AFBS News February 2019

47th Ordinary General Assembly on 5 June 2019, Geneva

Legislation and Regulation – Domestic

Draft Ordinances on Financial Services and Financial Institutes

The AFBS has submitted its comments to the draft Ordinances. It demands same treatment of foreign and Swiss-controlled intermediaries for the inbound provision of cross-border services: foreign staff of a financial group with a FINMA-supervised entity shall be authorised to offer services on Swiss soil if accompanied by a staff member of the Swiss entity or entered into the relationship managers' registry. This is to maintain a high level of service quality. **Info**: AFBS Comments: DOC

Automatic Exchange of Information

The Swiss Federal Tax Administration has published the revised Guidelines for implementation of the AEoI in Switzerland. Main amendments regard the chapter 6 on due diligence obligations, such as obligation of self-declaration in all instances and deadlines for obtaining missing documentation. Furthermore: association accounts, and capital payment accounts, are considered inscope in the future. **Info**: DE FR IT EN

Legislation and Regulation – International

International Tax Matters

The EU is working on implementing the **Directive on Administrative Cooperation DAC6** which aims at enhancing exchange of tax information among EU tax authorities. Exchange can occur spontaneously if the authorities discover possible evasion relevant to another country, upon demand if further information is requested or automatically in case a taxpayer invests in a foreign country. The Directive replaces the one on Exchange of Information on Savings Income. **Info**: EN

The OECD initiative on **Treaty Relief and Compliance Enhancement TRACE** woke up again and its introduction is being debated. It would introduce an additional layer of tax transparency requesting financial intermediaries to report the investors holding securities in order to allow them to obtain refund of tax at source. The investor would have full transparency on performance and tax levied and obtain an automatic refund of tax at source; the financial intermediary would have to implement procedures to assure correct identification and withholding; governments must expect to lose income from unclaimed withholding tax. **Info**: OECD: EN FR

EU: simplified regulation on derivatives for small counterparties

The EU plans to revise its regulation on transparency on the OTC trade of derivatives by exempting certain small and non-financial counterparties. This is to reduce the administrative and cost burden. **Info**: DE EN FR IT

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Miscellanea

Labour

Parliament presently assesses the possibility of amending the labour law such as to exempt from registration of worktime those persons with wide autonomy of time management. The worktime of this category of staff would be determined on an annual basis. It also debates whether to waive the obligation of monitoring exact time of work and pause for such categories of staff. **Info**: Parliament: DE FR IT

Brexit

The Federal Council defined a special contingent of permits for UK nationals in case of a disorderly Brexit. 3500 work permits are provided for and will be available until 31.12.2019. This measure is to mitigate the consequences of Brexit without transition. In case of a withdrawal agreement being met between the UK and the EU, transition measures will be available. **Info**: DE FR IT EN

Switzerland and the UK have signed an agreement, which assures continuation of the existing bilateral relations in trade in case of a disorderly Brexit. The agreement will enter into force as soon as the EU-CH agreements cease to apply: immediately if there is no deal between the UK and the EU; after transition otherwise. **Info**: DE FR IT EN

The European Securities Markets Association ESMA opened a dedicated webpage on Brexit: LINK and MoU: LINK. It informs investment firms on their information duties towards clients: DOC

UK Financial Conduct Authority: website on Brexit: LINK

Digital

The Federal Council intends to strengthen the arsenal for cyber defence. It therefore creates the **Competence Centre Cyber Security**, which will act as a national centre in that realm. It shall extend its network to partner organisations such as the reporting office MELANI but also to academia, private enterprises and cantonal authorities. DE FR IT

The Federal Council also published a report on **Blockchain and Distributed Ledger Technology** DLT. It intends to amend existing legislation rather than creating a special law as do other countries. Open questions regard the rights related to digital securities, related entitlements and obligations, treatment of crypto currency in case of insolvency, under the depositor protection scheme, as well as storage and application of AML and KYC procedures. Report: DE FR IT EN

Henceforth the original of a **public deed shall be in electronic** format, which shall be stored in a national registry. The Federal Council will define the relevant regulatory framework: DE FR IT

The Federal Council also creates the framework assuring that the army can protect itself from cyber risks: DE FR IT

Asset Management

In the context of the "Asset Management Initiative" the Swiss Bankers' Association SBA and the Institute of Financial Services Zug IFZ have published research work. The IFZ study comes to the conclusion that Switzerland

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has a favourable environment for asset management. Zürich ranks fourth and Geneva eighth behind Singapore, London and New York. The low use of IT in government services is seen as a weakness, while the major challenge is burdensome regulation. Strong research and collaboration between universities and industry are key strength factors as is innovation. **Info**: IFZ: LINK and SBA: LINK

Agenda

Events

- You never walk alone: A compliance utility attending the entire client lifecycle: N.Zürcher SIX Group: 6.3.2019 Zürich, 2.4.2019 Lugano, 3.4.2019 Geneva.
- Changes in the Audit Process – what will the revised FINMA Circular 2013/3 Auditing achieve?: Ch.Gröbli, M.Suppan, O.Gauderon, P.Aggio, KPMG: 11.4.2019 Zürich, 16.4.2019 Geneva, 17.4.2019 Lugano.
- Revision of the Swiss Law and Ordinance on Automatic Information Exchange: R.Fedrizzi, State Secretariat for International Finance: 21.3.2019 Zürich, 25.3.2019 Geneva, 27.3.2019 Lugano.

Last Minute

- Allianz Denkplatz: neue Arbeitszeitmodelle: http://allianz-denkplatz-schweiz.ch/
- Economiesuisse on the framework agreement CH-EU: DE FR IT
- AvenirSuisse on the benefit of the bilateral agreements for the Swiss economy: DE
- Federal Council's foreign policy report: DE FR IT EN
- The Swiss Bankers' Association and economiesuisse welcome the proposal to revise corporate taxation and to modernise the old age pension scheme: DE FR IT and economiesuisse: DE FR IT The vote takes place on 19 May 2019.
- The Swiss Federal Tax Administration updated its document on the international comparison of the tax burden: DE FR EN
- The Swiss Federal Tax Administration publishes a synoptical table on upcoming legal and regulatory changes: DE FR IT
- The EU Council on EU-Swiss relations: DE FR IT EN

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