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Overview

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Tax equity for all

For years, companies operating internationally have been optimising their tax burden by generating profits in countries where little or no tax is due. Whilst this behaviour is legal, it has increasingly been felt to be unfair. There is now international agreement that profits should be taxed where they are actually generated.

The Organisation for Economic Co-operation and Development (OECD) addressed this topic and launched the base erosion and profit shifting (BEPS) project in 2013. Aside from Switzerland, all of the OECD and G20 member states also participated in the project. After two years of work on the project, in October 2015, the OECD published the final outcomes in the form of an action plan which includes 15 actions.

The majority of the actions restrict taxpayers' freedom, detract from legal certainty and do not have to be implemented. However, among them is one action which should improve dispute resolution mechanisms in mutual agreement procedures. Mutual agreement procedures are initiated if a natural person or legal entity has been doubly taxed despite the existence of a double taxation agreement, or if there is a danger of double taxation occurring.

Switzerland actively participated in the BEPS project and has undertaken to implement the actions adopted. This applies in particular to avoiding double taxation: in this area, Switzerland is actively committed to functioning mutual agreement procedures. It is thereby not only ensuring tax equity, but also helping to further strengthen its appeal as a business location.

Further information on this topic can be found in the article on page 5. I hope you enjoy reading this newsletter.

Jörg Gasser, State Secretary

Monetary assistance

Parliament approves revision of Monetary Assistance Act

Parliament approved the revision of the Federal Act of 19 March 2004 on International Monetary Assistance (MAA) with the final vote of 16 June 2017. The referendum deadline will now expire at the end of September. The revision was necessary in particular due to changes to lending practices at the multilateral level since the global financial crisis. It ensures that Switzerland can continue to reliably and in a targeted manner participate in international monetary assistance activities.

As an open economy with an important financial centre and its own currency, Switzerland is reliant upon a stable international financial and monetary system. Switzerland has long been involved in international aid measures. This predominantly involves loans on which the International Monetary Fund (IMF) pays market-rate interest; periodically Switzerland also makes non-repayable payments to support poorer countries.

Reliability with respect to monetary assistance measures contributes to Switzerland's standing in the international financial system and allows it to present its position on financial stability issues in a convincing and effective way in international bodies.

The revision of the Monetary Assistance Act makes two major changes: on the one hand, the maximum term for monetary assistance in systemic crisis situations will be increased from seven to ten years. On the other, the involvement of the Swiss National Bank (SNB) in monetary assistance for individual countries is explicitly envisaged. The independence of the SNB will thereby not be affected.

At the same time as the revision of the MAA, Parliament approved the extension of the federal decree of 11 March 2013 on international monetary assistance (monetary assistance decree) by another five years. The financing resolution makes provision for a framework credit of CHF 10 billion and makes it possible for Switzerland, based on the MAA, to take monetary assistance measures swiftly in the event of a crisis.

The most recent example of monetary assistance is Switzerland's involvement in the international, concerted financial assistance package in favour of Ukraine with a loan of over USD 200 million. Based on the revised MAA, the monetary assistance decree furthermore allows granting bilateral credit lines to the IMF in accordance with its medium-term lending practices since the financial crisis.

Caroline Wehrle

Digitalisation

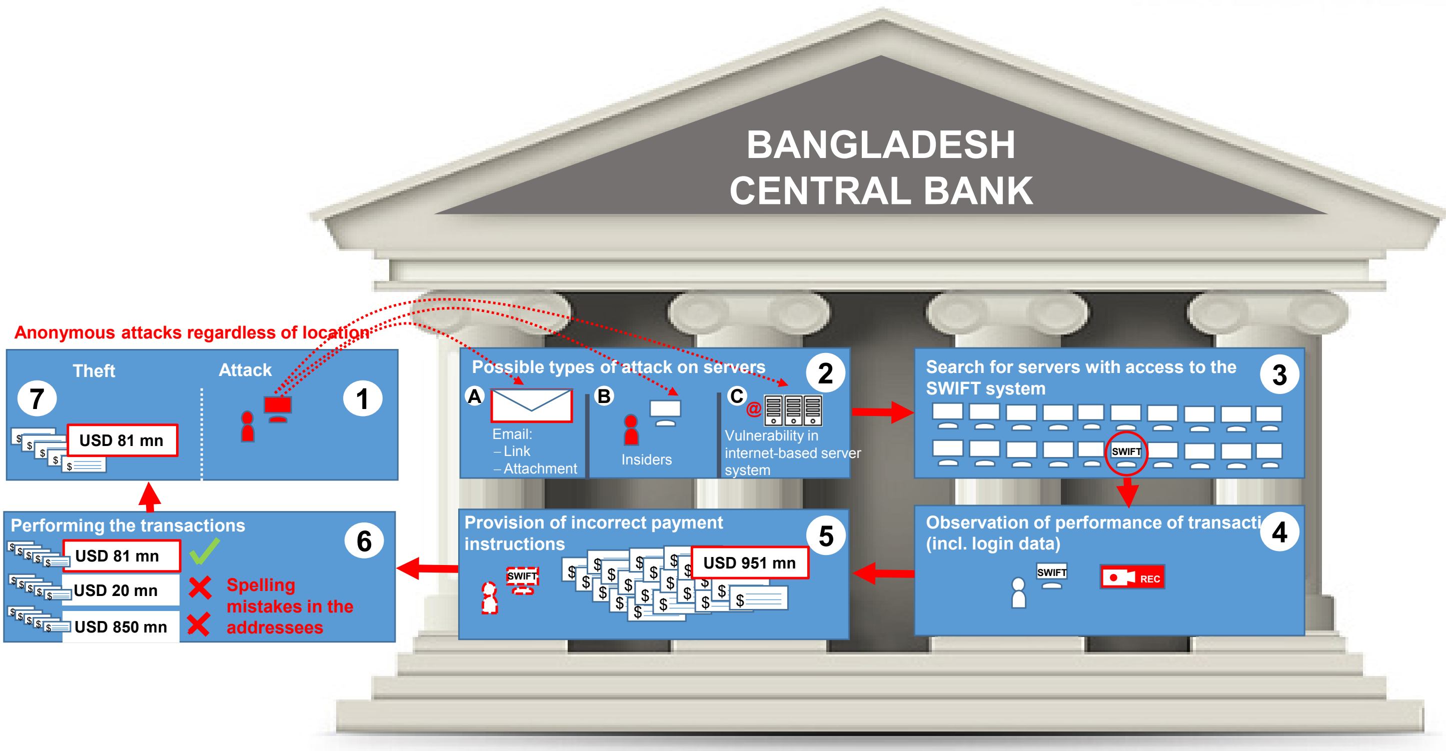
Cyber security in the financial sector

Global digital networking has increased greatly and offers significant potential. However, it is also the basis for targeted cyberattacks, which can be carried out anonymously and regardless of location. The number of such attacks has grown dramatically in recent years. The financial sector is particularly interesting due to the high potential proceeds for cyber criminals.

With digitisation rapidly advancing, cybercrime has also increased dramatically in recent years. In February 2016, for example, unknown hackers breached the systems of the Bangladesh Central Bank and thereby gained access to payment transfer access data. They entered fictitious payment instructions amounting to USD 951 million, of which USD 81 million has effectively been transferred. Without a spelling mistake the attackers made in the addressees' data, the damage would have been higher (see diagram).

Due to the high potential proceeds, the financial sector is badly affected by cybercrime. Cyberattacks on the financial sector occur much more frequently than those on other sectors. Moreover, digital networking is more pronounced in the financial sector than in other sectors because banks are networked amongst themselves but also with companies and private individuals. This further increases the financial sector's vulnerability.

The example of the Bangladesh Central Bank shows that cyber incidents harbour considerable potential for immense monetary damage, but they also pose a reputational threat. Major incidents can undermine confidence in the Swiss financial centre. It is therefore imperative that the Swiss financial sector pays particular attention to the topic of cyber security.



Digitalisation

Cyber security in the financial sector (follow-up)

Based on the national cyber risk strategy, risk and vulnerability analyses were carried out for the banking sub-sector as well as for the insurance sub-sector as operators of critical infrastructures. Measures were subsequently defined for both sub-sectors. The definition of measures for the banking sub-sector has already been concluded and the measures are being implemented. One result of this work is the revised FINMA circular „Operational risks at banks", which will enter into force on 1 July 2017.

The circular obliges all banks to implement a risk management concept for dealing with cyber risks. This concept must clearly define roles, tasks and processes along the dimensions of identification, protection, recognition, reaction and restoration. Concerning protection, the circular stipulates that banks must regularly carry out vulnerability analyses and penetration tests.

The advisory board for the future of the Swiss financial centre has also been dealing with the issue since 2016 in order to draw up possible recommendations for action. Initial analyses set out the current cyber security projects, the requirements of Swiss financial intermediaries and cyber security initiatives of selected international financial centres. The focus of the ongoing work is on the areas of „information exchange" and „cyber crisis organisation". SIF is contributing nationally and internationally to the work on the topic of cyber security.

Bettina Stähli

Taxes

No double taxation, please!

Switzerland has concluded double taxation agreements with numerous countries. If, despite these agreements, double taxation occurs or there is a risk of it occurring, the persons concerned may apply for a mutual agreement procedure to be initiated. Switzerland is well on its way to meeting the OECD specifications.

In double taxation agreements (DTAs), it is established in which country the tax base of a natural person or a legal entity can be taxed and the components that are included. However, DTAs are not always able to provide clarification, this results in double taxation. In such cases, taxpayers resident in Switzerland can ask the State Secretariat for international Finance Matters (SIF) in Bern to initiate a mutual agreement procedure.

In October 2015, the OECD published the report on the base erosion and profit shifting (BEPS) project's action plan. The report contains measures to improve the operation of mutual agreement procedures. These are important because they increase legal certainty for taxpayers at a time when tax regulations are constantly being changed. Specifically, countries are being called upon to ensure that the average duration of mutual agreement procedures is no more 24 months.

The OECD gathers statistical details so that it can get an impression of the operation of mutual agreement procedures in the individual countries. The last time Switzerland submitted corresponding information to the OECD was in June 2017. It concerned the procedures concluded in 2016:

- Mutual agreement procedures to avoid double taxation that has already occurred or to prevent imminent double taxation took on average 26 months to be concluded. An example of such a procedure could concern a retired person whose pension was taxed in Switzerland as well as in that person's country of residence.

- Mutual agreement procedures to avoid double taxation in the area of transfer pricing in advance (advance pricing agreements, APAs) also took on average 26 months. These were typically procedures for multinationals which wanted to determine the transfer prices between its group companies in advance.

SIF has documented the operation of mutual agreement procedures in a report and will soon publish detailed statistics on this topic (cf. link).

Switzerland is very well positioned; it is very close to the OECD specification. In the future, it will make every effort to achieve or undercut the prescribed 24 months. It will thereby prove that it attaches great importance to mutual agreement procedures: they are in the interest of taxpayers because they help to avoid double taxation.

Jessica Salom and Pascal Duss

A question for SIF

On 12 February 2017, Swiss voters rejected the third series of corporate tax reforms, with just over 59% voting against it. Ten days later, the Federal Council instructed the Federal Department of Finance (FDF) to draw up the substantive parameters for a new tax proposal (TP17). By when does TP17 have to be implemented to avoid Switzerland being put on a list of non-cooperative countries?

The rejection of the CTR III generated great interest above all in other European countries. Due to the implementation of an active information policy by the FDF in relation to our most important partners, including members of the EU and the OECD, it has been possible to avoid critical interventions and countermeasures up to now.

In particular, the EU is following the further work in Switzerland – among other things within the context of its work in drawing up a list of uncooperative countries for tax purposes – and expects the existing tax regimes (cantonal tax statuses, practices for principal companies and Swiss finance branches) to be swiftly abolished. The FDF continuously provides information on developments in Switzerland via international contacts.

Agenda

21-23 June
Plenary meeting of the Financial Action Task Force (FATF), Valencia, Spain

7-8 July
Summit of the G20 heads of state and heads of government , Hamburg, Germany

14 July
End of the consultation on amendments to Capital Adequacy Ordinance

17-22 July
Meeting of the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes, Geneva, Switzerland

The SIF

The State Secretariat for International Financial Matters (SIF) defends the interests of Switzerland in international financial and tax matters and participates in international negotiations. The SIF informs yearly in four newsletters about its operations. The newsletters are available in German, in French and in English.