

Report on international financial and tax matters 2014



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Table of contents

Preface	5
Overview	6
1 International environment	9
2 International financial and monetary issues	12
2.1 Overview	12
2.2 Multilateral cooperation	12
2.2.1 G20	12
2.2.2 International Monetary Fund	13
2.2.3 Financial Stability Board	17
2.2.4 FATF and other bodies for combating money laundering and terrorist financing	18
2.3 Bilateral cooperation	20
2.3.1 Financial dialogues and cultivation of closer contact with leading financial centres	20
2.3.2 Regulatory dialogue with the EU	20
2.3.3 Agreements on market access	20
2.3.4 International activities in the area of customs	22
3 Competitiveness, market access and ability to withstand crises	23
3.1 Overview	23
3.2 Significance of the Swiss financial centre	23
3.3 Framework conditions	24
3.3.1 Financial market	24
3.3.2 Regulatory projects	25
3.3.3 Implementation of too big to fail measures	28
3.3.4 Implementation of Basel III	29
4 International tax matters	30
4.1 Overview	30
4.2 Multilateral cooperation	30
4.2.1 OECD	30
4.2.2 Global Forum on Transparency and Exchange of Information for Tax Purposes	32
4.2.3 UN	33
4.3 European Union	33
4.3.1 Business taxation	33
4.3.2 Taxation of savings agreement	34
4.3.3 Financial transaction tax	34
4.4 Bilateral cooperation	35
4.4.1 Double taxation agreements and tax information exchange agreements	35
4.4.2 International tax administrative assistance – implementation in domestic law	35
4.4.3 Withholding tax agreements with the United Kingdom and Austria	35
4.4.4 Other bilateral tax issues	37

Preface

Competition among financial centres has intensified in recent years due to the repercussions of the financial and debt crisis. Switzerland too is facing challenges. With the introduction of the new financial market policy, the Federal Council intends to create the best possible framework conditions for Switzerland's financial centre so that it can continue to contribute significantly to prosperity in Switzerland.

In 2013, Switzerland took further steps towards implementing the financial market policy and for the first time was able to bring its concerns and expertise directly to the G20 table. But we are not yet at the end of the road. Further implementation measures must be taken in 2014, including securing access to foreign markets, actively helping to shape and implement international standards in the area of taxation and finance, and establishing cautious regulation at home. Particularly in the field of international power politics, it is important for a strong and successful country like Switzerland to back the application of binding international standards. Competition between business locations should be based on a level playing field. Switzerland welcomes such competition.

The tasks still to be undertaken by Switzerland are not easy and will give rise to heated debates, something we are familiar with in our democratic system. What we in Switzerland often criticise as being too quick and extensive is equally frequently perceived as being too slow and inconsistent abroad. Switzerland actively puts forward its points of view and defends its interests in international bodies, as well as working constructively to reach solutions. It pursues the objective of being perceived internationally as a successful, stable and morally sound financial centre.

At the same time, we must not lose sight of our goal, which is pursued by the financial market policy as a whole: to strengthen the international competitiveness of our financial centre. We want to continue to be a successful and world-leading financial centre in the asset management sector and also to facilitate good framework conditions for new business areas. In this way, we can safeguard our interests and play to our strengths. A dynamic and open economy needs a successful financial centre that is respected on an international level.

The 2014 edition of this Federal Council report, which was published for the first time three years ago, shows how Switzerland is tackling the challenges it faces in international financial and taxation matters and what challenges are to be met in 2014 and the years ahead.



Eveline Widmer-Schlumpf
Head of the Federal Department of Finance

Overview

According to the Federal Constitution, economic policy should preserve the interests of the Swiss economy as a whole and contribute to the population's welfare and economic security. Whereas the task of the private sector is to come up with innovations and offer services as efficiently as possible, it is the responsibility of the state to shape the framework in such a way that a competitive and innovative environment is guaranteed. As an element of economic policy, financial market policy has the task of shaping the frameworks relevant to the financial market.

Overall, national parameters should be designed in a way that enables the three objectives of financial market policy to be achieved, i.e. quality, stability and integrity. Switzerland should continue to have a strong, internationally competitive financial market in the future.

- In addition to being in the interests of both domestic and foreign clients, a high-quality offering of financial services also requires the sustainable creation of value added and employment in the financial sector.
- Stability, the second objective of financial market policy, is important, as only in a stable financial system can the Swiss financial centre function smoothly.
- Thirdly, integrity is key. This is also the personal responsibility of private individuals.

In 2013, the Federal Council proceeded swiftly with the implementation of this financial market policy. In addition, by participating for the first time in the G20 Finance Track (see section 2.2.1) at Russia's invitation, Switzerland was able to contribute its expertise directly and convey its interests at the highest level. These contacts at international level are to be continued, even in the absence of direct access to the G20 summits in 2014. This makes the financial dialogues with G20 countries such as China, India, Russia, Turkey, Australia, Germany, France, Japan, South Africa and other countries all the more important, as is Switzerland's active participation in the International Monetary Fund (IMF), the Financial Stability Board (FSB) and the OECD. Switzerland is a member of all three organisations.

Within Switzerland, the agenda for 2014 will also include further important steps in the implementation of the financial market policy: the

revision of the Tax Administrative Assistance Act, the new Federal Financial Services Act, the Financial Market Infrastructure Act, and implementation of the revised recommendations on combating money laundering (FATF).

One of the major challenges facing Switzerland is to ensure market access for cross-border financial services. Internationally, Switzerland is an opponent of the latent protectionism that exists in the financial sphere in particular. Open markets facilitate the international division of labour and thereby help to narrow prosperity disparities. The Federal Council is seeking solutions with respect to the European Union (EU) in particular that will ensure continued market access in the area of cross-border asset management (see section 2.3.2).

Another objective is to establish framework conditions for new business areas. In the view of the financial industry, Switzerland has growth potential above all in the areas of asset management, insurance/pension funds and the capital market. Regulatory and tax modifications should allow the development of new business fields for the private sector (see section 3.3.1).

Ever since March 2009, Switzerland has been committed to compliance with international standards in the area of tax administrative assistance. Active participation in the development of new global standards that are important to Switzerland is just as essential as compliance with globally accepted standards. The Federal Council has reaffirmed that it will cooperate actively, within the scope of the OECD, on the development of a global standard for the automatic exchange of information to ensure the tax compliance of foreign asset management clients. This standard must meet high demands with respect to adherence to the principle of speciality and data protection, as well as guarantee reciprocity and encompass robust regulations for identifying the beneficial owners of all types of legal entity, including trusts and domiciliary companies. Work in this area will enter the crucial phase in 2014 (see section 4.2.1).

The EU remains a key partner for Switzerland, including in the area of finance and tax. In 2014, negotiations will be held on the revision of the taxation of savings agreement based on the

Federal Council mandate of December 2013. A technical adjustment is envisaged with a view to closing loopholes. However, an amendment of the agreement should be agreed only if a deterioration does not ensue regarding EU market access for Swiss financial service providers. The dialogue with the EU on business taxation will continue – whereby Switzerland also follows developments in the OECD in this area and contributes its input as an active OECD member. Work in connection with the third series of corporate tax reforms (USR III) will be continued with an eye on these discussions.

An internationally accepted solution for the exchange of information makes sense only if, at the same time, fair solutions can be found for resolving issues from the past. This has already been achieved through withholding tax agreements with the United Kingdom and Austria. With the United States, a framework has been established which will enable Swiss banks to resolve their dispute with the US authorities while at the same time respecting the Swiss legal system. Arrangements for the past are also being sought with other partner countries, particularly Switzerland's neighbours.

Although the stability of the international financial system has improved recently, the ability to withstand crises remains a major issue. The Federal Council will be analysing the too big to fail measures implemented in Switzerland, and will publish a report at the beginning of 2015 that will highlight any adjustments required.

In keeping with the Federal Council's decision of 4 September 2013, a broad-based group of experts is to analyse the financial centre's prevailing environment and prospects for the future, and derive recommendations for action. The group of experts is made up of representatives of the federal government, the private sector and academia. Isolated from daily business, it is analysing the financial centre's prevailing environment and prospects for the future and will derive recommendations for action based on the existing principles for financial market policy. Its activity is to cease at the end of 2014. The group's work is focused on «strengthening the competitiveness of Switzerland's financial centre» and «preserving or improving market access abroad».

2013 review

01.01.	Withholding tax agreements with the United Kingdom and Austria in force
01.02.	Tax Administrative Assistance Act in force
14.02.	Switzerland and United States sign FATCA agreement
15./16.02.	Switzerland invited by Russia to attend G20 Meeting of Finance Ministers (19./20.07.)
27.02.	Federal Council launches consultations on combating money laundering and on enhanced due diligence requirements in area of taxation
18.03.	IMF country evaluation acknowledges Switzerland's stability-oriented fiscal and monetary policy
27.03.	Federal Council publishes "Commodities fundamental report"
16.04.	Increase of monetary aid decree to CHF 10 billion in force
19./20.04.	IMF and World Bank Spring Meetings, incl. meeting of G20 finance ministers
17.05.	Federal Council takes note of tax and fiscal policy thrust of third series of corporate tax reforms
14.06.	Federal Council takes note of report of group of experts for further development of financial market strategy
11.07.	Switzerland and France commence financial dialogue and sign inheritance tax agreement
19./20.07.	Approval of BEPS Action Plan by OECD/G20
29.08.	Switzerland and United States sign joint statement to resolve tax dispute
04.09.	Federal Council adopts dispatch on inheritance tax agreement with France
04.09.	Federal Council decides to appoint broadly-based group of experts for further development of financial market strategy
13.09.	Federal Council approves report "An international framework for the restructuring of government debt"
25.09.	Switzerland and China sign new double taxation agreement
11./12.10.	IMF and World Bank Annual Meetings, incl. meeting of G20 finance ministers
15.10.	Switzerland signs OECD/Council of Europe convention on administrative assistance

- 16.10.** Federal Council adopts dispatch on revision of Tax Administrative Assistance Act
- 20.11.** Adoption of dispatch on the first three tax information exchange agreements
- 03./04.12.** Switzerland and China commence financial dialogue
- 13.12.** Federal Council adopts dispatch on implementation of revised FATF recommendations
- 13.12.** Federal Council publishes consultation on the Financial Market Infrastructure Act
- 18.12.** Federal Council adopts mandate on taxation of savings income with the EU
- 18.12.** Federal Council acknowledges report on measures to strengthen tax competitiveness (third series of corporate tax reforms/USR III) and sets out the next steps

Regarding Switzerland as a business location, the OECD's work on the base erosion and profit shifting (BEPS) project will be an important factor. Switzerland plays an active role in discussions on the new regulations, and brings up important points for the Swiss economy.

1

International environment

Outlook: The international environment and the situation for the financial sector in particular are likely to remain challenging for Switzerland. Global economic growth is expected to be modest in 2014 at around 3.5%. The IMF is anticipating growth of just over 2% in the advanced economies thanks to positive stimuli from the United States and a hesitant recovery in the eurozone. In the emerging markets, growth is expected to come in at around 5%. Switzerland's economy is set to gain momentum.

In 2013, the global economy continued to struggle, recording growth of 3.0% (2012: 3.1%) according to the International Monetary Fund (IMF). Although they experienced a loss of momentum as the year progressed, the emerging markets and developing economies remained the principal drivers of growth (+4.7%). By contrast, the economies of the advanced economies such as Japan and the United States picked up during the second half of 2013, with the temporary shutdown of the US government in October barely weighing on the recovery. Overall, however, advanced economies grew by just 1.3%. In the eurozone, economic output once again declined, despite a superficial easing of the debt crisis.

Against this backdrop, the monetary policy of the major advanced economies was persistently expansionary, and in Japan's case increasingly so. This situation, together with the provision of funding to contain the crisis, e.g. by the IMF and the European bailout mechanisms, may have alleviated the crisis, but it has also had the effect of essentially suspending market mechanisms and undermining incentives to reform. Moreover, persistently low interest rates give rise to the threat of inflation, the formation of asset price bubbles, and the spread of credit risks through poorly capitalised banks. The latter phenomenon hampers lending to robust borrowers and thus the recovery of the economy. A further danger to both economic development and financial stability is the persistent mutual financial dependency that exists between governments and financial institutions in many countries. This is a problem that can also have repercussions for other countries due to financial interconnectedness internationally.

The international community therefore faces three major economic and financial policy tasks.

Firstly, credible monetary and fiscal policy is required if the economy is to break out of «crisis mode» and return to a sustainable trajectory. The industrialised nations in particular need to press on with this process of normalisation and thereby limit the associated risks. At the same time, circumspection is required, as a premature or overly dramatic correction could derail the recovery and trigger an excessive reaction by financial markets.

Secondly, the stability of the financial system and the currency system needs to be further consolidated. Far-reaching international reforms of financial market regulation which were initiated in the wake of the financial crisis need to be implemented to restore confidence in the key players in the economy. However, protectionist measures are to be avoided and the benefits of open markets must be preserved. Multilateral bodies such as the FSB and the IMF have a key role to play in this respect.

Thirdly, structural reforms are essential if the dynamism of the global economy is to be boosted and a scenario of persistently low global growth averted.

This environment remains challenging for Switzerland, which is an open economy with an internationally oriented financial centre and its own currency. In addition, global pressure to consolidate is also weighing on the Swiss financial sector. Furthermore, Switzerland's position as an attractive business location from a tax perspective is being challenged by the increasing

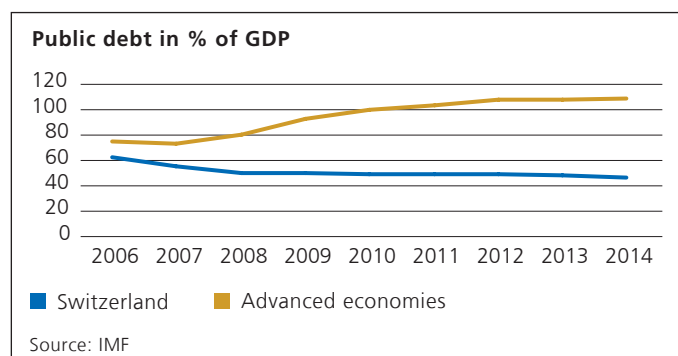


Fig. 1

efforts of many countries to improve their national finances by means of new sources of income and an expansion of the tax base. Accordingly, it is crucial for Switzerland to create

the most favourable framework possible for the Swiss financial centre, while at the same time ensuring that this is internationally acceptable.

**International standard-setting:
Switzerland's interests and its input.**

In the wake of the recent international financial crises, it became apparent that it was necessary as a preventive measure to improve and strengthen the globally applicable standards and codes of good practices in the area of economic and financial management. The work of the International Monetary Fund (IMF), the World Bank and the Financial Stability Board (FSB) on standards and codes is a core component of the efforts being made to consolidate the international financial system following the crises in the emerging markets in the 1990s and especially following the 2008 financial crisis. In addition, standards are being drawn up and further developed by the OECD in the area of international administrative assistance in tax matters.

As a member of numerous international organisations, Switzerland is committed to complying with the international standards. It supports these standards, as they help boost economic and financial stability, promote good governance and create a level playing field internationally. Moreover, compliance with the standards enhances Switzerland's appeal as a business location and financial centre in the eyes of foreign investors.

- 1) Transparency in policies: These standards were prepared by the IMF.
 - *Data dissemination:* Special Data Dissemination Standard (SDDS), General Data Dissemination System (GDDS) and Special Data Dissemination Standard Plus (SDDS Plus)
 - *Fiscal transparency:* Code of good practices on fiscal transparency, supplemented by the Guide on resource revenue transparency
 - *Transparency in monetary and financial policies:* Code of good practices on transparency in monetary and financial policies

- 2) Financial sector regulation and control: These standards were devised by specialist institutions.
 - *Banking supervision:* The Basel Committee has drawn up a list of 25 Core principles for effective banking supervision (BCP); these core principles, which were drawn up in 1997 and then revised in 2006 and 2012 in response to the financial crisis, constitute a package of globally applicable minimum requirements aimed at guiding national authorities in their prudential supervision role
 - *Securities regulation:* The Objectives and principles of securities regulation issued by the International Organization of Securities Commissions (IOSCO), as well as the corresponding Methodology for assessing implementation of the IOSCO objectives and principles of securities regulation
 - *Supervision of insurers:* The Principles that are fundamental to effective insurance supervision issued by the International Association of Insurance Supervisors (IAIS)
- 3) Market and institutional infrastructure: These standards are devised by various institutions, including the World Bank.
 - *Crisis resolution and deposit insurance:* The Core principles for effective deposit insurance systems issued by the International Association of Deposit Insurers (IADI) and the Key attributes of effective resolution regimes for financial institutions issued by the Financial Stability Board (FSB)
 - *Insolvency and creditor rights:* A standard based on the World Bank's Principles for effective insolvency and creditor rights systems is in the final stage of preparation in consultation

with the IMF; the same is true of the Legislative guide on insolvency law issued by the United Nations Commission on International Trade Law (UNCITRAL)

- Corporate governance: The Corporate governance principles of the Organisation for Economic Co-operation and Development (OECD)
- Accounting and auditing: The International Financial Reporting Standards (IFRS) of the International Accounting Standards Board (IASB) and the International auditing standards of the International Federation of Accountants (IFAC)
- Payment systems, clearing and settlement: Committee on Payment and Settlement Systems and Principles for financial market infrastructures issued by the International Organization of Securities Commissions
- Market integrity: Recommendations to combat money laundering and terrorist financing (AML/CFT) of the Financial Action Task Force (FATF).

4) Exchange of information in tax matters:

These standards are set by the OECD.

- Administrative assistance in tax matters: This standard, set out in Article 26 of the OECD Model Convention and in the model Tax Information Exchange Agreement (TIEA), stipulates that countries must exchange tax information of any kind and description that is required to enforce domestic law. The applicable standard provides for the exchange of information upon request as well as the possibility of group requests.

The extent to which countries comply with these standards and codes is the subject of an evaluation report prepared by the IMF, the World Bank and standardisation bodies. Compliance with financial sector standards is evaluated primarily within the scope of the IMF's Financial Sector Assessment Program (FSAP). The 2013 FSAP is

currently under way for Switzerland, and concerns mainly compliance with the Basel, IOSCO and IAIS standards. Moreover, the FATF is scheduled to assess Switzerland in 2015.

The Global Forum on Transparency and Exchange of Information for Tax Purposes (see section 4.2.2) checks compliance with the OECD standard for administrative assistance in tax matters within the scope of so-called peer reviews. The reviews check not only the member states of the Global Forum, but also other, non-member jurisdictions that are considered relevant for the Global Forum's work.

Swiss interests

For Switzerland, the application of international standards is above all a means of strengthening financial stability, ensuring legal certainty, maintaining market functionality, allowing for good governance and creating a level playing field internationally. These aspects are crucial, especially for a medium-sized open economy. As the financial system standards and codes are essential for preventing crises, they provide financial institutions with a sound and coherent regulatory environment, and thereby contribute to financial stability and growth. In order to enhance its appeal as a business location and financial centre in the eyes of foreign investors, Switzerland has for many years endeavoured not just to comply with the international standards, but also to work actively on devising these standards and writing them into domestic law.

International standards also seek to strengthen legal and institutional infrastructures abroad, particularly in emerging countries, and thereby reduce the risk and uncertainty for Swiss investors in these countries. That is why Switzerland supports international efforts to improve practices in certain countries in order for them to gradually comply with the applicable standards. Countries with transparent and well-regulated institutions generally achieve better results economically and enjoy greater financial stability than those without.

2

International financial and monetary issues

Outlook: The fragile nature of the global economy and the financial system means that the key multilateral bodies and players continue to face major challenges. As Switzerland is not a member of the G20, the consistent and targeted voicing of key Swiss concerns is of particular importance. In the IMF, the way in which the quota and governance reforms will evolve in the future has still not been decided. A strong position on the Executive Board of the IMF is particularly important for Switzerland. The country wants to use its strong position as one of 24 member states on the Financial Stability Board (FSB) and push for implementation of an internationally rigorous and binding regulatory framework for the financial markets. By swiftly implementing the revised international recommendations on combating money laundering and terrorist financing issued by the FATF, Switzerland is emphasising that it attaches great importance to the maintenance of a morally sound financial centre and the commitments made through its international engagement.

2.1 Overview

The current state of the global economy and the financial markets is continuing to pose exceptional challenges for the international community and thus for the multilateral bodies responsible for financial stability (e.g. IMF and FSB). Switzerland actively contributes to key discussions and decision-making in the IMF's Executive Board and the FSB.

Discussions within the IMF remained focused on the still precarious situation of the global economy and the financial system. This was also the reason for increasing the IMF's funds and refining and strengthening the IMF's set of supervisory instruments. It is important that the IMF quota and governance reforms be driven forward in 2014, which would give more weight particularly to the large emerging market nations.

In January 2013, the FSB established itself as an association under Swiss law headquartered at the Bank for International Settlements (BIS) in Basel. The FSB is continuing to draw up meas-

ures to reduce the systemic risks that arise in connection with systemically important financial institutions (SIFIs), as well as measures for the regulation and monitoring of shadow banks. The compilation and exchange of financial data are also considered a high priority. Overall, though, the focus of work is shifting further towards the monitoring of implementation of reforms that have already been agreed.

Switzerland will continue to contribute to the key work of the G20 on financial issues. Its focus is on increased bilateral contacts, activities in multilateral bodies and substantial contributions in terms of content. Switzerland is also calling for debates to be held in the relevant bodies of formal international organisations (e.g. the FSB, IMF, OECD, UN, see Figure 2), and for key decisions to be made by these bodies.

Bilateral financial dialogues are also an important instrument (see section 2.3.1). They allow partner countries to present their positions on the G20 process and international financial institutions, and to identify and discuss shared interests as well as any opportunities and risks that arise when it comes to bilateral financial, tax and monetary issues.

2.2 Multilateral cooperation

2.2.1 G20

Above all, the G20 also plays a significant role in setting the agenda on the regulation and oversight of the international financial and monetary system. At Russia's invitation, Switzerland attended the meetings of the G20 finance ministers and central bank governors in 2013, and also participated in all preparatory work. Participation gave Switzerland the opportunity to have a direct say on important issues within the context of the G20, such as the reform of the IMF and financial market regulation. Where the latter is concerned, Switzerland was able to emphasise emphatically the need for international consistency – be it with regard to capital requirements for banks, mechanisms for the resolution of systemically important institutions, or the regulation of over-the-counter derivatives trading. Switzerland was also able to provide direct input

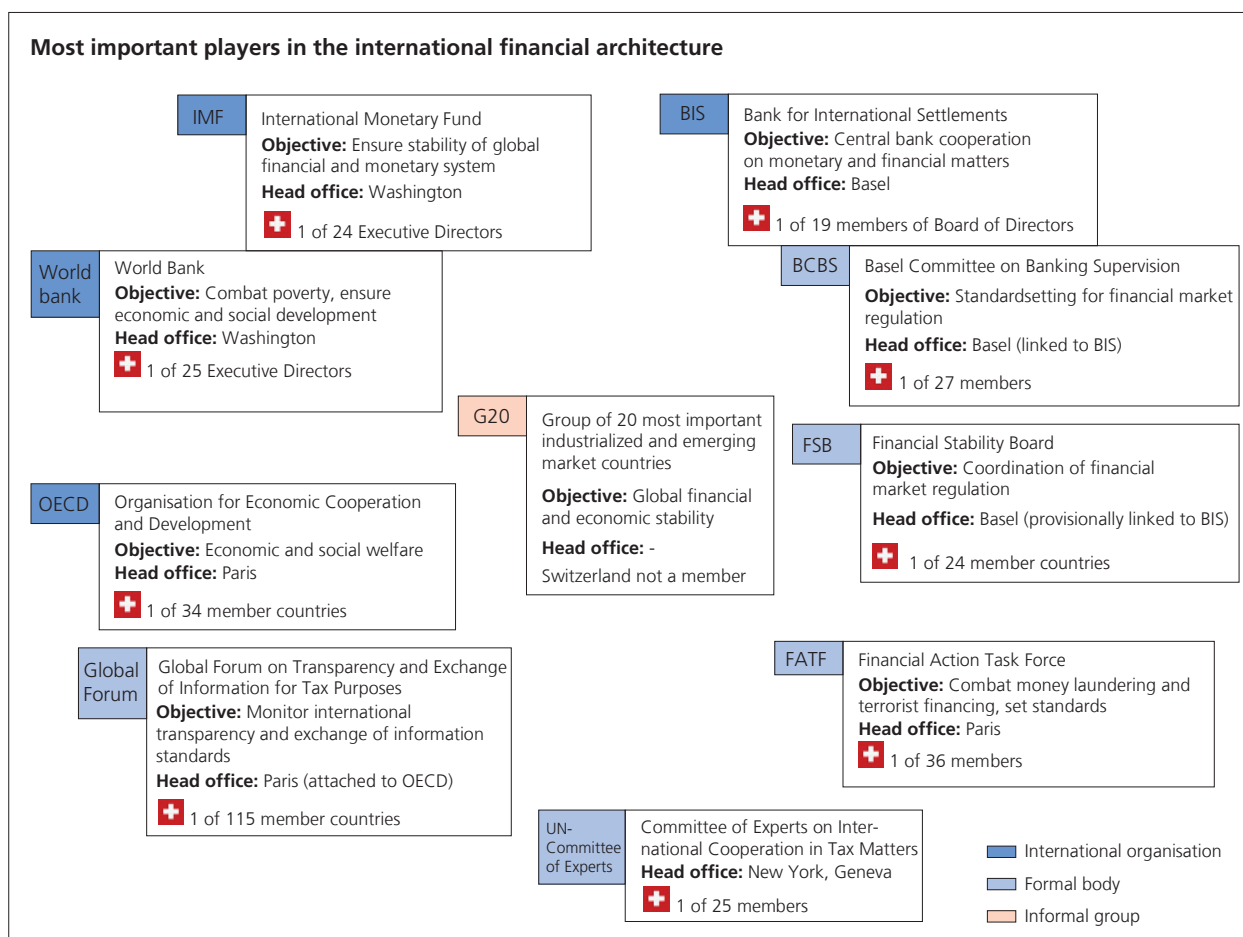


Fig. 2

into the debate on cross-border tax issues – such as the automatic exchange of information (AEOI) and BEPS (see section 4.2.1). This made a significant contribution to ensuring that certain principles such as the preservation of national sovereignty found their way into the ministerial declarations.

In the G20, just as in the IMF and other bodies, Switzerland advocated the creation of a more effective framework for restructuring government debt. In the absence of such a framework, Switzerland believes there is a gap in international financial architecture. As a Federal Council report from 2013 illustrates, a predictable framework for restructuring government debt would be an important component of a credible international toolkit for combating crises.

The G20 is made up of the world's largest industrialised and emerging market nations. Although

non-G20 nations have no entitlement to be present at G20 meetings, the country holding the chair may nonetheless invite certain other countries to attend. Australia will be holding the G20 presidency in 2014, and has invited both Singapore and New Zealand to attend. Given its economic significance and the international prominence of its financial centre, Switzerland's participation in the G20's work in the financial sphere (Finance Track) would be justified. Accordingly, Switzerland makes it clear in its contacts with G20 countries that it could also participate in the Finance Track in the future and that, in keeping with the «variable geometry» approach, the G20 could include countries that can contribute effectively to the stability of the international financial system.

2.2.2 International Monetary Fund

The IMF must ensure that financial and monetary developments are carefully monitored both in

individual member states and in the financial and monetary system as a whole. At the same time, the IMF is the key body for evaluating the implementation of lending programmes not only in countries such as Greece, Cyprus and Portugal, but also in countries such as Georgia, Romania, Haiti, Morocco and the Ivory Coast. In all core areas of IMF activity, i.e. economic policy monitoring and advice, technical assistance and lending, Switzerland works to ensure that the IMF has an appropriate toolkit and a good institutional setup. This also includes modern governance and adequate funding.

2.2.2.1 Quota and governance reforms

IMF quotas play a number of key roles. First and foremost, they are used to calculate member states' maximum payment obligations. In addition, they determine the extent to which countries can call on financial support from the IMF, as well as the voting power exercised by countries on the IMF Board. The quotas are derived from a formula based on the GDP of a country, its economic and financial openness, fluctuations in its trade and capital flows, and its holdings of currency reserves.

A resolution to reform the IMF's quotas and governance was approved by the IMF member states in December 2010. As part of these reforms, the regular resources of the IMF provided through quotas are to be doubled (see section 2.2.2.3). At the same time, there will be a shift of approximately 6% of quotas to dynamic emerging market and developing countries (EMDCs). The quota increase will take effect as soon as the package of reforms has been ratified by a qualified majority of IMF members. To date, approval has still not been given by the US Congress. Switzerland's parliament approved a corresponding proposal back in June 2012.

Another reform component is the medium-term reallocation of two Executive Board seats held by advanced European countries to emerging market and developing countries. Switzerland has signed a Memorandum of Understanding (MoU) with Poland which gives Poland greater leadership involvement in the joint constituency. According to the MoU, Switzerland will continue to represent the constituency in the relevant ministerial bodies – the International Monetary and Financial Committee (IMFC) of the IMF and

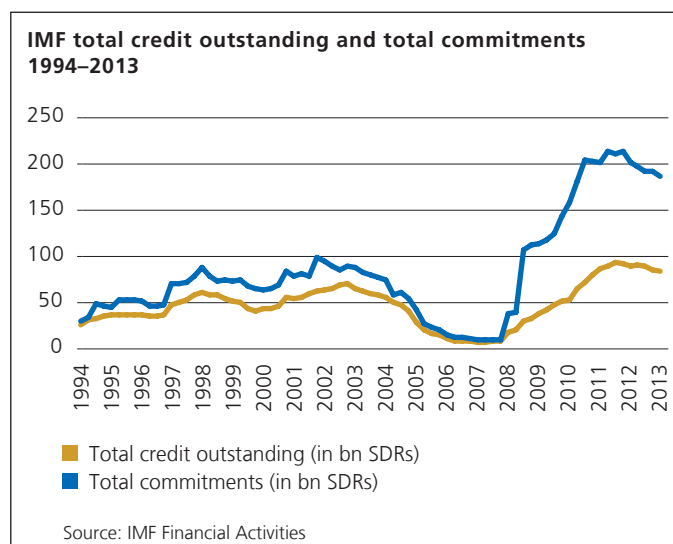


Fig. 3

the Development Committee of the IMF and World Bank – which set the political and strategic courses. However, Switzerland will share its seat on the IMF Executive Board – the IMF's operating decision-making body – and in future both countries will nominate the Executive Director for a two-year period on an equal rotation basis. In this way, Switzerland is contributing to the removal of two seats for advanced European countries, as are Belgium, the Netherlands and the Nordic countries. Exactly what the larger European countries will contribute in this respect remains an open question.

In addition, discussions are ongoing on a further revision of the quota formula, which should take place in parallel to the regular review of the 2014 quotas. Switzerland is committed to ensuring that a country's economic and financial interconnection is better reflected in the quota formula. It is also calling for member countries' voluntary financial contributions to be taken into account.

2.2.2.2 Lending

Once again in 2013, loan commitments under current and completed IMF programmes remained below the 2012 peak of approximately USD 333 billion (approximately SDR 216 bn). The development of the IMF's loan commitments and the utilisation of these loans over the last 20 years or so are illustrated in Figure 3. Some 20 countries pursued loan programmes with the

IMF in 2013. The most extensive loan programmes were those involving Greece, Ireland (completed at the end of 2013) and Portugal. The IMF's flexible credit lines (FCLs) already agreed with Mexico, Poland and Colombia in the wake of the 2009 financial crisis, as well as the new precautionary and liquidity line (PLL) agreed with Morocco in 2012, continue to tie up almost half of the committed resources.

Over 20 low-income countries pursued programmes with the IMF through the Poverty Reduction and Growth Trust (PRGT) in 2013. This entailed financial arrangements amounting to some USD 11 billion at the end of 2013, with an interest rate remaining at 0% until the end of 2014.

2.2.2.3 Funding

The IMF's regular resources are provided by members via the quota system (see section 2.2.2.1). The IMF can call on members to supply these resources as required. They earn interest at the prevailing market rate and are typically provided by countries' central banks.

The depletion of resources due to commitments resulting from the financial and economic crisis made it necessary to increase the general, i.e. non-subsidised, resources for lending (see Figure 5). This increase in resources and Switzerland's participation in the corresponding measures involves on the one hand the above-mentioned doubling of quotas, which will come into effect once the quota and governance reforms have been ratified. On the other hand, it also involves the expansion of the IMF's backstop for quota resources which entered into force in 2011 (New Arrangements to Borrow, NAB). However, the NAB resources will be roughly halved at the time of the doubling of quotas. Finally, the increase in resources also includes bilateral funding made available to the IMF by its members. This occurred in both 2009 and 2012. As a result, since the end of 2013 the IMF has had an additional funding safety net in the form of USD 424 billion that has yet to be called upon.

As part of an internationally concerted initiative, Switzerland was one of the first countries to offer a contribution of up to USD 10 billion to the additional replenishment of the IMF's funds. By making this announcement, it played an

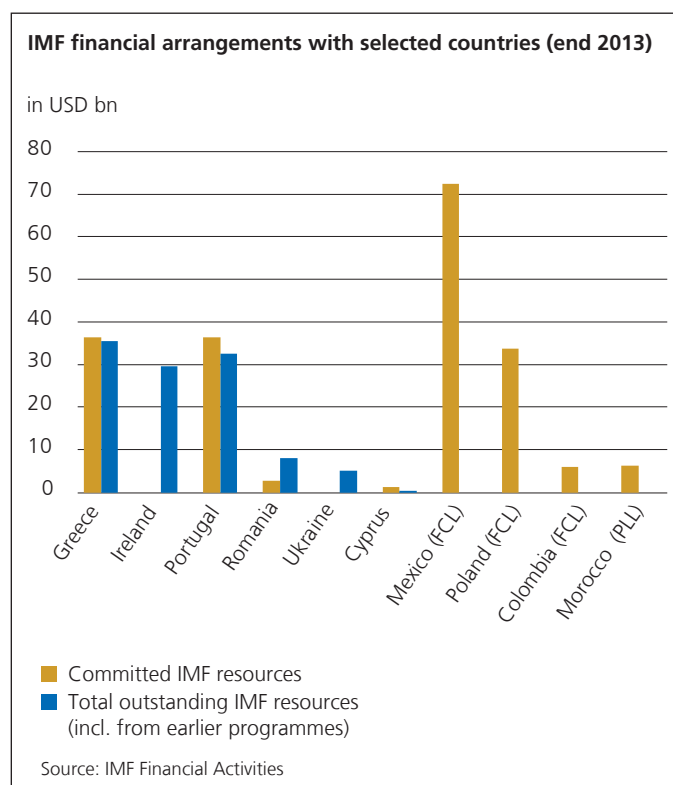


Fig. 4

important role in facilitating the rapid mobilisation of funds. Switzerland can get involved in such internationally concerted actions to ensure global financial stability based on the Monetary Assistance Act (MAA) of March 2004. Funds can be made available under the MAA for potential aid packages to prevent or eradicate serious disruptions to the international currency system or to support countries that collaborate particularly closely with Switzerland in the area of monetary and economic policy. On 11 March 2013, the Federal Assembly approved an increase in the framework credit for currency assistance of CHF 2.5 billion to CHF 10 billion. As the lending conditions sought by the IMF were not compatible with the MAA, and the IMF does not currently have any direct need for additional funds, Switzerland refrained from signing a bilateral lending agreement with the IMF for the time being. No monetary assistance under the MAA was provided in 2013, which means that up to CHF 10 billion is readily available for commitments arising from the assistance initiatives clearly defined under Art. 2 and Art. 4 of the MAA.

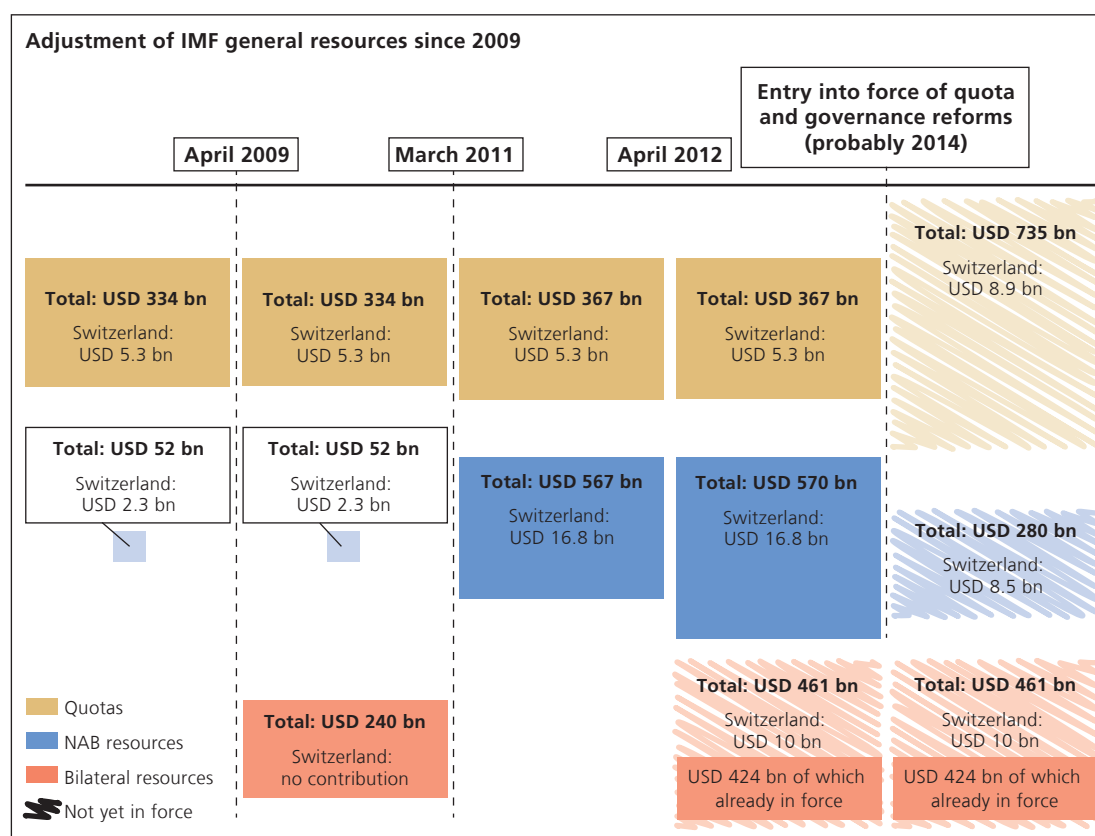


Fig. 5

Aside from its general resources, the IMF's Poverty Reduction and Growth Trust (PRGT) mentioned in section 2.2.2.2 is a mechanism that allows the IMF to provide low income members with loans at favourable conditions. The PRGT has resources amounting to some USD 40 billion, to which Switzerland currently contributes up to some CHF 930 million.

The interest subsidy on PRGT loans is financed through bilateral contributions and the IMF's own resources. In 2012, the IMF Executive Board decided to use USD 3.8 billion from the proceeds of gold sales for this purpose. The Federal Assembly resolved to allocate funds amounting to CHF 50 million to PRGT interest subsidies. This is equivalent to the Swiss share in the proceeds of the IMF's gold sales. The funds are to be disbursed in five tranches of CHF 10 million in each of the years 2014–2018.

In selected areas of technical assistance, Switzerland maintains a close partnership with the IMF both bilaterally and together with other countries. This includes providing assistance to

strengthen the financial sectors of emerging market and developing countries, strengthen tax administrations, manage natural resources and combat money laundering and terrorist financing.

In these areas, Switzerland also makes its own experts available from time to time. This typically occurs in response to requests from countries with which Switzerland collaborates closely, such as members of its constituency. For example, in 2013, a Memorandum of Understanding was signed with the Republic of Kyrgyzstan regarding technical cooperation between the two finance ministries. Through the targeted transfer of knowledge, Switzerland can support this member of its constituency in an important way.

2.2.2.4 Switzerland's country report

The regular evaluation of the economic and financial situation of its member states is a core element of the IMF's supervisory activities. The report on Switzerland's annual country review was adopted by the IMF Executive Board on 8 May 2013 and published by the IMF. In the

report, the IMF attested that Switzerland generally has a sound economy as well as a goal-orientated fiscal and monetary policy; it particularly acknowledged the importance of the debt brake for ensuring fiscal discipline. At the end of 2013, Switzerland underwent an evaluation by the IMF in the form of a «Financial Sector Assessment Program». The results of this assessment will be discussed by the IMF Executive Board together with the next IMF country review in May 2014.

2.2.3 Financial Stability Board

Given Switzerland's significant and internationally interconnected financial centre, financial stability is of great importance. Switzerland is thus actively involved in the work of the Financial Stability Board (FSB), the key international forum in the area of stability and regulation of the financial sector. In January 2013, the FSB set itself up as an association under Swiss law seated at the Bank for International Settlements (BIS) in Basel, thereby strengthening its ties with Switzerland. In implementation of the governance reform initiated by the G20, the FSB was transformed into an institutionalised body with its own legal personality, but no major changes were made to the existing organisational structure. Switzerland continues to have two seats on the FSB, which are occupied by the FDF and the SNB respectively. FINMA provides support by participating in various working groups (on the FSB's structure and the representation of Switzerland, see Figure 7). As has been the case up until now, the FSB's costs will be borne wholly by the BIS. In 2013, the FSB continued its work on monitoring systemically important financial institutions (SIFIs). In the summer of 2013, the FSB published for the first time a list with nine global systemically important insurers. No Swiss insurer is currently on that list. Like global systemically important banks, global systemically important insurers are subject to enhanced requirements with respect to capital, supervision and resolvability. Among other things, the International Association of Insurance Supervisors will draw up a capital standard in 2014, which will form the basis for additional capital measures for global systemically important insurers. Furthermore, in mid-November 2013, the FSB updated the list of the 29 banks deemed to be global systemically important – a list which continues to include both of Switzerland's big banks. A focal point in 2013 was the elaboration of a

political framework for so-called shadow banks, i.e. companies involved in credit intermediation that are not covered by banking regulation. At the end of 2013, the FSB adopted recommendations for the regulation and oversight of the following areas: 1) securities lending and borrowing transactions and repurchase agreements; 2) shadow banking entities; and 3) money market funds. The aim of this standard, which is to be finalised in 2014, is to prevent the shifting of risks to non-regulated areas of the financial sector. In 2014, the FSB will begin to evaluate the recommendations in the various FSB jurisdictions.

Furthermore, attention has increasingly been focusing on ways of improving the data available on systemic risks and systemically important financial institutions, as well as on the exchange of this data between supervisory authorities. For example, Phase 1 of the three-phase FSB Data Gaps Initiative – a project to compile and exchange data on financial interconnections between systemically important financial institutions – has commenced. In 2014, decisions will be taken on the implementation of Phases 2 and 3 of this data initiative. In addition, data quality, data aggregation and the exchange of data are also issues that the FSB will explore in greater depth in 2014 with respect to the implementation of standards to regulate over-the-counter (OTC) derivatives trading, the cross-border resolution of systemically important financial institutions, and the identification of risks in the shadow banking sector.

FSB member countries

Argentina	Mexico
Australia	Netherlands
Brazil	Korea
Canada	Russia
China	Saudi Arabia
France	Singapore
Germany	South Africa
Hong Kong	Spain
India	Switzerland
Indonesia	Turkey
Italy	UK
Japan	USA

Fig. 6

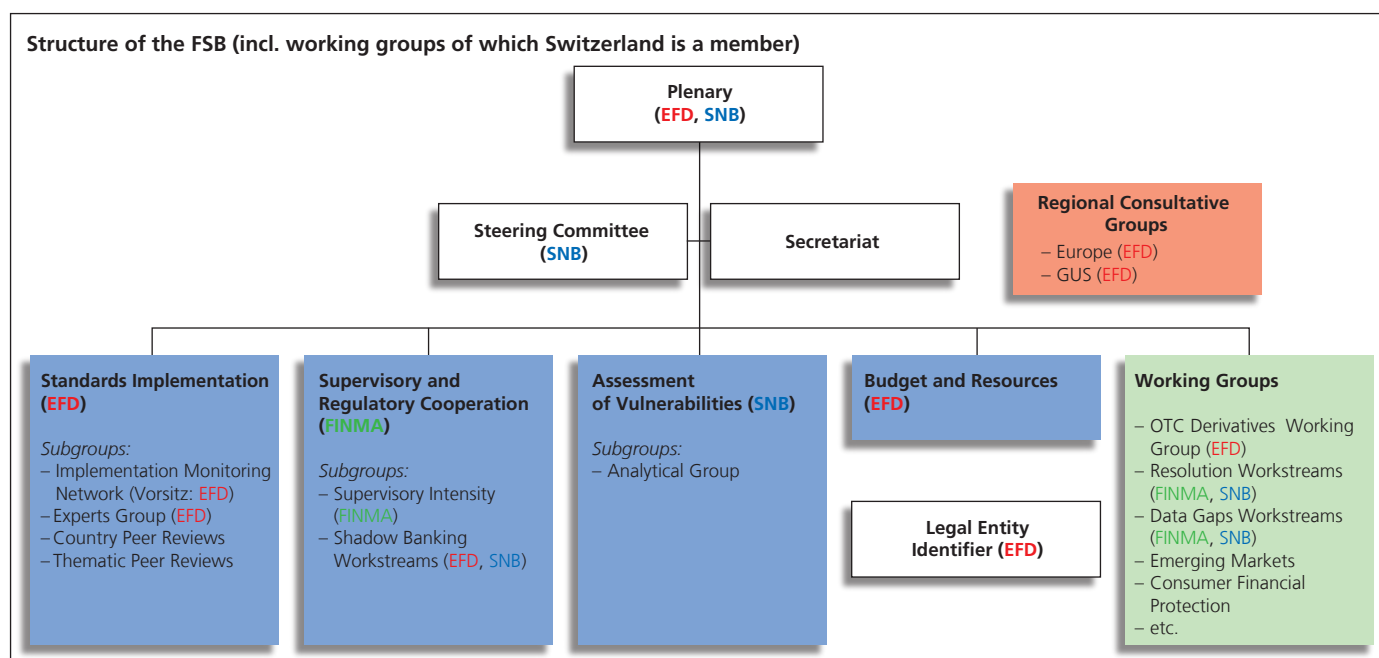


Fig. 7

The creation of the universal system for identifying legal entities, the «Legal Entity Identifier» (LEI) system, progressed further in 2013. The supervisory body for the LEI system, the Regulatory Oversight Committee (ROC), in which the SIF is involved in an observer capacity, was founded at the end of January 2013. The global LEI Foundation, which will run the global LEI system, is to be set up by the spring of 2014. Overall, the focus of the FSB is continuing to shift from the elaboration of regulatory standards to the monitoring of their implementation. For example, the FSB also drew up progress reports on implementation of the agreed regulation of over-the-counter (OTC) derivatives trading in 2013. In the spring of 2013, the results of the first peer review for the implementation of international standards in the area of national restructuring and resolvability regimes of financial institutions were published. In addition, Switzerland made itself available for a pilot review of national implementation of these standards in the autumn of 2013. The evaluation of the implementation of the FSB principles for reducing reliance on credit agency ratings is also progressing. After taking stock of the situation, all FSB jurisdictions (including Switzerland) drew up an action plan with the corresponding measures, which will be published at the beginning of 2014 and subsequently implemented. An annual

overview of the implementation of internationally agreed reforms is provided by the FSB's Implementation Monitoring Network working group, which has been headed by Switzerland since 2012.

2.2.4 FATF and other bodies for combating money laundering and terrorist financing

Switzerland is right at the forefront of international efforts to tackle cross-border financial crime and has effective mechanisms at its disposal for combating money laundering and terrorist financing. As a founding member of the FATF, Switzerland is committed to ensuring effective and practicable international standards in the 34 member countries.

The FATF revised its 40 recommendations in February 2012, and then in February 2013 adopted a methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT systems. As co-chair of the working group tasked with coordinating this work until October 2013, Switzerland was able to successfully defend its interests.

Within the scope of its active involvement in the FATF, Switzerland has managed, for example, to fend off the proposed abolition of bearer shares

and win recognition of the Swiss model of self-regulatory organisation in the definition of the term by the supervisory authorities. Thanks to this recognition, self-regulation is accepted as equivalent to state regulation and is viewed as a legitimate model for the regulation and supervision of financial intermediaries in the non-banking sector. In the area of tax crime too, Switzerland has succeeded in pushing through an approach which takes account of both Swiss interests and Swiss law. The concrete definition of these predicate offences is now a matter for countries themselves, not the FATF.

In order to implement the revised FATF standards, the Federal Council appointed an interdepartmental working group under the leadership of SIF in April 2012 and instructed it to prepare a draft. This draft was then submitted for consultation to the interested parties in February 2013, and the results were published on 4 September 2013. On this basis, on 13 December 2013, the Federal Council submitted to parliament a dispatch and bill on the implementation of the FATF recommendations, addressing seven issues as follows:

- Serious tax crimes qualified as predicate offences to money laundering
- Increased transparency of legal entities
- Clarification of due diligence requirements with respect to the identification of beneficial owners
- Extension of due diligence requirements to domestic politically exposed persons as well as persons working for international organisations using a risk-based approach
- Introduction of the obligation for payments for purchases above a certain monetary threshold to be processed via a financial intermediary subject to the Anti-Money Laundering Act
- Optimisation of the responsibilities of the Money Laundering Reporting Office Switzerland
- Consolidation of the practice of targeted financial sanctions in connection with terrorism and terrorist financing

The revised FATF recommendations will also require countries to conduct analyses of the money laundering and terrorist financing risks originating within their borders and to draw up

a corresponding report. Preparatory work regarding the organisation of this was carried out in 2013 in view of Switzerland's next country review, which is envisaged in 2015.

In 2013, the FATF reorganised its working groups and initiated a discussion on whether to undertake a limited expansion of membership. Switzerland remains committed to rationalised governance of the FATF. It also advocates having the FATF focus more on the implementation and consolidation of the standards already adopted and less on the development of new standards when embarking on the fourth round of mutual evaluations. This should also ensure that transparency and equal treatment are guaranteed during this important global process for verifying implementation of the FATF standards.

On November 1, 2013, the revised Anti-Money Laundering Act entered into force, which will now enable the Money Laundering Reporting Office Switzerland (MROS) to exchange financial information with its counterparts abroad.

Numerous international institutions conduct peer reviews among their members. These include the OECD, the Council of Europe and the UN with regard to the fight against corruption. An important player in the area of the exchange of information in tax matters is the Global Forum on Transparency and Exchange of Information for Tax Purposes (see section 4.2.2), while the FSB should also be mentioned in the area of financial stability (see section 2.2.3). Moreover, implementation of the revised FATF standards will make for compliance with the recommendations of the Global Forum. Consequently, the concept of «communicating vessels» has emerged, whereby the results of different evaluations are taken into account in the analyses of the FATF, and vice versa. In 2013, Switzerland actively participated in the work of the G20 anti-corruption working group as well as in that of the OECD regarding all forms of financial crime. Finally, Switzerland is providing concrete support to the improvement of global sets of anti-money laundering measures by making a major contribution to financing the IMF's trust fund for combating money laundering. Through its involvement in the Steering Committee, Switzerland also contributes to the effective deployment of available resources.

2.3 Bilateral cooperation

2.3.1 Financial dialogues and cultivation of closer contact with leading financial centres

The aim of financial dialogues is to forge and foster close contacts with the relevant authorities of the partner state in question. Such contacts should facilitate a regular exchange of opinions and experiences, as well as give rise to collaboration in areas of mutual interest, such as financial market policy and regulation, positioning in international financial forums (e.g. IMF, FSB) and the improvement of early warning mechanisms. Furthermore, financial dialogues offer a framework for starting negotiations with the partner state in question on market access for the financial sector, for example. SIF coordinates positions within the Administration regarding financial matters in collaboration with other agencies and institutions, and represents these partners in financial dialogues.

As a result of positive experiences gained through contacts with Germany, France, the United Kingdom and Japan, some of which were established long ago, it was decided to initiate financial dialogues with other countries of the G20, particularly the emerging market nations, and thereby widen the scope of such contacts. With the signing of Memoranda of Understanding (MoU) in 2011 (Russia and India) and 2012 (Brazil, Australia and Turkey), it was possible to create an appropriate institutional framework for structured and ongoing dialogues with the new partner countries. In May 2013, SIF signed an MoU with the People's Bank of China (China's central bank). The first financial dialogue with China was conducted in Shanghai before the end of the year. In addition, the recently launched financial dialogues with India, Brazil, Australia, Turkey, and Russia were continued in 2013.

Moreover, the SIF held its first meetings with Singapore and Hong Kong in 2013 with a view to establishing closer contact. The SIF will continue its existing dialogues in 2014, and is also seeking to extend these to other partner countries.

2.3.2 Regulatory dialogue with the EU

In the spring of 2012, the FDF and SIF initiated regular dialogue on regulatory issues with the European Commission. This newly established, institutionalised contact with the responsible Directorate General, as well as with the specialist authorities of the European Commission, enables Switzerland to obtain information on forthcoming developments at first hand and therefore identify any need for action at an early stage. In addition to the dialogue that takes place annually, various discussions on regulatory issues are also held regularly at a technical level with the European Commission.

The federal authorities, in particular SIF and the Federal Department of Foreign Affairs (FDFA), have been collaborating closely with the financial sector since the autumn of 2011 to campaign actively with the EU authorities and individual member countries for a solution to the problem regarding the third-country regime currently being discussed in the EU within the framework of the revision of MiFID (MiFID II). In particular, this issue was the focus of discussions at the last regulatory dialogue held on 25 June 2013. However, this dialogue also touched on a number of other issues, including regulation in the OTC area (see section 3.3.2) and in the area of insurance.

2.3.3 Agreements on market access

The withholding tax agreements with the United Kingdom and Austria (see section 4.4.3) include a memorandum containing simplifications regarding bilateral market access to the benefit of the Swiss financial centre. With the assistance of SIF, the memorandum with Austria was expanded to include a technical implementation agreement between the respective financial market supervisory authorities (FINMA and FMA). The memoranda and implementation agreement entered into force together with the associated withholding tax agreements at the beginning of 2013, and were published in the Official Compilation.

In connection with the withholding tax agreement with Germany, Switzerland also agreed simplifications for the cross-border provision of

Markets in Financial Instruments Directive (MiFID)

Aside from the United States (FATCA¹/Dodd-Frank²), the European Commission also initiated a comprehensive reform of financial market regulation in the aftermath of the financial crisis. There is a tendency to harmonise market access for third countries at EU level. If Switzerland were to lose cross-border access to the EU financial market in important areas, this could have far-reaching consequences for the competitiveness of the Swiss financial centre. This problem is particularly relevant for Switzerland in the case of the revision of the Markets in Financial Instruments Directive (MiFID) – one of the core pieces of EU financial market regulation. In concrete terms, the aim of the revision is to standardise regulation of the European financial market, improve competition between financial service providers, and strengthen investor protection. As a third country outside the EU, Switzerland is in no way bound by the EU directive. However, Swiss financial intermediaries providing financial services locally or on a cross-border basis for clients domiciled in an EEA country are affected by MiFID in a number of respects.

In its proposal of 20 October 2011, the European Commission wanted to regulate access for financial institutions from third countries in a standard way across the EU. The third-country regime envisaged was very openly formulated and could ultimately have been interpreted to mean that the cross-border provision of services from Switzerland to the

EU would become much more difficult or even impossible in the future. Such a «sealing-off» of the market would have meant a significant loss for the Swiss financial centre in terms of jobs, value creation and tax base. Against this backdrop, the federal authorities, particularly SIF and the FDFA, have been working together with the Swiss financial sector, the EU authorities and individual member states ever since the autumn of 2011 to prevent MiFID II from leading to protectionist restrictions and a deterioration of market access. On 14 January 2014, the trilogue (representatives of the European Council, European Commission and EU Parliament) reached a compromise on the structure of MiFID II. Based on the latest information available, the outcome regarding the structure of the third-country regime can be viewed as cautiously positive from the Swiss perspective. It is clear that a solution has been found to improve client and investor protection without cutting Switzerland off from the market for cross-border asset management services. With respect to the provision of financial services to private clients, EU member states have argued against the harmonisation sought by the European Commission and in favour of the status quo. It is therefore likely to be left to individual member states to decide whether or not they want to impose a local branch obligation for the active handling of the private client business by financial institutions from third countries. If they do require this business to go through an EU branch, however, the harmonised MiFID II rules will apply.

financial services in a memorandum. The withholding tax agreement signed with Germany was not ratified by the German parliament in December 2012 and therefore did not come into force. However, in mid-August 2013, both countries declared the memorandum on market access to be valid, independently of the tax agreement, through an exchange of letters³. The two competent supervisory authorities

(FINMA and BaFin) brought the associated technical implementation agreements into effect on 1 January 2014. The agreement will have the effect of promoting competition, intensifying collaboration between financial market supervisory authorities and strengthening consumer protection. Simplifications in this respect will also be sought in future agreements with other countries, such as Italy.

¹ See section 4.4.4.1

² The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) is a federal US law that significantly changed financial market law in the United States in response to the 2007 financial market crisis.

2.3.4 International activities in the area of customs

International financial matters also concern the area of activity of the Federal Customs Administration (FCA).

In the area of customs and indirect taxation, Switzerland has concluded bilateral – or multilateral with EFTA states – administrative assistance agreements⁴ with the EU and its member states, as well as with Iceland, Israel, Norway, Colombia, Peru, the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa and Swaziland) and Turkey. In the case of the EU and its member states, these agreements are supplemented by the anti-fraud agreement, which has still not entered into force but is provisionally applied with certain EU member states. The agreements are above all designed to ensure compliance with customs law and indirect taxation law in connection with the international movement of goods and the detection and prosecution of corresponding violations. The Federal Customs Administration provides regular administrative assistance as well as international mutual assistance in criminal matters. Mutual

assistance frequently involves the disclosure of bank documents. Switzerland is still in contact with the Russian Federation concerning a possible agreement in the customs area, whereby the Federal Council has not yet adopted a negotiation mandate. Moreover, the outcome of the negotiations with the United States on an administrative assistance agreement in the customs area is still unknown.

The FCA also provides technical support to a number of partner countries, such as the countries of Switzerland's IMF constituency, for example. The provision of specific expertise can make a major contribution to improving the efficiency of customs authorities. Greater financial efficiency in turn contributes to the strengthening of government finances in these countries. At the same time, more professional customs clearance and greater effectiveness in combating cross-border crime and terrorism facilitates the exchange of goods in global trade to a significant degree. In 2013, for example, the foundations were laid for cooperation between the FCA and the Kyrgyz Customs Administration.

⁴ The multilateral administrative assistance agreements are a component part of the relevant free trade agreements.

3

Competitiveness, market access and ability to withstand crises

Outlook: The consultation draft for the Federal Financial Services Act is expected to be ready by the spring of 2014. Work on the Financial Market Infrastructure Act is to continue in 2014 with a view to this legislation entering into force in 2015. The discussion on the TBTF (Too Big To Fail) problem is being held at various levels. The FDF will prepare a report for the Federal Assembly by the start of 2015. In this context, the independent group of experts will explore the economic risks and the TBTF issue in depth.

3.1 Overview

In order for the Swiss financial centre to remain competitive in the future too, it is important to continuously scrutinise the framework in which financial service providers act, understand the needs of the industry, and respond to these where possible and meaningful. From the perspective of the industry itself, current issues of particular significance relate to the areas of asset management, insurance/pensions and the capital market. These issues will likewise be incorporated into the discussions of the independent group of experts.

In the area of regulation, the planned Federal Financial Services Act (FFSA) is an important project worth mentioning. This envisages improvements in the area of client protection, and is therefore likewise aimed at strengthening the international competitiveness of the Swiss financial centre.

In order to minimise the stability risk of the Swiss financial centre, Switzerland has responded rapidly and implemented the corresponding regulations (TBTF). These are now to be subjected to an international comparison, which should highlight any need for adjustment.

3.2 Significance of the Swiss financial centre

Switzerland's financial centre makes a significant contribution to gross value added and employment (see Figure 8).

In 2012, total value added of approximately CHF 62 billion was generated through the provision

Commodity trading

On 27 March 2013, the Federal Council published its background report on commodities. This report, which was drawn up under the auspices of three departments (FDF, FDFA, EAER), underlines the economic significance of the commodity sector for Switzerland. It also shows that Switzerland already does a great deal to safeguard its competitiveness and its integrity as a business location, including in the area of commodity trading. Furthermore, targeted recommendations were formulated for further improving the framework conditions and reducing existing risks, including those relating to reputation.

The interdepartmental commodity platform will remain in place in order to ensure a smooth flow of information within the Federal Administration, coordinate the dialogue with the cantons, the commodity industry and NGOs, and report to the Federal Council on progress being made in implementing the recommendations for action. As regards the work to implement the report's recommendations, the FDF is responsible in particular for the areas of financial market regulation (derivatives), corporate taxation and double taxation agreements, combating money laundering, exerting influence in international forums (e.g. G20, FSB, OECD), and gold trade statistics.

of financial services. This equates to a 10.5% share of gross domestic product (GDP), which is similar to the level in other major financial centres: 9.0% in the United Kingdom, 11.1% in Singapore and 7.9% in the United States. However, it is considerably lower than Luxembourg's 23.5% (see Figure 9). Studies show that the financial sector has been the key growth driver of the Swiss economy over the past 20 years, accounting for around a third of overall GDP growth. From a headcount perspective, some 210,000 people were working in the Swiss financial sector at the end of 2012. This sector therefore accounts for 6.0% of overall employment.

Switzerland had a total of nearly 300 banking institutions at the end 2012, almost half of

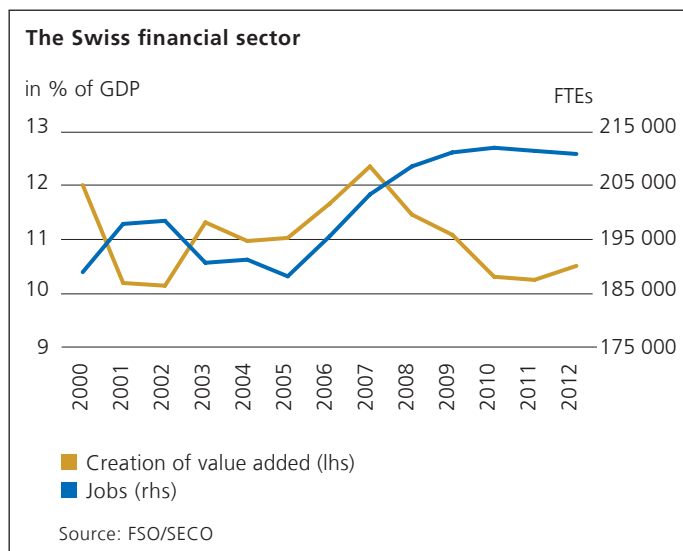


Fig. 8

which were foreign banks. Banks are key players in the financial markets, playing an intermediary role between the supply and demand sides where capital is concerned. Thanks to this intermediary function, banks have information on the investment needs of savers on the one hand, and on the investment projects of borrowers on the other. Both companies and private households are reliant on a sufficient supply of credit funding. In October 2013, the outstanding credit volume, i.e. the amount of credit from banks actually being used, amounted to approximately CHF 1,154 billion. Three-quarters of this amount related to domestic mortgage receivables. Strong competition between the many providers in the Swiss market results in low financing costs in the form of low interest rates and interest rate margins. However, there is also considerable uncertainty in the real estate market. In order to avoid dangerous developments as a result of bubbles forming, it is crucial for banks to pursue a responsible lending policy. Such a policy also depends on the state framework put in place: for example, the persistently strong momentum on the credit market caused the countercyclical buffer to be activated, and this has had to be complied with since 30 September 2013.

In addition to banks, insurers and pension funds also form part of the financial sector. In 2012, there were 223 insurance companies under regulatory supervision in Switzerland, and more than half of these were active in the property

and casualty business (i.e. non-life). The capital investments of Swiss insurers amounted to some CHF 530 billion at the end of 2012. Almost half of this sum was invested in fixed-income securities. Almost 2,200 pension funds are likewise important players in the financial centre. At the end of 2011, their invested capital amounted to approximately CHF 625 billion, of which over a third was invested in bonds and over a quarter in equities.

3.3 Framework conditions

3.3.1 Financial market

In the view of the financial industry, Switzerland has development potential above all in the areas of asset management, insurance/pensions and the capital market. In order to be able to better exploit this potential, the Federal Council declared on 19 December 2012 that it was prepared to undertake an in-depth analysis of the business environment for the financial centre and draw up the corresponding recommendations for action. To this end, three mixed working groups (representing both the industry itself and the relevant authorities) were appointed by the Financial Centre Forum⁵. All these working groups looked at the areas of oversight/regulation, market access and fiscal framework

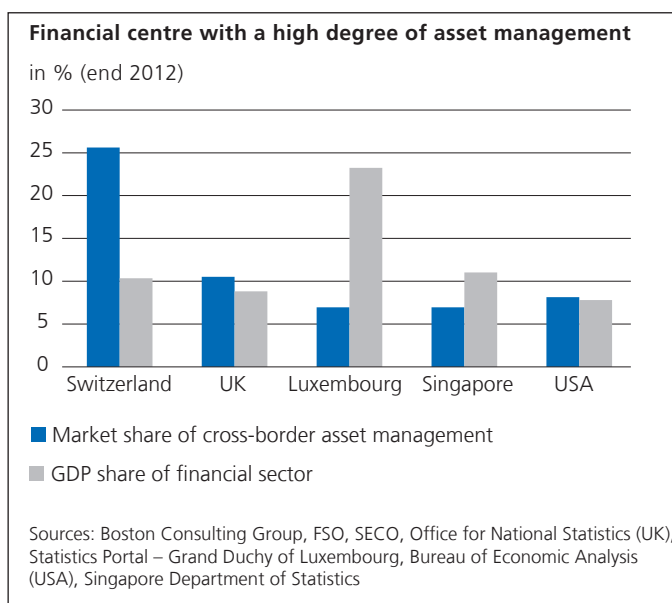


Fig. 9

⁵ Regular, institutionalised consultations of the FDF with industry representatives

conditions. On the private sector side, the associations concerned were involved in this work. The interim reports prepared by the end of 2013 were commented on and finalised in the Financial Centre Forum at the beginning of 2014 by industry and authority representatives. The Federal Council will discuss the proposed recommendations for action and decide on the next steps. The results of the working groups will provide useful material for the further work of the group of experts headed by Professor Aymo Brunetti, which was appointed to analyse the financial centre's prospects for the future.

Early identification of a need for action in financial market policy

In order to identify the economic risks facing Switzerland and the available opportunities at an early stage, SIF observes and analyses current trends in the financial markets on the basis of financial market indicators and regulation both in Switzerland and abroad. For example, SIF follows and evaluates developments in the most important partner countries and in the key international financial centres, particularly from the perspective of market access and taking international standards into account. The analyses of financial centres were expanded to include the United States, Jersey and Guernsey in 2013. When analysing the extensive, and continually evolving, EU financial market regulations, SIF is supported by other interested authorities. Any regulatory differences identified are carefully considered from the perspective of Switzerland's competitiveness and its international positioning as a financial centre. Selected key topics are treated in depth. In 2013, for example, these included the internationalisation of the Chinese currency, the new global liquidity requirements for banks, and the creation of a banking union in Europe. SIF's regular dialogue with representatives of all areas of the Swiss financial sector also acts as a means of identifying developments at early stage.

3.3.2 Regulatory projects

It became obvious at the latest during the financial crisis that client protection is inadequate for certain financial services and products. On 28 March 2012, the Federal Council thus instructed the FDF, in cooperation with the Federal Depart-

ment of Justice and Police (FDJP) and FINMA, to commence work on a project to prepare the legal basis for the creation of cross-sector regulation of financial products and services and their distribution, and to submit a consultation draft to the Federal Council.⁶ The consultation draft will probably be published by mid-2014. The aim of the Federal Financial Services Act (FFSA) project is to strengthen client protection and lay down cross-sector rules of conduct for all financial service providers, as well as minimum requirements for the training of client advisors. In addition, standardised rules for financial product documentation are to be drawn up. Other aspects to be covered include the strengthening of the ombudsman system and measures to facilitate the enforcement of claims. Finally, provisions are to be created for the inbound cross-border business. Moreover, all asset managers should be subject to prudential supervision in the future. This is also in line with the international standards in this area. For systematic reasons, it is currently envisaged that this issue will be regulated in separate financial institution legislation as part of the FFSA project. In addition to improving client protection, the aim of the FFSA project is to ensure that the same prerequisites apply to all participants in the Swiss financial centre, thereby reducing competitive distortions. If competition between providers of financial services is to be strengthened, regulatory requirements for the provision of financial services must be designed in a standardised way. This should not only cover technical aspects such as the complexity of products and the level of protection required by clients, but should also apply generally to all providers to the same extent, with the necessary degree of differentiation.

At an international level too, various efforts are under way to strengthen consumer protection in the area of financial services. One prominent example is the planned revision of MiFID (see box in section 2.3.2). Furthermore, this issue has also been addressed by a number of analyses commissioned by the G20 and is also covered by the «point of sale disclosure» principles

⁶ Regarding the FFSA project, see the FDF report on the Federal Financial Services Act (FFSA) – Key thrusts of potential regulation dated 18 February 2013.

⁷ FSB study: Consumer Finance Protection; OECD paper: Principles on Financial Consumer Protection.

Overview of additional requirements for big banks (additional regulatory minimum requirements in the areas of capital adequacy and organisation)

International developments in the supervision of systemically important banks (as at end 2013)			
At an international level and in significant financial centres, efforts are currently under way to introduce additional regulations for systemically important financial institutions (SIFIs). An important basis is formed by the Basel III capital and liquidity guidelines (see section 3.3.4), which impose more stringent requirements for the capital that banks must have to underpin risk-weighted assets (RWA), in particular. According to the G20, all important financial centres and member countries are to introduce these guidelines for all banks. In addition, there are specific requirements for SIFIs in order to limit the risks they pose to financial stability.			
In the case of SIFIs, the package of measures of the Financial Stability Board (FSB) to regulate global SIFIs (G-SIFIs) was approved by the G20 on 4 November 2011. ^{1*} In addition to a size-dependent capital supplement of 1% to 3.5% of RWA in accordance with Basel III (5 categories), this also includes requirements in the area of risk management and internal controls. Furthermore, resolvability plans ("living wills") have to be elaborated, while international resolvability should also be facilitated. Among the 29 banks classified as global systemically important are UBS and Credit Suisse, each of which must accept a supplement of 1.5% (FSB, November 2013). Further country-specific or economic area-specific requirements for systemically important banks in the area of capital and organisation are set out in the following table:			
Additional capital requirement	Additional organisational requirements	Regulation status	
<p>CH: TBTF regulation</p> <ul style="list-style-type: none"> – 19 % of RWA^{2*}, of which at least 10 % to be held as common equity and the remainder in the form of CoCos. – Leverage ratio of approx. 4.56 %.^{3*} <p>FSB / Basel III:</p> <ul style="list-style-type: none"> – Parallel fulfilment of requirements, implemented with the ordinance adjustments of 1 July 2012. 	<p>CH: TBTF regulation</p> <ul style="list-style-type: none"> – Global recoverability and resolvability: incentive system with possible discounts on the progressive capital component. – Preparation of a global restructuring and resolvability plan. – Swiss emergency plan to ensure the continuation of systemically important functions in the event of a crisis. <p>FSB / Basel III:</p> <ul style="list-style-type: none"> – Parallel fulfilment of requirements, implemented with the ordinance adjustments. 	<p>CH: TBTF regulation</p> <ul style="list-style-type: none"> – Amendment of the Banking Act: entry into force on 1 March 2012. – Amendment of the Capital Adequacy Ordinance and Banking Ordinance: entry into force on 1 January 2013. – Specific components of the new Liquidity Ordinance: phased in from January 2013. <p>FSB / Basel III:</p> <ul style="list-style-type: none"> – Likewise took effect at ordinance level on 1 January 2013. 	
<p>USA: Dodd-Frank Act – restrictions for large commercial banks</p> <p>The Dodd-Frank Wall Street Reform and Consumer Protection Act has had a major impact on key areas of financial market law in the United States. Among other things, the section of the law known as the "Volcker Rule" puts significant restrictions particularly on proprietary trading by commercial banks holding retail deposits and prohibits them from operating hedge funds and private equity funds. TBTF problem to be effectively limited as a result of this functional separation, which is designed to reduce of the threat of losses arising in the volatile trading business having a serious impact on banking operations which are critical to the real economy. Five regulatory authorities in the financial sphere accepted the final guidelines for implementing the Volcker Rule on 10 December 2013.</p>	<p>FSB:</p> <ul style="list-style-type: none"> – Adoption of regulation envisaged. Supplement of 1% to 3.5% of RWA. <p>Dodd-Frank (u.a.):</p> <ul style="list-style-type: none"> – It is envisaged that the minimum level of Tier 1 capital will be increased from 4% to 6% of risk-weighted assets (RWA). In addition, a leverage ratio of 4% will apply. Furthermore, the definition of the leverage ratio will be expanded to include off-balance sheet exposures for the largest banks operating internationally.^{4*} 	<p>FSB:</p> <ul style="list-style-type: none"> – Orientation in line with proposals anticipated. <p>Dodd-Frank (u.a.):</p> <ul style="list-style-type: none"> – Organisational requirements for commercial banks regarding the separation of proprietary trading and particularly high-risk business ("Volcker Rule"). – Clearing of derivative transactions. – Planning of even further-reaching structural measures by the Federal Deposit Insurance Corporation, which will be responsible for resolvability. 	

^{1*} As is the case with Basel III, differences exist with respect to both content and timing of implementation in national legislation.

^{2*} Calibration in accordance with the Commission of Experts' report based on the status at year-end 2009; there may be upward or downward changes depending on the development of domestic market shares and of total assets including certain off-balance sheet items.

^{3*} Ditto.

^{4*} Board of Governors of the Federal Reserve System, press release 2 July 2013

^{5*} The text of Brown-Vitter can be found here: <http://brown.senate.gov/download/full-brown-vitter-bill>

Additional capital requirement	Additional organisational requirements	Regulation status
<p>EU: Alignment with FSB proposals and emergency measures</p> <p>In its proposal of 20 July 2011 regarding the implementation of Basel III in the Capital Requirement Directive IV, the European Commission initially refrained from specific SIFI regulation.^{6*} The "Liikanen Report" to resolve the TBTF problem was then published on 2 October 2012. This report focuses on organisational measures and so-called "bail-in" instruments. Among other things, the volatile trading business should be operated through separate entities. Banks have openly spoken out against structural interference in the finance area.^{7*}</p> <p>The European Central Bank (ECB) is planning to make 128 significant eurozone banks subject to its supervisory authority for the first time^{8*}.</p>	<p>FSB:</p> <ul style="list-style-type: none"> – Adoption of regulation envisaged. Supplement of 1 % to 3.5 % of RWA. <p>Liikanen Report:</p> <ul style="list-style-type: none"> – Use of bail-in instruments (conversion of debt capital to equity). – Monitoring of capital requirements (under Basel II and III), especially with regard to internal models. 	<p>The consultation of the European Commission on the Liikanen Report was concluded in mid-November 2012. A European legislative proposal was announced by the European Commission for the autumn of 2013, but it has yet to be published. It is therefore highly unlikely that such a draft will be adopted by the Commission and by Parliament in the current legislature period (which runs to May 2014).</p>
<p>UK: Ringfencing in accordance with the Independent Commission on Banking (ICB)</p> <p>In its final report of 12 September 2011, the ICB unveiled proposals to improve systemic stability and strengthen competition in the banking sector. The focus is on the organisational and legal separation of national retail business from investment banking. This necessitates the retail business requiring protection being hived off into its own company. Compared to the Liikanen Report, the proposals of the ICB are more specific and envisage a greater degree of segregation of the various entities from one another. The degree to which these proposals are compatible will only become clear (at the earliest) when the European Commission unveils a concrete draft.</p>	<p>FSB:</p> <ul style="list-style-type: none"> – Adoption of regulation envisaged. <p>EU/Liikanen:</p> <ul style="list-style-type: none"> – Emergency measures to combat the debt crisis implemented. – Liikanen Report: Waiting for regulatory proposals. <p>ICB:</p> <ul style="list-style-type: none"> – 17 % to 20 % of RWA at group level and at least 10 % of RWA at retail bank level, partly as convertible capital. – Leverage ratio of between 3 % and 4.06 %. 	<p>Legislative proposal was published on 12 October 2012.</p> <p>The Liikanen Report was scrutinised in detail by the Independent Commission on Banking chaired by Sir John Vickers. The proposals of this group of experts have now been incorporated into the UK government's White Paper, and will be put to parliament for debate as the Financial Services (Banking Reform) Bill.^{10*}</p> <p>The new legislation should be passed by 2015 and implemented by 2019.</p>
<p>D: Introduction of a bank levy</p> <p>Germany too will adopt the FSB regulations. Furthermore, Germany has introduced a bank levy for systemically important credit institutions (part of the Restructuring Act), whereby the degree of systemic risk and total assets form the basis for calculating the levy. The revenue will be channelled into a stability fund that can be used to wind up banks in emergencies.</p>	<p>FSB:</p> <ul style="list-style-type: none"> – Adoption of regulation envisaged <p>Liikanen Report:</p> <ul style="list-style-type: none"> – Emergency measures to combat the debt crisis implemented. – Liikanen Report: Waiting for regulatory proposals. <p>Restructuring Act of 9 December 2010:</p> <ul style="list-style-type: none"> – Bank levy to fund an ex ante fund to finance restructuring. 	<p>Restructuring Act largely in force since 1 January 2011.</p> <p>On 6 February 2013, the federal government unveiled its draft^{11*} legislation for ringfencing risks and planning the restructuring and resolvability of credit institutions and financial groups. The draft was approved by the Bundesrat on 7 June 2013. The legislation encompasses three areas^{12*}.</p>

^{6*} On 17 July 2013, the CRD IV package, which implements the new global capital standards for banks (still known as Basel III) in EU law via an ordinance and a directive, entered into force.

^{7*} No decisions were made with respect to the following sections of the Liikanen Report: 1) Segregated banking system; 2) Bail-ins; 3) «Ringfencings». 4) «Living wills», which set out clearly what happens if an institution gets into a dire predicament.

^{8*} In a newsletter which was also sent to the Members of the European Parliament, the European Banking Federation (EBF) argues vehemently against implementation of the Liikanen Report and therefore against a segregated banking system (see «Liikanen Report undermines benefits of the Single Market» on ebf-fbe.eu).

^{9*} By way of preparing for its role as the leading supervisory authority in the eurozone, the ECB will be assessing banks' balance sheets over the coming year.

^{10*} Independent Commission on Banking, Final Report – Recommendations, 12 September 2011, available at [http://webarchive.nationalarchives.gov.uk/20120305194416/http://bankingcommission.s3.amazonaws.com/wp-content/up-](http://webarchive.nationalarchives.gov.uk/20120305194416/http://bankingcommission.s3.amazonaws.com/wp-content/uploads/2010/07/ICB-Final-Report.pdf)

^{11*} Bundestag printed item 17/12601

^{12*} 1) Regulations for drawing up restructuring and resolvability plans («living wills») for credit institutions and financial groups that pose a potential threat to the financial system; 2) Regulations for separating speculative business activities classified as risky from the remaining banking business (segregated banking regulation); 3) New criminal provisions to cover violations of risk management regulations by executive management at credit institutions, financial service institutions and insurers.

published by the International Organization of Securities Commissions (IOSCO). As a consequence of this development, the level of consumer protection in Switzerland affects not only the quality of the financial service provided, but also the reputation of the financial centre and market access for Swiss financial service providers to foreign financial markets. By ensuring an appropriate level of client protection, Switzerland is thus strengthening the international competitiveness of its financial centre as well. With its resolution of 29 August 2012, the Federal Council instructed the FDF to prepare a consultation draft to implement the political priorities of the G20 and the FSB recommendations on OTC derivatives trading as fully as possible and at the same time as other financial centres. Moreover, the existing regulation in the area of financial market infrastructure (central counterparties, central depositories, trading centres or trade repositories) is to be adapted to international standards. In both areas, the aim is to achieve regulation that is equivalent to that of the EU. Two working groups have now drafted the Financial Market Infrastructure Act (FMIA) under the auspices of the FDF. The Federal Council launched the consultation on 13 December 2013. The new law is expected to enter into force at the start of 2015. The regulatory plans of the EU and other countries – particularly the United States and Japan – in the area of derivatives trading are already well advanced. The key projects in the EU include in particular the European Market Infrastructure Regulation (EMIR) and to a lesser extent also MiFID II and the associated Markets in Financial Instruments Regulation (MiFIR). In the United States, the new provisions on derivatives transactions are laid down in the Dodd-Frank Act (DFA). In addition, a number of EU provisions on third-country regimes are based on the principle of equivalence, which means that Swiss market participants will become less competitive or Swiss financial market infrastructures will lose access to the EU market unless Switzerland implements regulation deemed to be equivalent to that in the EU at an early stage. If Switzerland is to ensure market access to the EU and the competitiveness of its financial centre, it must seek to design the FMIA in a way that is equivalent to EU regulation.

3.3.3 Implementation of too big to fail measures

Systemically important financial institutions⁸ represent a stability risk, as their collapse would entail unacceptable risks for the economy in question (too big to fail, or TBTF). On 4 October 2010, the Commission of Experts appointed by the Federal Council in this area published its final report. The TBTF dispatch was adopted by the Federal Council on 20 April 2011. The bill was adopted by parliament on 30 September 2011. The new provisions entered into force on 1 March 2012.⁹

These measures are designed to minimise the negative repercussions of an insolvency that occurs despite all efforts to prevent such a scenario, and to ensure the continuation of the systemically important functions of the big bank in question. The distorting effect of a de facto state guarantee is greatly reduced as a result. This should prevent a situation whereby the state has to assume major financial risks in the future in order to bail out a systemically important bank.

The measures require a significantly higher level of capital than the Basel III requirements, as well as rules for liquidity, risk diversification and organisational measures at the big banks. New capital instruments (contingent convertible bonds, CoCos) are to help banks implement the more stringent capital requirements. The emergency plan, as part of a global restructuring and resolvability plan, should ensure the maintenance of systemically important functions (particularly payment transactions, the deposit business and the lending business) in the event of the insolvency of a systemically important bank.

The measures set out in the Banking Act (BankA) are reflected in the new sections of the Banking Ordinance and the Capital Adequacy Ordinance. They entered into force on 1 January 2013. On top of this come the specific requirements of the new Liquidity Ordinance, which have been implemented in stages by the banks involved from January 2013 onwards and are being

⁸ According to an SNB decree, UBS, Credit Suisse and, since November 2013, Zürcher Kantonalbank are deemed to be systemically important in Switzerland.

⁹ Federal Act on Banks and Savings Banks (BankA; SR 952.0)

closely monitored by FINMA. Against the background of work to draw up emergency plans, both Swiss big banks have put forward their thoughts regarding an adjustment to their legal structures, above all with a view to enabling the systemically important business in Switzerland to survive in the event of a crisis.

In November 2013, the SNB decreed that Zürcher Kantonalbank (ZKB) was systemically important as a financial group in the sense of Articles 7 and 8 of the BankA.

Over the course of 2014, the FDF will analyse the Swiss too big to fail regulation and draw up a report for the Federal Assembly as per Article 52 BankA by the beginning of 2015. In this report, the degree of implementation of the corresponding international standards in Switzerland will be compared with implementation elsewhere, and any need to make national adjustments at legislative and ordinance level will also be highlighted. A number of different ways of designing a segregated banking system in Switzerland will be described, while other measures (e.g. adjustment of the maximum leverage ratio) to reduce economic risks will be evaluated. When evaluating the measures, the report will take into consideration not only the benefits and costs involved – both for the banks and for Switzerland as a financial and corporate centre – but also the repercussions for international competitiveness. The «Further Development of Financial Market Strategy» expert group will explore this issue in depth, and among other things review measures taken so far through the TBTF package to contain economic and systemic risks, with a view to identifying any further need for action.

3.3.4 Implementation of Basel III

Swiss banking regulation is broadly in line with the new «Basel III» minimum standard for capital. Such was the conclusion of the Basel Committee for Banking Supervision as part of its «Regulatory Consistency Assessment Programme» (RCAP), in which the Basel Committee reviews implementation of its minimum standard in member countries. The evaluation of Swiss implementation of Basel III in the first half of 2013 led to an overall assessment of «compliant». This top mark represents a seal of approval for the Swiss financial centre.

Only in three sub-areas did the Basel Committee identify marginal and in some cases intentional differences, namely in the definition of eligible equity, in bank-internal risk evaluation systems, and in disclosure guidelines. FINMA has already resolved these differences by modifying its circulars. The amended circulars enter into force at the start of 2014, with a transition period of six months. The few changes that this will require to the Capital Adequacy Ordinance (CAO) were submitted for consultation in the fourth quarter of 2013. The revised CAO is likely to be passed by the Federal Council in the spring of 2014 and then enter into force on 1 January 2015.

In addition to progress in the area of minimum capital requirements, Switzerland is also on track in terms of implementing the Basel Committee's qualitative standards on liquidity. In Switzerland, these standards have been set out in a newly created Liquidity Ordinance since 1 January 2013. The special provisions for systemically important banks entered into force on 15 July 2013 after being approved by parliament. The qualitative requirements for non-systemically important banks have applied since the start of this year. Work is currently under way on the implementation of the short-term Liquidity Coverage Ratio (LCR), which should replace the applicable quantitative requirements and be supplemented by the Net Stable Funding Ratio (NSFR) as of 1 January 2018. The LCR is a ratio that provides information on whether a bank has sufficient high-quality liquid assets to be able cover its liquidity needs for 30 days in a stress scenario. A hearing for the new provisions commenced at the end of 2013. Entry into force is planned for 1 January 2015.

4

International tax matters

Outlook: At the beginning of 2014, negotiations with the European Commission got under way on the revision of the taxation of savings agreement, on the basis of the mandate adopted by the Federal Council on 18 December 2013. Switzerland is continuing to strive to implement the currently applicable international standards on the exchange of information for tax purposes. This still requires a number of legislative adjustments (Tax Administrative Assistance Act and FATF bill), which will be dealt with by parliament in 2014. In the OECD, Switzerland is actively involved in the development of the future global standard for the automatic exchange of information. At the same time, solutions for resolving issues from the past are to be sought with key partner countries. Where corporate taxation is concerned, Switzerland supports international efforts to ensure fair tax practices and a level playing field for all, and is actively involved in the corresponding OECD project (BEPS). The dialogue on business taxation with the EU will be pursued in 2014. Switzerland continues to adhere to the principle of tax competition. With the implementation of the third series of corporate tax reforms, Switzerland should remain competitive as a business location from a tax viewpoint.

4.1 Overview

The Federal Council pressed ahead last year with its efforts to cooperate with other states in the area of taxation. In the light of the international trend towards the automatic exchange of information (AEOL), it analysed its strategy based on withholding tax agreements, administrative and mutual assistance in accordance with the international standard and additional due diligence requirements. On 14 June 2013, the Federal Council declared that it was prepared to contribute actively, within the framework of the OECD, to the development of a global standard for the automatic exchange of information so as to ensure tax compliance. Standardised withholding tax agreements involving the exchange of information on request are still to be agreed with interested countries that do not introduce the global standard. In addition, prior to introducing the automatic exchange of information, a legacy solution to cover existing untaxed assets is to be sought with the relevant partner countries, and

an attempt is to be made to secure or improve market access for Swiss financial institutions.

Specifically, the Federal Council pressed ahead in 2013 with implementing in domestic law the international standards Switzerland has committed to in the area of tax administrative assistance. In a drive to agree a standard-compliant administrative assistance clause, further double taxation agreements (DTAs) were revised and new DTAs and tax information exchange agreements (TIEAs) were concluded. The withholding tax agreements with the United Kingdom and Austria, which entered into force on 1 January 2013, were successfully implemented over the course of the year. On 15 October 2013, Switzerland also signed the Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters. On 18 December 2013, the Federal Council adopted a mandate for negotiations with the EU on amending the taxation of savings agreement. Switzerland signed an agreement with the United States to simplify implementation of the US tax legislation known as FATCA. Moreover, Switzerland and the United States signed a joint statement to resolve the long-standing tax dispute between Swiss banks and the United States.

In addition to cooperating with other countries in the area of taxation, the Federal Council was involved in international discussions on corporate taxation, particularly in the context of the business taxation dialogue between Switzerland and EU and the work of the OECD to combat Base Erosion and Profit Shifting (BEPS). The Federal Council's aim is to preserve the appeal of Switzerland as a business location with a competitive tax burden that takes into account the financing requirements of the Confederation and the cantons, and is also accepted internationally.

4.2 Multilateral cooperation

4.2.1 OECD

4.2.1.1 Multilateral OECD/Council of Europe Convention on Mutual Administrative Assistance

On 15 October 2013, Switzerland signed the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters.

The multilateral convention has been in force since 1 April 1995. However, the issue only acquired greater significance with the 2011 revision, as only since then have both the G20 and the OECD been calling on countries to join the revised convention. As a result of this revision, states that are not members of the OECD and the European Commission have also been able to accede to the convention. Overall, a total of 61 countries, including all members of the G20, have signed the convention. The revised convention is now in force in 28 countries, which essentially makes it an international standard already.

The convention provides a framework for tax cooperation between states and is comparable with a modular system. In addition to the exchange of information on request and the spontaneous exchange of information, the convention could also include in particular the automatic exchange of information, simultaneous tax reviews and participation in tax reviews abroad. However, with the exception of the exchange of information on request and the spontaneous exchange of information, none of these areas is mandatory. In particular, the application of the automatic exchange of information requires an additional agreement between two or more contracting states. Furthermore, upon its entry into force, the convention envisages a form of retrospective application that obliges countries to provide administrative assistance for previously committed tax crimes. This kind of administrative assistance can be limited to a period of three years prior to the convention's entry into force.

The convention has to go through the standard approval process in Switzerland in order for entry into force to be possible.

4.2.1.2 Automatic exchange of information

International discussions on the automatic exchange of information (AEOI) gained further momentum in 2013. The heads of state and government of the G20 nations voiced their expectation that the automatic exchange of information should become the global standard. They also instructed the OECD to develop such a standard. This new AEOI standard should be ready by February 2014, with the various technical details cleared up by mid-2014. The technical elements of the OECD's work are well advanced.

Against the backdrop of these international developments, the Federal Council declared on 14 June 2013 that it was prepared to contribute actively, within the framework of the OECD, to the development of a global standard for the automatic exchange of information so as to ensure tax compliance. This standard should meet high demands in terms of adherence to the principle of speciality and data protection, as well as guarantee reciprocity and encompass robust regulations for identifying the beneficial owners of all types of legal entity, including trusts and domiciliary companies.

The Federal Council is prepared to consider adopting the AEOI standard as soon as such a standard materialises and has been recognised and introduced by the G20 countries, OECD member states and all major financial centres around the world. Both chambers of parliament will be involved in this process. Before the automatic exchange of information is introduced, a fair arrangement is to be reached with each partner state for existing untaxed assets. Moreover, market access is to be ensured or improved for Swiss financial institutions.

4.2.1.3 Base Erosion and Profit Shifting (BEPS)

On 12 February 2013, the OECD published a report aimed at addressing base erosion and profit shifting (BEPS) in jurisdictions with low or no taxation. The report was triggered by the practices of multinationals which effectively optimise their tax burden while remaining within the bounds of the law. The report led to the adoption of an action plan (Action Plan on BEPS), which was published by the OECD on 19 July 2013. The G20 expressed its support for the Action Plan and is implementing it together with the OECD. Comprising 15 actions, the aim of the Action Plan is to ensure that profits are taxed in the jurisdiction where the actual economic activity takes place, to fight aggressive tax planning and to avoid international non-taxation.

The first results of the action plan on BEPS are expected in September 2014, and the work as a whole is expected to end by December 2015. Thereafter, the process of implementing the results will start. As Switzerland is actively

contributing to this project, it is in a position to preserve its interests during the development of the individual measures.

4.2.2 Global Forum on Transparency and Exchange of Information for Tax Purposes

The Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) uses a comprehensive process, the so-called peer review, to ensure that the international standards regarding transparency and the exchange of information for tax purposes are complied with and uniformly implemented at the international level. With over 120 members, the Global Forum is currently the largest organisation in the area of taxation. All members are subjected to these reviews, as are certain non-member jurisdictions that are considered pertinent for the Global Forum's work. The aim is to prevent countries from creating a competitive advantage by refusing to apply the international standards or by not wanting to be part of the Global Forum. Switzerland is one of the few countries represented in both the Steering Group and the Peer Review Group. The Steering Group has 18 members, and 30 countries are represented in the Peer Review Group.

The peer review is broken down into two phases. Phase 1 involves investigation of whether or not the necessary legal foundation exists for transparency and the exchange of information, while Phase 2 looks at the effectiveness and efficiency of the exchange of information in practice. A compliance rating is awarded at the end of the peer review process once both phases have been completed.

Switzerland went through Phase 1 of the peer review in June 2011. The 2011 report of the Global Forum certified that the country had made significant progress in terms of administrative assistance since 2009, but that Switzerland did not meet, or only partly met, the conditions for an effective exchange of information with respect to certain points. In particular, the identity of holders of bearer shares cannot be determined in all cases under Swiss legislation, and the criteria for identifying the relevant taxpayers and information holders (e.g. banks) in requests for information are too restrictive. Furthermore, Switzerland is still unable to exchange tax

information with all of its partners and even in exceptional cases Swiss law does not provide for the transfer of data within the scope of tax administrative assistance without informing the affected person. The Global Forum recommended that Switzerland take measures to close these gaps.

The Federal Council has taken the measures necessary to implement the Global Forum's recommendations. The criteria for identifying the relevant taxpayers and information holders were modified on 1 June 2011 as a result of the report. By the end of December 2013, Switzerland had signed 45 agreements (including three tax information exchange agreements, or TIEAs) that comply fully with the standard; 36 of these are already in force (see section 4.4.1). Moreover, Switzerland signed the multilateral OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters on 15 October 2013 (see section 4.2.1.1), thereby making it possible to expand its group of partners. Regarding the introduction of the possibility, in exceptional cases, to defer notification of persons who are the subject of administrative assistance proceedings until after the relevant data has been transmitted to the requesting state (deferred notification), the Federal Council adopted the corresponding revision of the Tax Administrative Assistance Act and the associated dispatch for the attention of parliament on 16 October 2013. The National Council approved the bill during the session of December 2013 (see section 4.4.2). Finally, the bill for implementing the revised recommendations of the Financial Action Task Force (FATF) proposes measures to ensure greater transparency in the case of bearer shares. The Federal Council dispatch was submitted to parliament on 13 December 2013 (see section 2.2.4). By honouring its commitments, Switzerland can make the most of its strengths without coming under international pressure and thereby ensure the credibility, appeal and stability of the country as a business location and financial centre.

In order to be admitted to Phase 2 of the peer review, Switzerland must be able to demonstrate that it has implemented at least one of the elements that were only partially fulfilled or not at all according to the 2011 peer review report. In a letter dated December 20, 2013, the FDF for-

mally requested the Global Forum to produce a supplementary report to determine if the conditions for admission to Phase 2 had been met.

Ever since 2009, the Global Forum has held an annual plenary meeting during which stock is taken of the work carried out and the progress made in the jurisdictions. At present, 100 jurisdictions have gone through Phase 1 of the peer review. The salient points of the plenary meeting that took place in Jakarta in November 2013 included the publication of compliance ratings for the first 50 countries and the adoption of decisions on how work is to be organised in the future. Particular attention will be paid to jurisdictions that have not yet completed their review round.

4.2.3 UN

In July 2013, the UN's Committee of Experts on International Cooperation in Tax Matters was re-appointed for a term of four years. Switzerland is once again represented on the Committee through its Ambassador Christoph Schelling. Among other things, the committee is responsible for adjusting the UN's Model Convention on Double Taxation between developing and advanced economies to the latest developments. Another important topic area is development cooperation and the provision of technical assistance in the tax area to developing countries. Moreover, the Committee provides a framework for the general dialogue on international collaboration in tax matters, whereby it is largely free to set its own thematic agenda. At its first meeting (since re-appointment) in Geneva in October 2013, the Committee emphasised a number of different focal points for its activities, and instructed the corresponding subcommittees to undertake the necessary investigations. Questions that will be investigated in depth include issues relating to the exchange of information for tax purposes, questions relating to transfer prices, and the promotion of development cooperation in the tax area.

4.3 European Union

4.3.1 Business taxation

For some time now, a number of Swiss tax regimes have no longer been accepted internationally. International pressure on Switzerland has increased further as a result of the financial

turbulence experienced by numerous countries in the past few years. In June 2010, the EU put forward a proposal to Switzerland to cultivate a dialogue on the adoption of the EU's Code of Conduct for business taxation. This Code of Conduct is an internal political instrument within the EU by means of which EU member states undertake to combat harmful competition in the area of business taxation. The focus is on tax provisions and tax practices that lead to significantly lower effective taxation than is customary in the relevant member state. Switzerland, for its part, is firmly committed to its sovereignty and to tax competition and rejects a dialogue on the basis of the code. However, it is prepared to enter into discussions with the EU on tax regimes that have a distorting effect, particularly those that involve tax privileges for income deriving from a foreign source («ringfencing»). Switzerland is seeking a solution that is acceptable to both sides, and which also encompasses the countermeasures of EU member states against Switzerland. The Federal Council adopted a corresponding mandate on 4 July 2012, setting out three objectives as follows:

- Preservation and further development of Switzerland's tax appeal as a business location
- Promotion of international acceptance of the Swiss tax system
- Safeguarding of sufficient receipts for the Confederation, cantons and communes to finance government activities

Discussions with the EU have since continued with a view to concluding a reciprocal agreement. Aside from numerous technical and political discussions with the European Commission, Switzerland was able to put forward its position to the EU-member states in the Code of Conduct Group in May and November 2013. At its meeting of December 2013, the Ecofin Council asked the European Commission to pursue the dialogue with Switzerland and conclude it by the end of June 2014. In parallel to the dialogue with the EU, the OECD Forum on Harmful Tax Practices continued to review special rules for company taxation and the regimes selected at the end of 2012. These included five Swiss tax regimes, some of which are also criticised by the EU. This work is part of the BEPS project (see section 4.2.1.3) and should be completed by the middle of 2014.

In the autumn of 2012, the FDF appointed a joint project organisation consisting of representatives of the Confederation and the cantons, and instructed it to prepare measures with respect to the third series of corporate tax reforms. Following the publication of an interim report on 17 May 2013, on 18 December 2013 the Federal Council acknowledged this steering body's report of 11 December 2013 for the attention of the FDF, and instructed the FDF to pre-consult the cantons on this basis. Based on the results of the pre-consultation and international developments, the Federal Council will decide how to proceed and instruct the FDF to prepare a consultation draft. The aim of the third series of corporate tax reforms is to cement Switzerland's position as a tax location and to ensure lasting international acceptance of the Swiss corporate tax system. This work factors in the developments in the OECD and is coordinated with the EU dialogue on business taxation.

4.3.2 Taxation of savings agreement

Switzerland supports the EU's system for taxing cross-border interest payments to natural persons by means of the 2004 bilateral agreement on the taxation of savings income between Switzerland and the EU. Swiss paying agents (e.g. banks) levy a withholding tax of 35% on interest income earned in Switzerland by taxpayers domiciled in an EU member state. As an alternative to the withholding tax, interest recipients can voluntarily disclose interest payments to the tax authorities of their country of domicile.

On 14 May 2013, the EU's Economic and Financial Affairs Council (Ecofin Council) mandated the European Commission to commence negotiations with Switzerland, Andorra, Liechtenstein, Monaco and San Marino with a view to adjusting the corresponding bilateral agreements on the taxation of savings income. By expanding the agreement on the taxation of savings income, the EU is striving to ensure that non-EU countries also apply equivalent measures in the area of interest income taxation in the future. The current draft of the revised EU Savings Directive is to form the basis for negotiations. The aim is to close existing loopholes (in particular by extending the range of products covered and preventing circumvention by means of intermediary structures).

On 17 May 2013, the European Commission invited Switzerland to commence negotiations on expanding the agreement on the taxation of savings income. Switzerland indicated its willingness to discuss an adjustment to this agreement with the European Commission back in 2009. However, an amendment of the agreement should be agreed only if within the framework of MiFID II a satisfactory solution is found with respect to how the regulation of third-country regimes is structured for the provision of cross-border financial services (see section 2.3.2). After consulting the relevant parliamentary committees and the cantons, the Federal Council adopted a negotiation mandate on 18 December 2013. The negotiations duly commenced at the start of 2014.

4.3.3 Financial transaction tax

The introduction of financial transaction taxes has been fiercely debated at international level for many decades. There is no consensus within the G20, and the attempt to introduce a financial transaction tax throughout the EU proved fruitless. Eleven EU member states now intend to introduce such a tax in their own countries by means of enhanced cooperation. On 14 February 2013, the European Commission unveiled a new draft directive in this respect. The aim is to increase financial stability and pass on some of the costs of the financial crisis to the financial market. So far, however, the 11 participating states have not been able to reach an agreement.

The draft directive of February 2013 contains provisions that would have significant extraterritorial effect, which among other things would result in Swiss financial institutions having to pay the tax too. Switzerland views the levying of the tax outside the sovereign jurisdictions of the participating countries as problematic, as this practice calls into question the tax sovereignty of other countries, is difficult to implement, and leads to double taxation. According to international principles of tax sovereignty, a state may tax factors that have a genuine connection to the country in question, e.g. real estate based in the country or transactions conducted in the taxing state's territory. Switzerland is convinced that countries should generally refrain from imposing a tax outside their sovereign territory. Moreover, when it comes to preserving financial stability,

the Federal Council considers regulatory measures, such as more stringent capital requirements for banks, to be more expedient.

4.4 Bilateral cooperation

4.4.1 Double taxation agreements and tax information exchange agreements

The OECD has drawn up an international standard for the exchange of tax-related information (Article 26 of the OECD Model Convention) to which its member states are expected to adhere. Switzerland resolved in 2009 to fully adopt the standard. The administrative assistance provision in accordance with the OECD standard has since been incorporated into DTAs adopted and initialled with 51 states (as at year-end 2013). This opportunity was used to agree numerous improved provisions in agreements (e.g. reduction of withholding tax rates on dividends, interest and royalty payments), eliminate certain cases of discrimination and negotiate arbitration clauses, as well as to enter into new DTAs.

By the end of 2013, Switzerland had signed 42 DTAs with administrative assistance provisions in accordance with the current international standard, of which 36 have already entered into force. Switzerland is prepared to adopt a standard-compliant administrative assistance provision in all its existing DTAs, as well as include such a provision in any future agreements. Overall, Switzerland currently has DTAs with 87 states.

On 4 April 2012, the Federal Council decided to enter into administrative assistance agreements in accordance with the international standard not only in the form of DTAs but also via TIEAs. In principle, DTAs and TIEAs are equivalent instruments for concluding an administrative assistance clause in accordance with the international standard. Unlike DTAs, which are aimed primarily at avoiding double taxation and therefore contain other material provisions, TIEAs merely govern the exchange of information. Switzerland signed a TIEA with Jersey on 16 September 2013, with Guernsey on 11 September 2013 and with the Isle of Man on 28 August 2013. Just like DTAs, the agreements have to be approved by parliament before they can enter into force. Three further TIEAs have been initialled. Additional negotiations have been initiated, including with developing countries.

4.4.2 International tax administrative assistance – implementation in domestic law

The Tax Administrative Assistance Act (TAAA; SR 672.5) entered into force on 1 February 2013. The Act governs the provision of administrative assistance under DTAs and other agreements for the exchange of information in tax matters with respect to both foreign and Swiss requests for administrative assistance. Administrative assistance is provided exclusively upon request. The Act also permits the provision of administrative assistance within Switzerland to group requests. However, requests will not be considered if, for example, they have been made for the purposes of fishing expeditions (i.e. requests without concrete indications) or if they are based on information that was obtained through acts punishable under Swiss law, such as the illegal acquisition of data.

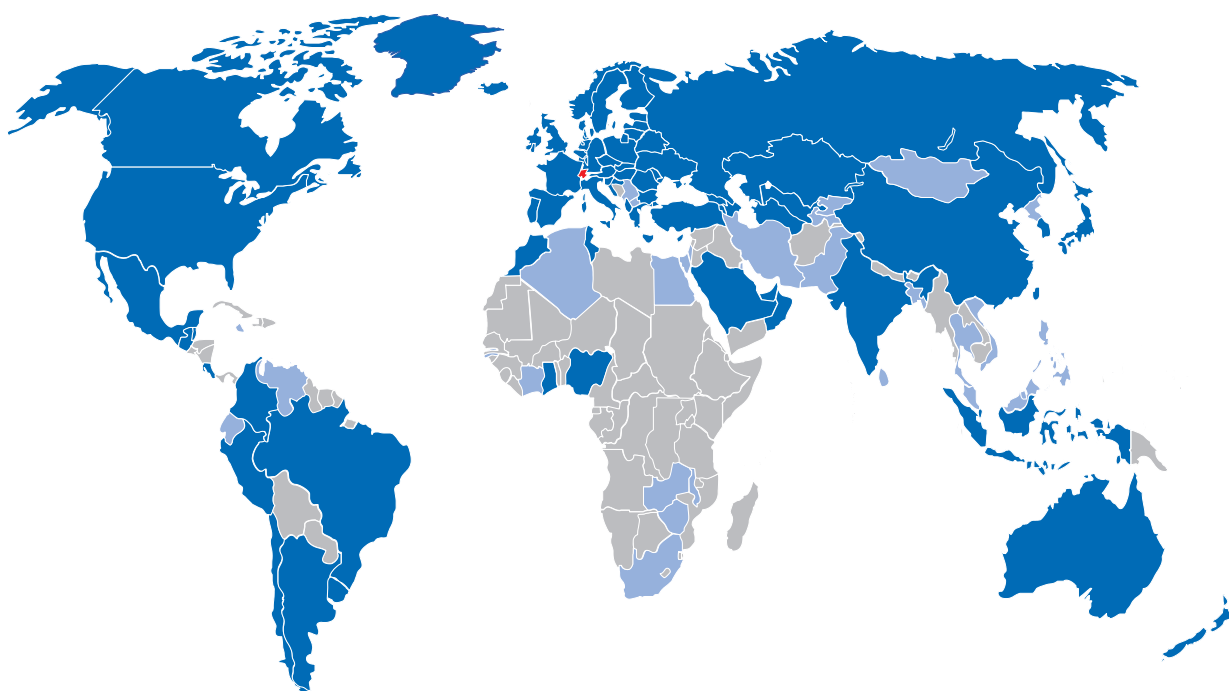
In their communiqué following the meeting of 5/6 September 2013, the G20 finance ministers and heads of state and government urged all jurisdictions to address implementation of the recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) without further delay. With respect to the TAAA, a change had to be effected because the Act does not provide for any exceptions to the requirement to provide advance information to persons involved in an administrative assistance request where a right to appeal applies (see section 4.2.2). Furthermore, certain provisions of the Act are not tailored to group requests.

The draft of the amendment to the TAAA was adopted by the Federal Council on 16 October 2013. The National Council approved the amendment on 12 December 2013, and the Council of States will address the matter in the spring session of 2014. The amendment could enter into force in the second half of 2014.

4.4.3 Withholding tax agreements with the United Kingdom and Austria

The withholding tax agreements concluded with Austria and the United Kingdom entered into force on 1 January 2013. With the agreements, persons resident in a partner state can retrospectively have their existing banking relationships in Switzerland taxed either by making a

Switzerland's international administrative assistance in tax matters



Administrative assistance in accordance with international standard

DTAs in force (36)

Bulgaria	Greece	Canada	Netherlands	Russia	Taiwan
Denmark	United Kingdom	Qatar	Norway	Sweden	Czech Republic
Germany	Hong Kong	Korea	Austria	Singapore	Turkmenistan
Faroe Islands	India	Luxembourg	Poland	Slovakia	Turkey
Finland	Ireland	Malta	Portugal	Slovenia	Uruguay
France	Japan	Mexico	Romania	Spain	United Arab Emirates

DTAs approved by parliament (2)

Kazakhstan United States

Signed DTAs/TIEAs or multilateral administrative assistance convention (47)

Albania ³⁾	Bermuda ³⁾	Estonia ³⁾	Iceland ³⁾	Lithuania ³⁾	Saudi Arabia ³⁾
Andorra ³⁾	Brazil ³⁾	Georgia ³⁾	Isle of Man ^{2) 3)}	Morocco ³⁾	Sint Maarten ³⁾
Argentina ³⁾	British Virgin Islands ³⁾	Ghana ³⁾	Italy ³⁾	Moldova ³⁾	South Africa ³⁾
Aruba ³⁾	Cayman Islands ³⁾	Gibraltar ³⁾	Jersey ²⁾	Montserrat ³⁾	Tunisia ³⁾
Azerbaijan ³⁾	Chile ³⁾	Greenland ³⁾	Colombia ³⁾	New Zealand ³⁾	Turks & Caicos ³⁾
Australia ^{1) 3)}	China ¹⁾	Guatemala ³⁾	Croatia ³⁾	Nigeria ³⁾	Ukraine ³⁾
Belgium ³⁾	Costa Rica ³⁾	Guernsey ²⁾	Latvia ³⁾	Peru ¹⁾	Hungary ^{1) 3)}
Belize ³⁾	Curaçao ³⁾	Indonesia ³⁾	Liechtenstein ³⁾	San Marino ³⁾	

Initialed DTAs/TIEAs (4)

Oman¹⁾ Seychelles²⁾ Uzbekistan¹⁾ Cyprus¹⁾

Administrative assistance, but not in line with international standard

DTAs in force (36)

Egypt	Belarus	Iran	Malaysia	Zambia	St. Vincent
Algeria	Dominica	Israel	Macedonia	Serbia	Tajikistan
Antigua	Ecuador	Jamaica	Mongolia	Sri Lanka	Thailand
Armenia	Ivory Coast	Kyrgyzstan	Montenegro	St. Christopher, Nevis & Anguilla	Trinidad and Tobago
Bangladesh	Gambia	Kuwait	Pakistan	St. Lucia	Venezuela
Barbados	Grenada	Malawi	Philippines		Vietnam

Initialed DTAs (2)

Nordkorea Zimbabwe

No administrative assistance

¹⁾ Double taxation agreement (DTA) ²⁾ Tax information exchange agreement (TIEA) ³⁾ OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters

Fig. 11

one-off tax payment or by disclosing their accounts (voluntary disclosure). To date and converted into Swiss francs, approximately CHF 1.5 billion has been transferred to the two partner countries in tax and around CHF 21.5 billion of assets disclosed¹⁰.

Capital income and capital gains on assets belonging to persons domiciled in a partner state have been subject to a final withholding tax since 1 January 2013. The rates for this tax are based on the relevant tax rates applicable in the partner states in order to avoid a distorting effect of tax competition. Switzerland forwards the proceeds of this tax to the authorities of the partner state. The amounts generated by the withholding tax on capital income will be transferred to the partner states at the end of March 2014 for the first time. As an alternative, the individuals affected have the option of authorising their paying agent to report the capital income to the partner state. In the withholding tax agreement with the United Kingdom, a similar mechanism is applied in the case of inheritance¹¹.

4.4.4 Other bilateral tax issues

4.4.4.1 United States

Solution for the past: Based on a mandate adopted by the Federal Council on 26 October 2011, discussions took place with the US Department of Justice and the Internal

Revenue Service with a view to resolving the long-standing tax dispute between Swiss banks and the United States. Having deliberated on the «Lex US», the Swiss parliament issued a declaration on 19 June 2013 in which it expressed its expectation that the Federal Council would take all measures under existing law in order to enable banks to cooperate with the US Department of Justice.

The solution arrived at comprises three elements: the Joint Statement signed by the governments of both countries on 29 August 2013, the unilateral US programme, in which the Swiss banks can participate on a voluntary basis, and authorisations for Swiss banks to cooperate with the US authorities. On 18 December 2013, the Federal Council empowered the FDF to issue these authorisations based on the model Federal Council order of 3 July 2013. The individual orders authorise the banks concerned to cooperate with the US Department of Justice and meet their obligations under the US programme.

The solution enables banks to resolve past issues within a clearly defined framework. It respects the Swiss legal system, does not create any retroactive regulations and does not involve emergency legislation.

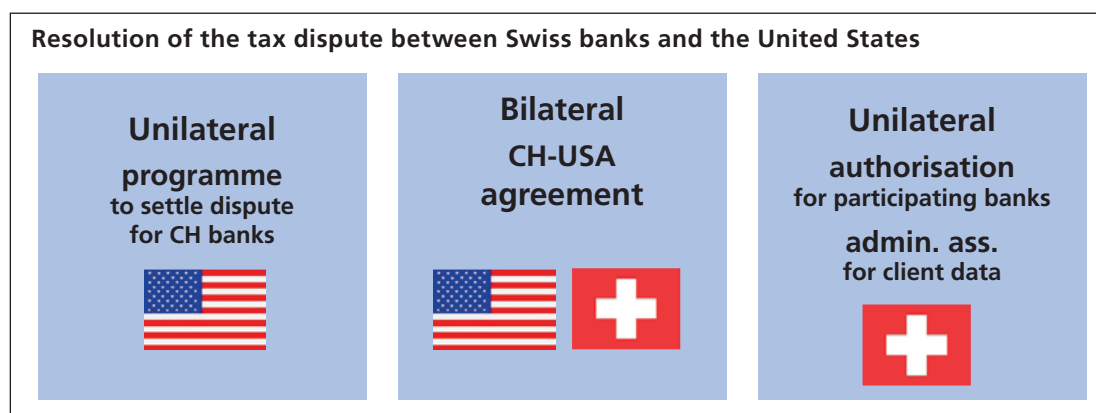


Fig. 12

¹⁰ Moreover, the advance payment of CHF 500 million by Swiss banks agreed with the United Kingdom was transferred at the start of 2013.

¹¹ Given that Austria does not have an inheritance tax, the agreement with Austria does not set out provisions for inheritance.

US programme – classification of banks

Category 1	Category 2	Category 3	Category 4
US criminal investigation in progress	US tax law violated	US tax law not violated	Banks whose business is local
Comprehensive data on US business	Comprehensive data on US business	Data on US assets under management	No information
Conditions	No conditions	No conditions	No conditions
Fines on a individual basis	Fines on a flatrate basis	No fines	No fines

Fig. 13

Foreign Account Tax Compliance Act: With the enactment of the Foreign Account Tax Compliance Act (FATCA), the United States wishes to ensure that all accounts held abroad by US taxpayers can actually be taxed. FATCA is a unilateral set of US regulations that applies worldwide for all countries. It will be phased in from 1 July 2014. It requires foreign financial institutions (FFIs) to disclose information on US accounts to the Internal Revenue Service or levy a high tax. Financial institutions that do not implement FATCA will be avoided by FATCA-compliant financial institutions and will thereby lose access to the international banking system.

FATCA implementation is causing a significant administrative and financial burden for the affected financial institutions worldwide, which can be alleviated by entering into a bilateral agreement with the United States. The United States proposes two models in this regard. The FATCA agreement signed by Switzerland and the United States on 14 February 2013 will provide reporting Swiss financial institutions with administrative and financial simplifications. In addition, Appendix II provides for certain categories of Swiss financial institutions and products to be excluded from FATCA or deemed FATCA-compliant. Furthermore, in a Memorandum of Understanding of 7 June 2013, individual points of the agreement were clarified without any new rights or obligations being created. The Federal Assembly approved the agreement, which was adjusted to new deadlines through an exchange of notes, and adopted the implementing act on 27 September 2013. The deadline for the referendum has now expired.

4.4.4.2 France

On 11 July 2013, the finance ministers of the respective countries signed a draft revision of the agreement between Switzerland and France on the avoidance of double taxation in the area of inheritance tax (CH-F inheritance tax agreement). This revision had become necessary due to the fact that France wished to terminate the inheritance tax agreement because it was not in line with current French law. The bill for revising the CH-F inheritance tax agreement met with considerable resistance in the Swiss parliament, in particular due to its concession to France of a subsidiary right to tax French-domiciled heirs/beneficiaries of a deceased person whose last domicile was in Switzerland.

When signing the inheritance tax agreement, both countries' finance ministers decided to initiate a bilateral tax dialogue, which formally commenced on 5 November 2013. On this occasion, it was agreed that regular talks would be held on all tax issues of common interest (expenditure-based taxation, administrative assistance, etc.). The dialogue should help stabilise bilateral tax relations and resolve the outstanding problems in a pragmatic manner.

4.4.4.3 Italy

Based on a mandate adopted by the Federal Council on 29 August 2012, Switzerland is conducting negotiations with Italy on settling the following areas:

- Regularisation of persons domiciled in Italy with assets held at banks in Switzerland and introduction of a solution for taxing future income
- Market access for Swiss financial service providers in Italy
- Revision of the double taxation agreement and inclusion of a provision on the exchange of information in accordance with the international standard
- Revision of the taxation of cross-border commuters
- Removal of Switzerland from Italy's black list in the area of taxation
- Examination of the customs regime regarding Campione d'Italia

Due to a change of government in Italy, negotiations were suspended in the first half of 2013. With the appointment of the Letta government, however, these have recommenced.

