



# Review of 2019 – A year dominated by digitalisation

The year 2019 witnessed important reforms and developments in international financial and taxation matters. Digitalisation is increasingly driving innovation and growth. The associated opportunities and risks pose a challenge for Switzerland too.

The Organisation for Economic Co-operation and Development (OECD) is currently working on **international corporate tax reforms** which go far beyond the original objective of taxing large international digital companies. Switzerland is an active participant in this project, in order to prevent myriad unilateral digital taxes with unforeseeable consequences. Final decisions are due by the end of 2020. This should result in a shift of profit allocation away from smaller, export-oriented economies and towards large market jurisdictions.

In response to the technological developments in the financial sector, the conditions for **fintech** companies in Switzerland were eased at the beginning of 2019, thereby reducing barriers to market entry and encouraging **innovation**. In addition, the Federal Council has proposed legislative amendments to Parliament intended to further improve the conditions for companies using **blockchain** technology. Facebook and other companies hit the global headlines in June 2019 when they announced the launch of an electronic currency called **Libra**, which would be pegged to a basket of currencies and managed by an association based in Geneva. The Swiss authorities are keeping an open mind, but are also emphasising the risks involved, which will require an internationally coordinated response.

**Transparency** in international financial and tax relations is becoming increasingly important. For example, in 2019, Switzerland engaged in the international exchange of information on advance tax rulings. In September, it transmitted account data to over 70 partner states within the framework of the automatic exchange of information. Compliance with the administrative assistance standard concerning the exchange of information upon request is reviewed regularly. In 2019, Switzerland was assessed by the **Global Forum**; the findings are due in March 2020.

The network of **double taxation agreements (DTAs)** was expanded in 2019, with eight revised or new agreements which now cover 100 states. Moreover, the revised **DTA with the United States** entered into force on 20 September 2019, after having been held up in the US Senate for nearly ten years.

Switzerland is committed to meeting international standards as regards combating **money laundering and terrorist financing** too. On 26 June 2019, the Federal Council submitted a dispatch on the tightening of the Anti-Money Laundering Act to Parliament.

**Climate change and sustainability** have had an impact not just on political circles, but also on economic conditions. The Federal Council has instructed the Federal Department of Finance to submit a report by spring 2020 and, as necessary, consider legislative amendments on disclosing climate and environmental information for financial products, as well as due diligence by asset managers with regard to climate and environmental risks.

Switzerland's **relationship with the EU** remains very important. In the area of tax policy, a long-running disagreement with the EU was settled in 2019. The EU acknowledged the progress achieved by Switzerland in implementing international standards and abolishing a number of tax regimes as part of the TRAF corporate tax reform, and removed Switzerland from its watch list on 10 October 2019. However, for the time being, the EU is still refusing to recognise Switzerland's stock exchange supervision as equivalent to EU regulations; in response, the Federal Council activated measures to protect the Swiss stock exchange infrastructure.

Of course, the representation of Swiss interests is not just confined to Europe. Activities in this regard in 2019 took place in the context of the **G20 Finance Track** under the Japanese presidency, the International Monetary Fund (IMF), the Financial Stability Board (**FSB**) the **OECD**, the Financial Action Task Force (**FATF**) and a series of bilateral financial dialogues, as well as visits by Finance Minister and President Ueli Maurer together with delegations of **business representatives** (China, the Gulf region, Kazakhstan); all of these were aimed at fostering favourable conditions in Switzerland and improving **access to important target markets**.

## State Secretariat for International Finance

The State Secretariat for International Finance SIF advocates Switzerland's interests in financial, monetary and tax matters vis-à-vis partner countries and in the competent international bodies. It is committed to good framework conditions to ensure that Switzerland can have a secure, competitive and globally recognised financial centre and business location. It also strives to ensure that the Swiss financial sector has access to foreign markets. State Secretary Daniela Stoffel has headed SIF since 1 March 2019.



# Review of 2019

## Taxing the digital economy

On 31 May 2019, the OECD published a programme of work on the tax challenges arising from the digitalisation of the economy. It is based on two pillars (shifting of profit allocation to market jurisdictions for taxation and minimum taxation rule). Public hearings were held on the subject in November and December. SIF is involved in working out the details in several OECD working parties.

## Double taxation agreements (DTAs)

DTAs prevent the double taxation of individuals and legal entities. They are an important element in promoting international economic activities. Switzerland has DTAs with over 100 states and is continuing to expand this network. The protocols of amendment with Ukraine, South Korea, Iran, the Netherlands, Ireland, Sweden, Norway, New Zealand and Kuwait were signed in 2019, as was the new DTA with Bahrain. The protocols of amendment with Ecuador, UK and US came into force, as did the new DTA with Zambia.

## Mutual agreement procedure

If double taxation occurs despite a DTA, or if there is a risk of such double taxation occurring, taxpayers resident in Switzerland can apply to SIF for a mutual agreement procedure. Most procedures concern European countries. On 13 August 2019, the OECD published its report on compliance with the minimum standards for dispute resolution mechanisms and gave Switzerland a positive assessment. In the reference year of 2018, 220 international mutual agreement procedures were completed in Switzerland.

## International tax standards

### Automatic exchange of information

Switzerland has been implementing the global standard for the international automatic exchange of information in tax matters (AEOI) since 1 January 2017. At the end of September 2019, Switzerland exchanged AEOI data with 75 countries. On 20 December 2019, the Federal Assembly approved an extension to a further 18 partner states.

### Spontaneous exchange of information

Since 2018, Switzerland has been exchanging information on advance tax rulings within the framework of the spontaneous exchange of information based on the Administrative Assistance Convention. In 2019, the first review of the effective exchange of information took place for Switzerland (reference year: 2018); around 2,500 exchanges of information on advance tax rulings took place with other countries.

### Country-by-country reports

Within the framework of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports, Switzerland has undertaken to exchange such reports from multinational companies with partner states from 2020. In 2019, these reports were once again exchanged on a voluntary basis with 44 partner states.

## Review of the implementation of international tax standards

### Global Forum on Transparency and Exchange of Information

The Global Forum ensures that the international standards regarding transparency and the exchange of information for tax purposes are complied with and consistently implemented. In 2019, it carried out the second round of reviews concerning the implementation of the exchange of information upon request in Switzerland. The findings will be available in spring 2020.

### Inclusive Framework on BEPS

The Inclusive Framework on BEPS assesses in particular the implementation of the minimum standards resulting from the BEPS project. In 2019, Switzerland was reviewed and obtained a good score for the exchange of country-specific information on large international companies (country-by-country reports), for the spontaneous exchange of information on advance tax rulings, for dispute resolution mechanisms and for the prevention of treaty abuse.

### BEPS Convention

The BEPS Convention can be used to adapt certain existing double taxation agreements to the recommendations from the OECD/G20 BEPS project. The Federal Council brought the BEPS Convention into force on 1 December 2019 following approval by Parliament.

## EU tax list

Since the end of 2017, the European Union has held a list of non-cooperative countries in taxation matters and a watch list of third countries that are considered to be cooperative but have not yet fully aligned their tax rules with international and EU standards. The Council of the European Union removed Switzerland from the watch list on 10 October 2019, as Switzerland abolished several tax regimes that were no longer internationally accepted and replaced them with internationally compatible tax rules by means of the corporate tax reform (TRAF), which was adopted in a referendum on 19 May 2019.

## Sustainable finance

Switzerland actively participates in the work of international financial organisations and strives to achieve a coherent policy in this area at both the national and international levels. This also includes extensive dialogue with the sector concerning sustainability in the financial market. The Federal Council set up a working group on sustainable financial market policy on 26 June 2019, and reaffirmed its efforts on 6 December 2019. In October 2019, President Ueli Maurer attended his first meeting of the Coalition of Finance Ministers for Climate Action.

### **Integrity of the financial centre**

Switzerland actively participates in international efforts to combat money laundering and terrorist financing. It is involved in drawing up international standards within the Financial Action Task Force (FATF) and implements its recommendations. In order to implement certain recommendations from the 2016 mutual evaluation report, the Federal Council adopted the dispatch on the amendment of the Anti-Money Laundering Act for the attention of Parliament on 26 June 2019.

### **Fintech incl. distributed ledger technology (DLT)**

The Federal Council wants to create the best possible framework conditions so that Switzerland can establish itself and evolve as a leading location for fintech and DLT companies. An authorisation category tailored to fintech business models came into force in banking law on 1 January 2019. Then, on 27 November 2019, the Federal Council adopted the dispatch on the further improvement of the framework conditions for DLT/blockchain.

### **Stability of the financial centre**

In the wake of the financial crisis, Switzerland implemented many international standards to strengthen banks' resilience. Further steps were taken in 2019. The Federal Council ensured that the parent entities of systemically important banks are sufficiently well capitalised in the event of a crisis and published the third evaluation report on systemically important banks.

### **Modernised regulation**

In 2019, several legislative projects concerned the modernisation of financial market regulation, for example the Financial Services Act (FinSA) and the associated ordinance, which were adapted to European requirements, and the Financial Institutions Act (FinIA), which combines several existing laws into a single act. Moreover, the Federal Council initiated the consultation on the simplified introduction of a new fund category (L-QIF); it also simplified the capital requirements for certain smaller financial institutions.

### **Stock market equivalence**

The European Union (EU) did not extend the limited recognition of the equivalence of Swiss stock exchange regulation that expired on 30 June 2019. Accordingly, the FDF activated the measure to protect the Swiss stock exchange infrastructure with effect from 1 July 2019, based on the Ordinance on the Recognition of Foreign Trading Venues for the Trading of Equity Securities of Companies with Registered Office in Switzerland.

### **Brexit**

The bilateral agreements between Switzerland and the EU will no longer be applicable after the UK leaves the EU. Switzerland has thus entered into a number of new agreements with the UK in the context of its „mind the gap“ strategy. The agreement signed in Davos on 25 January 2019 regarding direct insurance other than life insurance will ensure the seamless continuation of the current regulations in this area.

### **Expansion of international relations**

Financial dialogue and bilateral working visits are used to establish and maintain privileged contacts with the authorities involved in financial and tax matters in important partner states, as well as to improve market access. In 2019, meetings in this context were held with Germany, France, Hong Kong, India, Italy, Japan, the Netherlands, Russia, Saudi Arabia, Singapore, the UK, the US, the United Arab Emirates and the EU. Moreover, President Ueli Maurer travelled to China, the Gulf region and Kazakhstan in 2019, accompanied by delegations of financial and business representatives.

### **Financial Stability Board (FSB)**

The FSB primarily coordinates the work of its member states and of international bodies in the area of financial market regulation and supervision. Since 2019, the FSB has been investigating whether international standards have led to less integrated international financial markets. In parallel, the FSB is analysing the risks that stablecoins can pose to financial market stability.

### **G20**

The group of 20 leading advanced and emerging economies initiates coordinated reforms at the global level. For several years now, Switzerland has been invited to the Finance Track, which addresses key issues relating to the global financial and economic system. Saudi Arabia will hold the G20 presidency in 2020. In December 2019, it invited Switzerland to participate in all G20 bodies in 2020.

### **International Monetary Fund (IMF)**

The IMF's main task is to ensure the stability of the global finance and monetary system. To this end, it monitors the economic policies of its member countries and grants loans to countries with balance of payments difficulties. Switzerland supported a package to maintain the IMF's total resources, which provides for a doubling of the so-called New Arrangements to Borrow and a reduction in bilateral credits.



# SIF regulatory projects – 2019

## Financial market regulation

<b>Capital Adequacy Ordinance (CAO)</b>	Simplifications for small banks and securities firms, capitalisation of parent entities of systemically important banks	<u>Entry into force:</u> 1.1.2020
<b>Liquidity Ordinance (LiqO)</b>	Introduction of a net stable funding ratio (NSFR)	<u>Federal Council decree:</u> ordinance amendments early summer 2020, planned entry into force mid-2021
<b>Banking Act (BankA)</b>	Revised rules for bank restructuring, deposit protection and segregation of intermediated securities	<u>Consultation:</u> 8.3. - 14.6.2019, dispatch Q2 2020
<b>Financial Services Ordinance (FinSO), Financial Institutions Ordinance (FinIO), Supervisory Organisation Ordinance (SOO)</b>	Implementing provisions for the Financial Services Act (FinSA: provisions on providing financial services) and the Financial Institutions Act (FinIA: introduction of financial institution supervision)	<u>Entry into force</u> of federal act and ordinance: 1.1.2020
<b>Collective Investment Schemes Act (CISA)</b>	Creation of a new unregulated fund category exclusively for qualified investors (Limited Qualified Investor Fund; L-QIF)	<u>Consultation:</u> 26.6. - 17.10.2019; dispatch: April 2020
<b>Insurance Policies Act (IPA)</b>	Partial revision aimed at strengthening the rights of insured parties	<u>Dispatch:</u> 28.6.2017; <u>being discussed by Parliament</u>
<b>Insurance Oversight Act (IOA)</b>	Partial revision; rules on the restructuring of insurance companies, introduction of customer categorisation, rules of conduct for the insurance industry	<u>Consultation:</u> 14.11.18. - 28.2.19; dispatch Q2 2020
<b>Ordinance to the Financial Market Supervision Act (FINMASO)</b>	New ordinance on FINMA's tasks at the international level and in terms of regulation, regulatory principles, and cooperation, and information exchange with the FDF	<u>Entry into force:</u> 1.2.2020

## Money laundering

<b>Anti-Money Laundering Act (AMLA)</b>	Implementation of FATF recommendations; measures for advisors, financial intermediaries, trading in precious metals, precious stones and precious metal scrap; transparency of associations	<u>Dispatch:</u> 26.6.2019; <u>being discussed by Parliament</u>
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## Tax

<b>Federal Act on the Implementation of Recommendations of the Global Forum</b>	Bearer shares only for listed companies or if structured as intermediated securities	<u>Entry into force:</u> 1.11.2019
<b>Federal Act on the International Automatic Exchange of Information in Tax Matters (AEOIA)</b>	Implementation of the Global Forum's recommendations on the Swiss AEOI legal basis	<u>Dispatch:</u> 20.11.2019; planned entry into force of federal act and ordinance: 1.1.2021
<b>Federal Act on the Implementation of International Tax Agreements (ITAIA)</b>	Total revision; codification of current practice in international tax law	<u>Consultation:</u> 13.12.2019 - 27.3.2020

## Digitalisation

<b>Banking Act and Ordinance (BankA and BankO)</b>	New authorisation category for fintech companies with simplified requirements	<u>Entry into force</u> 1.1.2019
<b>Federal Act on the Adaptation of Federal Law to Technical Developments in Distributed Ledger Technology</b>	Amendments to nine federal acts to further improve the framework conditions for blockchain and distributed ledger technology (DLT), increase legal certainty and reduce the risk of abuse	<u>Dispatch:</u> 27.11.2019