EUROPE'S TRADITIONAL IFCs

# From Secrecy to Solid Confidentiality - A Bright Future for Switzerland

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**Until 2009 Switzerland had the questionable reputation of being the ideal parking spot for all kinds of money.**

The USA action against the UBS was the start of a series of actions to change old practices. Being the world number one in offshore money management, inevitably resulted in Switzerland being the prime target for corrective action.

During this clean-up process the name of Switzerland has often been used in the press in a negative way. It has often seemed unfair that other jurisdictions with huge amounts of offshore money, have not yet experienced the same level of scrutiny.

The Swiss Federal Council has played an important role in re-shaping the Swiss financial industry. It has not only accepted the implementation of FATCA but also the OECD exchange of information demands. The latter will have a broad impact. Switzerland has already accepted to execute this with the EU and Australia. This concerns account information as and from January 2017 - the relevant details for the year 2017 will be delivered to the respective countries in 2018.

With the exception of the EU, Switzerland will only sign reciprocal bilateral exchange of information agreements with countries that practice the same private data protection as in Switzerland. This will limit the number of countries involved. By accepting the OECD exchange of information, Switzerland wanted to make it clear to the world that criminal money is not welcome in the jurisdiction. With a good legal framework, Switzerland will soon no longer be known for the non-declared money, but more so as the champion of correct money. Right now, Switzerland is ahead of the main offshore money centres in this regard. However, these countries will soon also have no choice but to move in the same direction. (In the meantime, it is disturbing to notice a flow of accounts out of Switzerland to the USA, since people anticipate that the USA will not, or only at a later date, exchange information.)

Swiss banks are not only facing the aforementioned changes, currently, they are still spending a lot of time assisting their private clients with their regularization procedures. This process should finish in 2016. In addition, the Swiss banks are working on the settlement of claims coming from countries like the USA, France, Germany, etc. This should also be mostly finalized by the end of 2016. As of then, the focus of the financial institutions will gradually shift to two areas, ie:

1. How to get access to the EU market. Currently Swiss based bankers are not allowed to do their marketing in the EU, they can only do it via a local presence. The negotiations to change this have been negatively influenced by the referendum of 9 February 2014. This vote forced Switzerland to limit migration to Switzerland and thus also the flow of EU residents. Brussels has taken this very seriously and is threatening the validity of the bilateral agreements of free movement of persons with the EU. This is further delaying an agreement on marketing in the EU.
2. The Swiss franc has appreciated against all other currencies since the SNB decided in January this year to no longer defend the Euro/CHF exchange rate of 1.20. This has made Switzerland even more expensive. The banks are solving this partly by outsourcing a lot of administrative work to countries like India, Poland and Portugal.

In this environment of rapid changes, the consolidation of the financial sector will continue. Recently we have seen that many foreign owned banks no longer see a future for their Swiss operations, banks like Lloyds, Coutts, etc have all been sold. While the private banks continue to focus on organic growth, we have seen banks like UBP, Safra Sarasin and Julius Baer actively making acquisitions. It is anticipated that the number of financial institutions will still be reduced by about 25 per cent and thus also the number of employees that are active in the financial field.

While the above raises some areas of concern, there are some bright sides. The outcome of the referendum of 9 February 2014 was a bad surprise and a warning for the population. Since then we have had several other important votes in Switzerland, amongst others the vote of November 2014 where the Swiss population decided to maintain the existing lump-sum taxation for wealthy foreigners and the vote of June 2015, where the Swiss population voted against the introduction of a federal inheritance tax of 20 per cent. This way Switzerland remains an attractive destination for wealthy families that do not want to live in England, Monaco, etc.

The announced change of the Swiss corporate tax system may actually also attract some interest from private clients. Under pressure from the OECD, the two-tier rate system will be abolished. The current system has a low tax rate for companies that conduct more than 80 per cent of its activity abroad, while the local companies are paying tax rates of up to 24 per cent in Geneva. The new system will have effectively only one corporate tax rate applicable to all companies. In most cantons it will be in the range of 12 to 15 per cent.

## Swiss financial institutions

They will benefit from the status of being the world preferred custodian. The supervision of FINMA and the effective regulation to only allow non-criminal money at the banks will create a Swiss brand, the likes of which already exist for the watch industry, ie, banking in Switzerland will represent respect of the rules of good conduct. And yes, the old bank secrecy will be gone, but confidentiality will still be very much protected. It is in the genes of the Swiss!

In this new environment the banks will increasingly focus on its core activities/ competencies. They will be obliged to do so in order to strengthen services and profitability. The latter is highly influenced by the successful avoidance of mistakes and claims from the regulator and clients. As a result we have recently seen the exit of a large number of banks from wealth planning / tax advice as well as from the administration of trusts.

## Swiss law firms / tax advisors

Swiss law firms and tax advisors are currently very active with the regularization of bank clients, but when this is done, they will start to address new business. Since the banks will be reducing their wealth planning/tax guidance services, the implication is that clients will at an earlier stage be directed to the law firms / tax advisors for advice. The use of this expertise will result in more solid structuring for the private clients and their families.

## Swiss fiduciary companies

A large number of trust companies that have worked on the basis of the old rules will close in the coming one to three years. That will happen as soon as they have liquidated all the non-effective structures.

The international, mostly P/E owned trust companies will continue to provide their services. Their focus is mostly on the corporate clients. The private clients mostly prefer not to be served by a P/E Trustee since one wants to have a long term relationship. They consider a P/E Trustee to be a contradictio in terminis.

As mentioned earlier, the financial institutions are reducing their fiduciary services or exiting that sector completely - recent examples include Schroder, RBC, HSBC, Barclays, etc. This trend will continue.

This all implies that the fiduciary services for private client will increasingly be provided by specialized, fully independent, trust companies, like Reliance Trust Company.

In conclusion then: Yes there is a bright future for the high quality services that are available in Switzerland.

*For extended article see www.ifcreview.com