hong Kong and Singapore adopted the MCAA and have quickly extended their network of agreements. The OECD criticises the white list approach, which delegates reporting duties to structures in participating countries, even without an AIE agreement.

The **Common Transmission System** CTS is the conduit through which data exchanged among countries will transit. The CTS serves as a platform for dispatching data; it does not store the data. The platform will be located in Ireland and operated by Unisys, a US-firm. There are concerns with respect to data security since the US Patriot Act allows the US government to request confidential information from US-firms. To assure high data protection governments are assessing to either set up a bilateral mechanism for the exchange of data – which would be very complex – or to introduce additional encryption of the data exchanged on the CTS.

FINTECH

FINMA and Fintech

In May 2017 the FINMA invited for a Roundtable on Blockchain in Switzerland. The FINMA clarified that it did not extend supervision beyond the realm defined by law and that it was deploying its supervisory activity in function of the type of services provided. The FINMA sees opportunities for high-security transactions thanks to Blockchain in realms such as payment and securities transactions, collateral management, execution of insurance contracts. The FINMA adopts a neutral stance towards new projects; its core focus remains on investor protection and systemic stability.

Foreign Banks and Fintech

The AFBS welcomes the proposal to amend the Bank Law and **opening it to innovation**. It suggests that such simplification should not be limited to startups but also be available to established banks, which promote new business models and should benefit from the same advantages. **Info**: draft: DE FR IT EN – AFBS: doc

The AFBS invited the FINMA to clarify two aspects of its "**technology-neutral**" regulation: The FINMA Circular Asset Management allows to conclude a mandate by electronic means; however, in the realm of funds the law requires the mandate to be signed in writing. Also the possibility of opening an account electronically is restricted by the requirement of assets having to be transferred from an existing Swiss bank account – at least transfers from accounts held in banks abroad subject to equivalent supervision should be acceptable.

Foreign banks suggest to admit systems like DocuSign for the use of **eletronic signature**: link

The **EU Commission** consulted on Fintech's * benefits to consumers, investors and firms; * contribution to improve services; * consequences for competitiveness on the single market; * impact on safety and stability of financial markets. In its response the European Securities Markets Authority ESMA outlines risks arising from automated advice and that entities providing the same services should be regulated in the same manner. **Info**: EN and EN

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The **International Organisation of Securities Commissions IOSCO** analyses risks and opportunities of new technologies, such as * peer-to-peer financing platforms; * retail trading platforms; * distributed ledger technology. **Info**: doc

The **US SEC** updates its guidance on Robo-Advisers, which covers the realms of * disclosure; * suitability; * compliance. **Info**: link and guidance: doc

Agenda

Events

Automatic Information Exchange: transfer of data from bank to Federal Tax Administration: Pascal Michel and Stefania Ferrari, Swiss Federal Tax Administration. Geneva: 2.10.2017; Zürich: 6.10.2017; Lugano: 16.10.2017.

Members

End of membership: Nordea Bank S.A., Luxemburg, Zurich Branch (branch closure).

Last Minute

Switzerland signs the OECD convention against Base Erosion and Profit Shifting BEPS: DE ; FR ; IT ; EN // EU Capital Markets Union: agreement on securitisation: DE ; FR ; IT ; EN // summary of the EU Data Protection Regulation: DE ; FR ; IT // The Swiss Federal Tax Administration outlines the tax burden in the Swiss cantons and communes: DE ; FR ; IT and economiesuisse: DE ; FR ; IT // KPMG report on cyber security: EN // AvenirSuisse criticises the Accompanying Measures adopted in relation with the free movement of persons: DE ; FR ; IT ; EN // The SBA updated its webpage on training in banking: DE ; FR ; IT ; EN ; // Federal Council's trip to Asia: DE ; FR ; IT ; EN

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