

# Report on international financial and tax matters 2016



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

**The Federal Council**

Swiss Confederation

## **Imprint**

Published by:  
Federal Department of Finance FDF  
Bern 2016

Edited by:  
State Secretariat for International  
Financial Matters SIF

Photo on cover page:  
Bernerhof, Bern, Headquarters  
of the Federal Department of Finance  
Frank Wettstein



Translated by:  
FDF Language Services

Distributed by:  
FOBL, Federal Publication Sales  
3003 Bern  
Fax: +41 58 465 50 58  
verkauf.zivil@bbl.admin.ch  
www.bundespublikationen.admin.ch

Art. No. 604.001.16Eng  
February 2016

# Table of contents

Preface	5
Overview	6
<b>1 International environment</b>	<b>9</b>
<b>2 International financial and monetary cooperation</b>	<b>12</b>
<b>2.1 Overview</b>	<b>12</b>
<b>2.2 International financial system</b>	<b>12</b>
2.2.1 IMF reforms	12
2.2.2 Evaluation in Switzerland in 2015	13
2.2.3 Funding, lending and Switzerland's contributions	14
2.2.4 Monetary assistance	15
<b>2.3 G20</b>	<b>16</b>
<b>2.4 International financial market regulation</b>	<b>17</b>
<b>2.5 Combating money laundering and terrorist financing</b>	<b>20</b>
2.5.1 Implementation of the revised FATF standards	20
2.5.2 National risk analysis	20
2.5.3 FATF	21
<b>2.6 Bilateral cooperation</b>	<b>21</b>
2.6.1 Financial dialogues and closer contact with leading financial centres	21
2.6.2 Financial cooperation with China	22
2.6.3 Regulatory dialogue with the EU	22
2.6.4 Activities in the area of customs and technical support	23
<b>3 Competitiveness, market access and ability to withstand crises</b>	<b>25</b>
<b>3.1 Overview</b>	<b>25</b>
<b>3.2 Significance of the Swiss financial centre</b>	<b>25</b>
<b>3.3 Financial market policy</b>	<b>26</b>
3.3.1 Regulatory projects	28
3.3.2 Market access	33
3.3.3 Commodity trading	34
<b>4 International tax matters</b>	<b>36</b>
<b>4.1 Overview</b>	<b>36</b>
<b>4.2 Exchange of information in tax matters</b>	<b>36</b>
4.2.1 OECD standard on the automatic exchange of information	36
4.2.2 Global Forum	39
4.2.3 FATCA	41
4.2.4 United Nations	42
<b>4.3 Business taxation</b>	<b>42</b>
4.3.1 Dialogue with the EU on business taxation	42
4.3.2 Addressing base erosion and profit shifting (BEPS)	43
<b>4.4 Bilateral cooperation in tax matters</b>	<b>45</b>
4.4.1 Double taxation agreements and tax information exchange agreements	45
4.4.2 Bilateral tax dossiers	46
Review and outlook	49



# Preface

Switzerland should continue to enjoy the best framework conditions for a secure, competitive financial centre, and the financial centre should contribute significantly to prosperity in Switzerland in the future too. Since the global financial crisis, the international environment has undergone fundamental change. Not just in Switzerland, but all over the world, financial centres and authorities are facing a challenge.

Against a backdrop of changing international framework conditions, it was also possible in 2015 to implement more key reforms in international financial and tax matters in the interests of Switzerland. Many adjustments have been introduced in recent years and are now being implemented. The Confederation's implementation tasks are based, among other things, on the recommendations and the final report submitted at the end of 2014 by the group of experts appointed by the Federal Council for the further development of the financial market strategy as well as the findings from regular exchanges with the private sector, the cantons and the various political players.

In recent years, the rules for the financial centre have been adapted to current developments with regard to international standards, financial stability, investor protection, competitiveness, and market access. Overall, the Swiss financial market is in good shape and Switzerland's leading international position as a financial centre has been maintained. In particular, the financial centre even recorded an increase in the total private wealth managed by its banks.

This report, published for the sixth time this year, provides an account of the work performed and describes the challenges for Switzerland in the international competitive environment. It also shows what efforts will have to be made in the future to maintain a stable, competitive, morally sound and internationally respected financial centre and business location that continues to contribute to the prosperity in our country.



Ueli Maurer  
Head of the Federal Department of Finance

# Overview

In 2015, Switzerland generated total value added of approximately CHF 61 billion through the provision of financial and insurance services. This equates to a 9.5% share of gross domestic product. Overall, more than 200,000 people (in full-time equivalents) were employed in the financial sector at the end of 2015. With the aim of ensuring competitiveness, a level playing field for all and the cross-border networking of the financial sector in the long term, Switzerland continues to support sound regulation and framework conditions that take account of international developments.

The year was shaped by the following main dossiers:

- In 2015, Switzerland was actively involved in international monetary aid. The Federal Council decided that Switzerland should participate in the multilateral aid package for Ukraine. The Swiss National Bank (SNB) was instructed to grant Ukraine a loan of USD 200 million. Further, the Federal Council initiated the consultation on the revision of the Monetary Assistance Act (MAA) in December 2015. The revision should take account of the changes made in particular to the International Monetary Fund's (IMF) lending framework since the global financial crisis (section 2.2.4).
- In 2015, the Federal Council adopted the parameters for the planned ordinance amendments relating to the too big to fail provisions. By meeting what are known as going concern or gone concern requirements, systemically important banks should have sufficient capital so that the continuity of their system-critical services can be ensured even in a stress scenario without state support (sections 2.4 and 3.3.1).
- The Revised Financial Action Task Force (FATF) Recommendations of 2012 were written into Swiss law, which thus strengthened the legal basis in Switzerland in line with international standards. Switzerland's efforts in this area are part of its strategy for combating terrorism approved by the Federal Council in September 2015 (section 2.5.1).
- High-ranking representatives of the Swiss and Chinese financial market authorities and central banks met in 2015 to further pursue their financial dialogue. The focus of the talks was on developments in the financial markets, further strengthening of bilateral cooperation in financial matters and particularly Switzerland's role as an offshore renminbi trading venue, as well as collaboration within the International Monetary Fund (IMF), the Financial Stability Board (FSB) and the G20. The fact that the China Construction Bank now holds a Swiss banking licence shows that Switzerland is becoming an ever important centre for the Chinese currency, renminbi (section 2.6.2).
- Switzerland made key advances in the area of financial market regulation in 2015. In particular, the new Financial Market Infrastructure Act (FMIA) was adopted by Parliament in 2015 and came into force together with the Federal Council Ordinance at the start of 2016. The Federal Council also adopted the dispatch for a new Financial Services Act (FinSA) and a Financial Institutions Act (FinIA) in 2015, which regulate the provision of financial services, establish an activity-based, differentiated supervisory regime for financial institutions requiring authorisation and build on existing supervisory legislation. Entry into force is planned for the start of 2018 (section 3.3.1).
- Cross-border market access for financial services is a major concern for Switzerland. Since July 2015, Swiss banks have been able to offer financial services in Germany on a cross-border basis. Similar bilateral enhancements are also being sought with other key countries. Switzerland also made progress with regard to the EU's recognition of the equivalence of Swiss regulation, such as in the insurance sector and the supervisory regime for central counterparties. Finally, Switzerland has commenced initial exploratory talks with the EU regarding a possible financial services agreement (FSA; section 3.3.2).

- In December 2015, Parliament approved the required legal basis for implementing the standard for the automatic exchange of information in tax matters (AEOI). There are two ways to implement the AEOI standard: either through a bilateral agreement, such as the one signed between Switzerland and the European Union in May 2015, or through the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information (MCAA). The AEOI between Switzerland and Australia is based on the second type (section 4.2.1).
- In 2015, the Global Forum adopted Switzerland's supplementary report on phase 1, which means that Switzerland can proceed to phase 2 of the peer review in which the exchange of information upon request is assessed. Switzerland's efforts in recent years on implementing the recommendations of the Global Forum have thus been recognised (section 4.2.2).
- In autumn 2015, the OECD published its new guidelines targeting erosion of the tax base and shifting of profits to jurisdictions with low or literally no taxation (BEPS project). In particular, the interactions between national tax legislations should not allow taxpayers to benefit from inadvertent double non-taxation. Switzerland actively defended its interests in all of the OECD working groups involved in the BEPS project and incorporated the results into the planned Corporate Tax Reform Act III (section 4.3.2).
- In December 2015, Switzerland and Italy initialled an agreement on the taxation of cross-border commuters together with a protocol of amendment to their double taxation agreement. The agreement clearly defines one of the most important obligations agreed by the two countries in the roadmap signed in February 2015 and improves the situation of the affected cantons (section 4.4.2).
- By the end of 2015, 75 category 2 Swiss banks under the US Program had reached an agreement with the US Department of Justice (DoJ), thus largely resolving the tax dispute with the United States. The Swiss government wel-

#### Important events in 2015

- 15.01.** Swiss National Bank (SNB) removes exchange rate floor
- 18.02.** Federal Council adopts too big to fail evaluation report
- 23.02.** Switzerland and Italy sign agreement on tax issues
- 16.03.** Switzerland is admitted to phase 2 of Global Forum peer review
- 18.03.** Start of exploratory talks with the EU regarding a possible financial services agreement (FSA)
- 20.03.** Switzerland participates in foundation process of Asian Infrastructure Investment Bank
- 16.04.** IMF and World Bank 2015 Spring Meetings in Washington
- 29.04.** Entry into force of Federal Act for Implementing Revised FATF Recommendations of 2012
- 22.05.** Switzerland and Oman sign double taxation agreement
- 05.06.** Corporate Tax Reform III is under parliamentary deliberation
- 05.06.** Federal Council adopts dispatches on legal basis for automatic exchange of information
- 10.06.** Future of financial centre advisory board gets to work
- 19.06.** First national report on risks of money laundering and terrorist financing
- 10.07.** Switzerland and Liechtenstein sign double taxation agreement
- 16.07.** Agreement between Switzerland and Germany: easier provision of cross-border financial services for Swiss banks
- 19.08.** Background report on commodities: implementation of recommendations well on the way
- 02.09.** Federal Council initiates consultation on revision of Tax Administrative Assistance Act
- 05.10.** OECD publishes standards with regard to corporate taxation (BEPS project)
- 08.10.** IMF and World Bank Group 2015 Annual Meetings in Lima
- 15.10.** EU recognises Swiss rules on insurance solvency as equivalent
- 18.10.** China Construction Bank (CCB) granted licence for establishing a branch in Switzerland
- 21.10.** Federal Council sets parameters to amend too big to fail provisions
- 26.10.** Plenary meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes in Berlin
- 04.11.** Federal Council adopts dispatch on Financial Services Act and Financial Institutions Act

- 09.11.** Financial Stability Board adopts TLAC capital standard
- 15.11.** G20 summit in Antalya
- 16.11.** EU recognises Swiss central counterparty regulation as equivalent
- 18.11.** Federal Council adopts dispatch on automatic exchange of information in tax matters with Australia
- 25.11.** Entry into force of Financial Market Infrastructure Act set for 1 January 2016
- 25.11.** Federal Council adopts dispatch on automatic exchange of information in tax matters between Switzerland and EU
- 02.12.** Switzerland invited by China to G20 Finance Track
- 18.12.** Federal Council initiates consultation on revision of Monetary Assistance Act
- 18.12.** Parliament approves legal basis for introducing automatic exchange of information in tax matters
- 22.12.** Switzerland and Italy initial agreement on taxation of cross-border commuters

comes that the conclusion of the resolution of the past for category 2 banks is coming to an end and hopes that the process for category 1 banks, against which criminal investigations are ongoing, can also be concluded efficiently (section 4.4.2).



# 1 International environment

**Outlook:** The global economy is likely to continue to grow at a rather modest pace in 2016. This will also be felt in Switzerland. The International Monetary Fund (IMF) forecasts global economic growth of 3.6% for 2016. It expects growth of 2.2% in advanced economies and of 4.5% in emerging market and developing economies. According to the IMF outlook, Switzerland will experience more modest economic growth of 1.3%.

With a few exceptions, global economic growth fell short of expectations in 2015, coming in at 3.1% instead of the 3.8% forecasted. Among the emerging market and developing economies (+4%) in particular, many countries were not able to keep pace with the forecasts. China (+6.8%) experienced weaker growth than in the preceding years and the Russian economy (-3.8%) contracted as a result of falling commodity prices and sanctions. Growth was slightly higher in the advanced economies (+2%) than in 2014, not least thanks to the recovery in the United States (+2.6%), while it remained below average in the eurozone (+1.5%).

Monetary policies of an unprecedented scale were pursued in several economies and were even strengthened in others, such as in the eurozone. Nevertheless, they failed to secure strong, sustainable economic growth. An accommodative monetary policy can weaken the currency and improve an economy's competitiveness, but can also result in spillovers and become ineffective if pursued on a widespread basis. Furthermore, even though low interest rates can lower financing costs for companies, they are only one of the factors that lead to higher growth in investment and thus of the economy. Other factors such as favourable structural conditions and healthy public finances are just as important.

In this context, structural reforms and fiscal consolidation should be the preferred approach. This is all the more important since public finances deteriorated in numerous countries following the financial crisis. Seven years after the crisis, government deficits remain high (see Figure 1).

Extremely low or even negative interest rates may contribute to greater risk-taking and are causing major difficulties for pension funds and life insurers. In addition, the central banks have very little leeway left as most of the existing instruments have already been used.

The international environment remains a key factor for Switzerland's economy. In this uncertain environment, the Swiss franc could remain overvalued for some time and drag down the economy's performance. According to estimates of the federal government's expert group, Switzerland's economic growth in 2015 was 0.8% lower than the average for advanced economies. Enhancing the framework conditions and strengthening the stability of the financial sector are all the more important if Switzerland is to remain one of the most prosperous countries in the world.

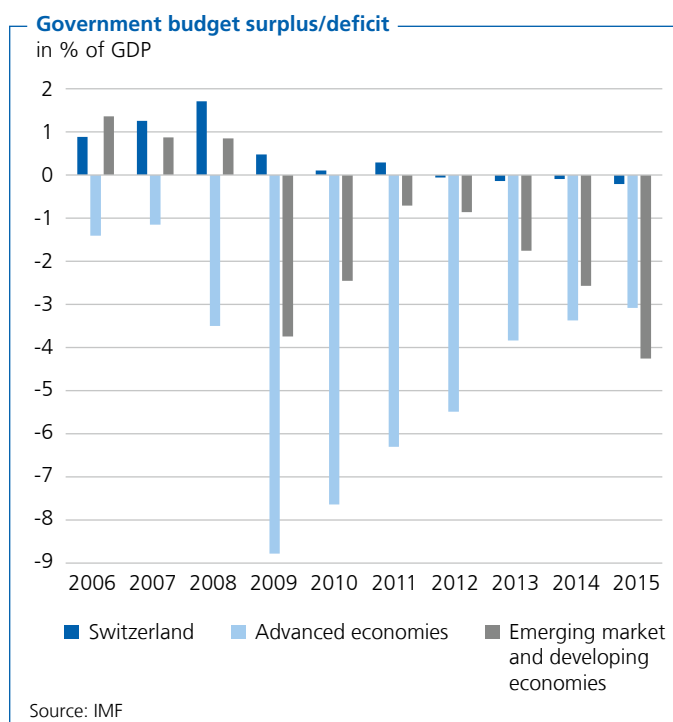


Fig. 1

### **The Group of Twenty (G20)**

The first summit of the G20 heads of state took place in 2008 with the aim of responding to the challenges of the global financial and economic crisis. The group comprises 19 industrialised and emerging market countries, namely Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom and the United States, as well as the European Union, which is represented by the European Council and European Commission presidents and the European Central Bank. Other participants include international organisations (International Monetary Fund IMF, Organisation for Economic Cooperation and Development OECD, World Bank, World Trade Organisation WTO), the Financial Stability Board (FSB) and other United Nations agencies.

### **The role of the G20 in the international financial architecture**

Over the years, the G20 has established itself as the main forum for international cooperation in economic and financial issues. In this way, the G20 countries took concerted fiscal stimulus and monetary easing measures during the economic and financial crisis of 2008 to 2009. The group provides a platform for dialogue and collaboration between industrialised and emerging market countries, without however adopting an idealist mission of economic convergence. Despite the diversity of its members, the G20 is able to make commitments by consensus under summit declarations. Despite the fact that these declarations have no legal force, the G20 has the influential power to monitor their implementation.

The G20's agenda is extensive: it includes structural economic reforms, investment promotion, the reform of international financial institutions, financial regulation, and anticorruption measures. In recent years, the G20 has also increasingly influenced international tax policy. A recent example is the base erosion and profit shifting (BEPS) project that was concluded in October 2015 (see section

4.3.2). The G20 does not have a secretariat and is based on a presidency that rotates annually, which adds a certain dynamic to its agenda.

The G20 does not have a legal basis underlying country membership. For this reason, the group has taken steps to reach out to non-G20 countries. This has taken the form of invitations limited to five countries, selected by the country holding the presidency of the G20. These countries mostly represent a regional group. Spain is invited on a permanent basis to the G20. Other countries may be invited to certain working groups dealing with specific issues. It was in this way that Switzerland was invited for the first time to join the G20 Finance Track meetings in 2013. The G20 is also open to the business community, trade unions and civil society.

### **Switzerland's active involvement vis-à-vis the G20**

Even though it is not a member of the G20, Switzerland participates actively in the work of other international organisations that may be subject to mandates given by the G20 (see section 2.3).

The participation in the G20's work, particularly in the Finance Track, is very important to Switzerland for three reasons. Firstly, by being able to take part in discussions, it can stay informed on the latest policy issues, such as the international financial architecture, international taxation and financial system regulation. Secondly, participating in the G20 also gives Switzerland the opportunity to defend its interests and to ensure that the G20 promotes a regulatory level playing field. Finally, access to the G20's working groups helps enhance bilateral contacts with the major world powers.

In 2010, the Federal Council set up the interdepartmental group, IDAG20, and tasked it with coordinating the Swiss policy stance with regard to the G20. The activities of the IDAG20 are focused on strengthening diplomatic ties and promoting Switzerland's posi-

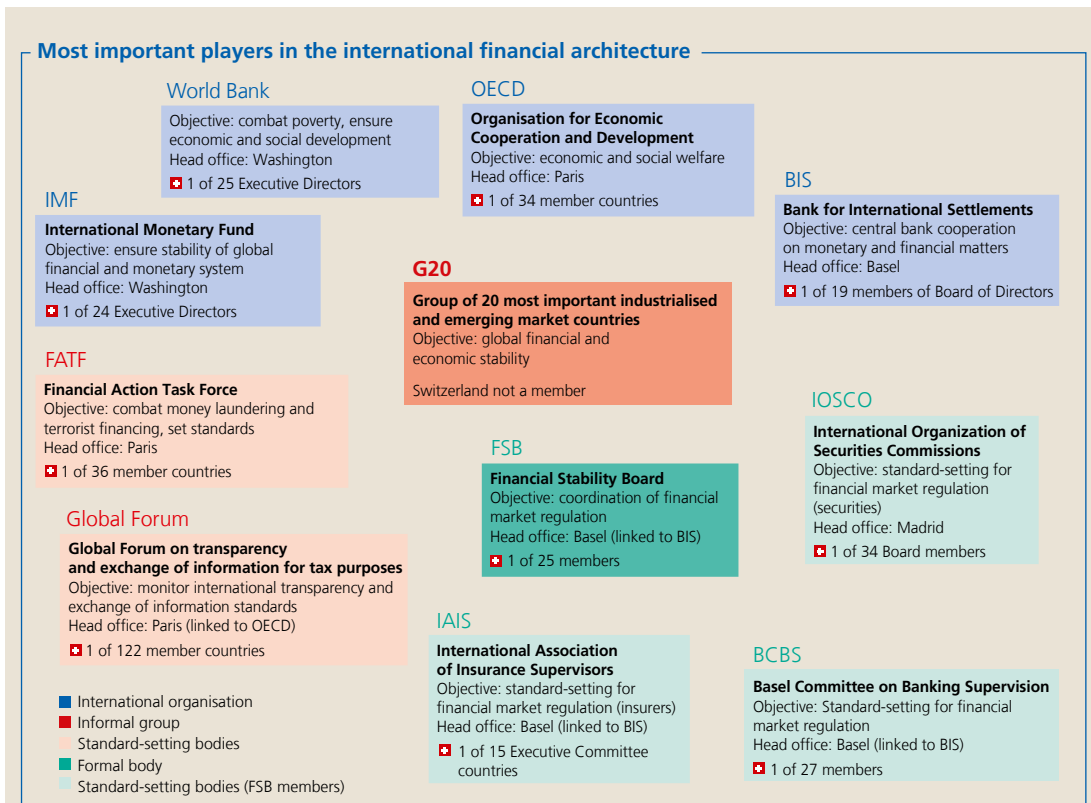


Fig. 2

tion on the priorities of the G20. Switzerland has been making an active and substantial contribution to the G20 since 2011. It has consistently voiced its opinion on the priorities of the G20 presidencies by means of informal notes to highlight the value it could add to the discussions.

### Switzerland's participation in the G20 Finance Track in 2016

As in 2013 under the Russian presidency, Switzerland will be able to take part in the work of the G20 Finance Track in 2016, including the meetings of the G20 finance

ministers and central bank governors. Switzerland received the corresponding invitation from China, which assumed the G20 presidency on 1 December.

The invitation is recognition of Switzerland's status as a key player in these areas at the international level. It has also materialised as a result of Switzerland's commitment to the G20.

Germany will hold the G20 presidency in 2017.

## 2 International financial and monetary cooperation

**Outlook:** The work to strengthen international financial and monetary cooperation is being further pursued. This should include ensuring that possible new crisis hot spots are identified early and addressed consistently. The International Monetary Fund (IMF) will look at the lessons that can be learned from the assistance programmes granted from 2008 in terms of its instruments and financing of crisis programmes. At the same time, it will continue to play a key role in the implementation of reforms, particularly in Greece and Ukraine. In 2016, the Financial Stability Board (FSB) will continue to push for the consistent and global implementation of the agreed standards on financial market regulation. It will also concentrate on the stability of financial market infrastructures as well as various new issues, such as the risks posed by climate change. The Financial Action Task Force (FATF) is conducting a fourth round of mutual evaluations for its members. A report on Switzerland is due in the third quarter of 2016. Having been invited by the Chinese G20 Presidency, Switzerland will be actively involved in the work of the G20 Finance Track in 2016.

### 2.1 Overview

A solid international economy and a stable international financial system are of great importance to Switzerland as a country with an internationally oriented financial centre and its own currency. For this reason, Switzerland continued to support a sustainable, stability-oriented economic and fiscal policy as well as appropriate financial market regulation within the key international financial bodies in 2015.

Switzerland participated in the internationally coordinated stabilisation package for Ukraine with a monetary assistance loan. The FSB adopted a new standard on total loss-absorbing capacity (TLAC) in 2015 for global systemically important banks in resolution to ensure that these banks can be stabilised or wound up in the future without recourse to public funds. Within the FSB, Switzerland continued to work towards the most coherent implementation possible of the agreed reforms at the international level. The aim here is firstly, to continue to focus on risks to financial stability and, secondly, to safeguard open financial markets at the same time. Further-

more, a level playing field should be ensured for all globally active financial market participants.

The provisions on the transparency measures in the case of legal entities and bearer shares included in the Federal Act of 12 December 2014 for implementing the Revised Financial Action Task Force (FATF) Recommendations of 2012 came into force on 1 July 2015. The other provisions of this act come into force on 1 January 2016, at the same time as the provisions of the Federal Council Ordinance of 11 November 2015 on combating money laundering and terrorist financing.

### 2.2 International financial system

#### 2.2.1 IMF reforms

International monetary cooperation relies to a large extent on the facilities and resources of the IMF, which is mandated to oversee and guarantee the stability of the international economic and monetary system. In order to perform this mission and to take account of the evolution of the global economy and international financial flows, the IMF Board of Governors approved a package of reforms for its quotas and governance in 2010.

The main point of the governance reform is the concession by advanced European countries of two seats on the Executive Board, the IMF's operating decision-making body, to emerging market countries. Switzerland has signed a memorandum of understanding with Poland which confirms Switzerland's overall management of the constituency in the Bretton Woods institutions and strengthens Poland's leadership of it. The memorandum stipulates that Switzerland will retain its leadership of the constituency at the IMF and the World Bank. It will continue to represent the constituency in the International Monetary and Financial Committee (IMFC) and in the Development Committee, the ministerial bodies responsible for setting the policies and strategic direction. In return, Switzerland will share its seat on the IMF Executive Board with Poland, with each of the two countries occupying the seat for a two-year period on a rotation basis. Poland's first two-year term begins in November 2016. In this way, Switzerland is contributing to the concession of two seats held by

advanced European countries to emerging market countries. Belgium, the Netherlands and the Nordic countries have also contributed to this adjustment. The larger European countries have yet to announce their intentions.

The Swiss Parliament approved these reforms in June 2012 in accordance with the deadline set. However, the reforms have not yet come into force, primarily because the US Congress only ratified them in December 2015.

### 2.2.2 Evaluation of Switzerland in 2015

The regular evaluation of the economic and financial situation of member states within the scope of the Article IV Consultation is a core element of the surveillance activity of the IMF. In May 2015, the IMF Executive Board approved its annual country report on Switzerland.

The IMF focused on the slowdown of economic growth as a result of the bleak outlook in the wake of the appreciation of the franc. It expects the economy to recover and growth to reach about 2% in the medium term. According to the IMF experts, the risks to this recovery lie in the global environment, in the uncertainties arising from the implementation of the popular initiative against large-scale immigration and in persistently low inflation rates.

The IMF believes that further monetary easing would help limit the near-term growth slow-down and reduce the overvaluation of the Swiss franc. The IMF suggested that the Swiss National Bank could buy foreign-currency assets. In addition, the IMF was of the opinion that the negative interest rates help to reduce the upward pressure on the Swiss franc. It thus recommended leaving them at the present level.

The IMF shared the view of the Federal Council that no economic stimulus programme is required. To ensure the sustainability of the public finances against the backdrop of demographic developments, the IMF underlined the importance of implementing the ongoing pension reform rapidly. It also underscored the significance of the swift implementation of the third series of corporate tax reforms.

Finally, the IMF welcomed the progress made in enhancing financial sector stability on several fronts, namely bank capital ratios, regulatory projects and the framework for financial market supervision. At the same time, it pointed out the need to monitor the impact of the low interest rates on pension funds, life insurers as well as on mortgage and real estate markets more closely.

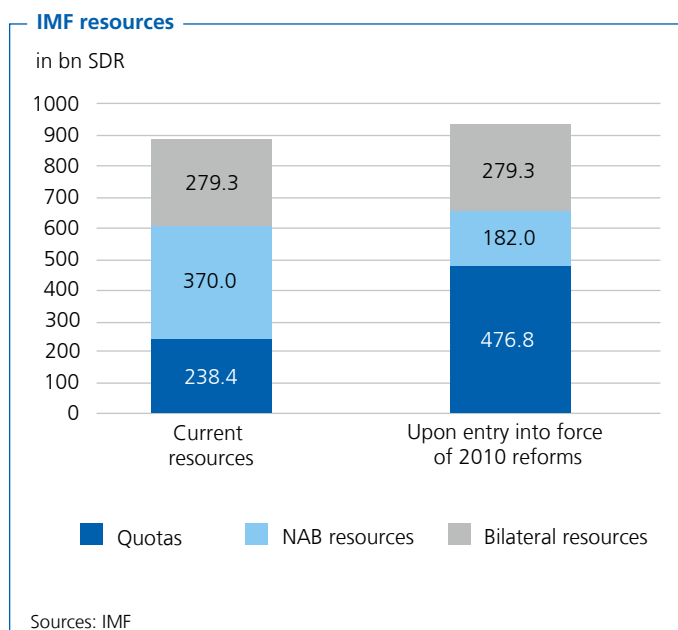


Fig. 3

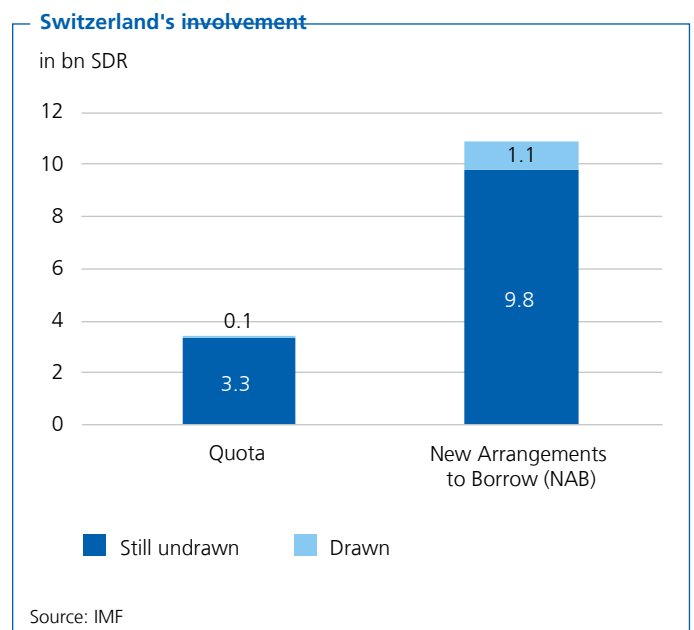


Fig. 4

### 2.2.3 Funding, lending and Switzerland's contributions

The General Resources Account of the IMF is primarily financed by its members' quotas. Total quotas amount to 238.4 billion special drawing rights (SDR, 1 SDR = CHF 1.41). The entry into force of the 2010 reforms (see section 2.2.1) will result in a doubling of the total quotas (SDR 476.8 billion). Switzerland's quota is currently SDR 3.5 billion and will reach SDR 5.8 billion with the 2010 reforms. In the event of a serious crisis, the IMF can also use the New Arrangements to Borrow (NAB). The NAB was reformed and expanded in 2011, with its total resources rising from SDR 34 billion to SDR 370 billion currently, in response to the worsening of the economic and financial crisis. Similarly, to make the expanded NAB a more effective crisis prevention and management tool, the loan-by-loan activation under the original NAB was replaced by the establishment of general activation periods of up to six months that are voted on by NAB members. Switzerland participates in the NAB with a maximum amount of roughly SDR 11 billion. Since its entry into force, the expanded NAB has been activated ten times, the most recent of which was on 1 October 2015 for a period of six months. The doubling of the quotas will be largely offset by a reduction of the funding made available through the NAB. Due to major uncertainty about the stability of the financial system, the decision was taken in 2012 to

increase IMF resources on an exceptional basis and for a limited period through bilateral credit lines. This second line of defence amounts to about SDR 280 billion. Up to now, the bilateral credit lines have not been used and should expire at the latest in 2018.

At the end of 2015, the resources committed under programmes financed by the IMF's General Resources Account amounted to some SDR 146 billion, of which SDR 52 billion were drawn. With regard to the resources made available by Switzerland, the IMF had drawn SDR 130 million from the quota and SDR 1.05 billion from the NAB at the end of 2015.

The observed decline in total resources outstanding and total commitments since September 2012 has resulted directly from the stabilisation of the global economic situation and also reflects the establishment of stability mechanisms at the regional level, particularly in the eurozone (see Figure 5).

The gap between the resources outstanding and the commitments is largely due to the precautionary lending toolkit. The flexible credit lines already agreed with Mexico, Poland and Colombia in the wake of the 2009 financial crisis and the precautionary and liquidity line granted to Morocco continue to mobilise around SDR 70 billion overall. However, these countries have not yet had to draw on these resources. At the end of 2015, 14 countries were benefiting from loan programmes with the IMF: 6 Stand-by Arrangements and 8 Extended Fund Facility arrangements. Of the current lending programmes, the largest are those granted to Greece and Ukraine. The IMF resources outstanding under the already completed adjustment programmes for Ireland and Portugal remain considerable (see Figure 6).

Finally, the IMF has a Poverty Reduction and Growth Trust (PRGT) that provides concessional lending to low-income members. The trust is financed through bilateral contributions and the IMF's own resources. The Swiss National Bank (SNB) ensures Switzerland's participation in the PRGT capital by granting loans. The government guarantees the SNB the timely repayment of these loans, including interest. Moreover, the Confederation subsidises the cost of interest on

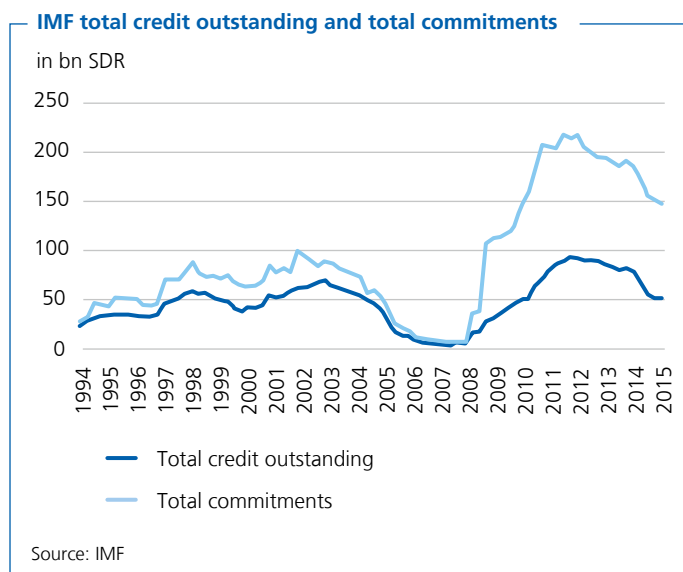


Fig. 5

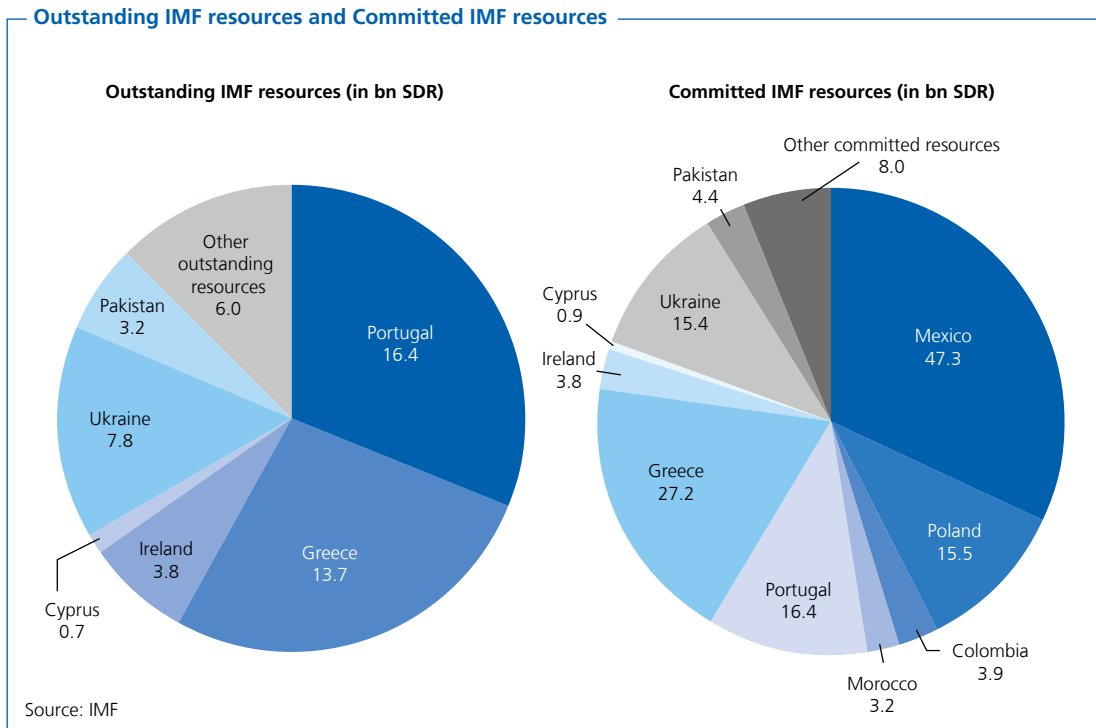


Fig. 6

these loans. At the end of 2015, the resources committed to this trust amounted to SDR 8 billion, of which SDR 6.5 billion were actually used. The IMF is currently utilising SDR 130 million of Switzerland's committed contribution of approximately SDR 640 million.

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. The FDF provides its own expertise in these areas, typically in response to requests from countries with which Switzerland collaborates closely, such as members of its constituency (section 2.6.4).

#### 2.2.4 Monetary assistance

Switzerland participates in international monetary assistance that is provided in exceptional cases. In February 2015, the Federal Council decided that Switzerland would participate in the multilateral aid package for Ukraine. The

SNB was instructed to grant Ukraine a loan of USD 200 million. Based on the Monetary Assistance Act (see box), the Confederation has given the SNB a guarantee for the timely reimbursement of the loan and interest payments.

The loan is part of an internationally coordinated assistance package to restore financial stability in the country. Due to the difficult security situation, Ukraine's economic and financial position deteriorated since 2014 to the extent that the IMF estimated financing requirements at approximately USD 40 billion. Given its already extensive loan of USD 17.5 billion, the IMF was not able to fill the financing gap on its own. Its participation was therefore supplemented through bilateral loans and a restructuring of external debt.

Switzerland also contributed some CHF 2.3 million to the IMF's Catastrophe Containment and Relief Trust (CCR Trust). The trust was created in February 2015 to grant IMF debt service relief to low-income countries affected by natural disasters and serious epidemics. This contribution was made by transferring the balances of an earlier trust fund. In February 2015, the IMF Executive Board decided to liquidate the Multilateral Debt

Relief Initiative II Trust and instructed the donor countries to transfer the balances to the newly created CCR Trust.

#### **Revision of the Monetary Assistance Act**

On 18 December 2015, the Federal Council initiated the consultation procedure for the revision of the Federal Act of 19 March 2004 on International Monetary Assistance (MAA). The MAA provides the legal basis for Switzerland to provide financial contributions to ensure the stability of the international monetary and financial system that go beyond its ordinary commitments as an IMF member. As an open economy with an important financial centre and its own currency, Switzerland is heavily reliant on a stable international financial and monetary system.

The need to revise the Act arose as a result of changes to lending practices at the multilateral level. Since the global financial crisis and the eurozone debt crisis, the IMF has adjusted its toolkit and lending practices both for systemic crisis situations and low-income countries to preserve its own effectiveness in a changing environment. As Switzerland's monetary assistance is generally closely connected to the IMF's instruments, it is now necessary to revise the MAA. The consultation draft proposes two major changes:

Firstly, the maximum loan maturity for monetary assistance in systemic crisis situations should be increased. As a result of the global financial crisis, new programmes have increasingly been agreed with longer drawdown and repayment periods. This has led to the IMF requesting longer loan terms from its members when seeking additional funds for crisis situations. Adjusting the loan term should ensure that Switzerland's monetary assistance remains closely attuned to current IMF lending practices.

Secondly, the SNB's involvement in monetary assistance for individual countries should be explicitly foreseen in the Act. The Federal Council should also be able to request that the SNB assume the provision of the loan or guarantee in these situations.

#### **2.3 G20**

The G20, which includes the largest industrialised and emerging market nations, continues to play a key role in improving the coordination of macroeconomic policies and in guiding and giving impetus to the work of international organisations, particularly in the area of financial regulatory reform. The rotating presidency adds a certain dynamic to the G20's agenda each year.

In line with the previous presidencies, Turkey concentrated its work in 2015 on implementing the G20's action plans, primarily the Brisbane 2014 plan which seeks collective action for inclusive and robust growth. Special attention was given to SME investments and to interactions with developing countries. In tax matters, the G20's main achievements include the adoption of international tax regulations to curb tax evasion among multinationals (Base Erosion and Profit Shifting, BEPS; see section 4.3.2) and the implementation of the international standard on the automatic exchange of information (see section 4.2.1). Moreover, the G20 continues to stimulate work on financial market regulation, particularly the implementation of the new capital standard for banks (total loss-absorbing capacity, TLAC).

Like in previous years, Switzerland actively pursued dialogue with the Turkish presidency and other G20 members. In particular, it submitted position statements on the priorities of the Turkish presidency (sovereign debt restructuring, long-term investment and infrastructure financing, energy sustainability, fight against corruption, and BEPS). Switzerland, represented by the SIF, also continued to contribute to the work of the G20 Global Partnership for Financial Inclusion, of which it became a member in 2014. Furthermore, Switzerland continues to actively promote a representation system based on a "variable geometry" to include non-G20 countries depending on specific topics of interest.

For 2016, China would like to focus on innovation: "building an innovative, invigorated, interconnected and inclusive world economy". To revive investment in infrastructure, China intends in particular to promote the new Asian Infrastructure Investment Bank (AIIB) as well as the New Development Bank (NDB). Another of China's priorities is the promotion of sustainable



**G20 rotating presidencies – regional groups**

Group 1	Group 2	Group 3	Group 4	Group 5
China	France	Argentina	India	Australia
Indonesia	Germany	Brazil	Russia	Canada
Japan	Italy	Mexico	South Africa	Saudi Arabia
South Korea	United Kingdom		Turkey	United States

Fig. 7

development (green finance, implementation of the 2030 Agenda for Sustainable Development). Moreover, China plans to pursue the G20's work on financial and tax regulation, the reform of world economic and financial governance as well as the development of international trade.

Switzerland was invited by China to take part in the G20 Finance Track. Apart from the meetings of the G20 finance ministers and central bank governors and their representatives, Switzerland will participate in the Framework Working Group (FWG), Investment and Infrastructure Working Group (IIWG), International Financial Architecture Working Group (IFA WG) and is involved in the Green Finance and Climate Finance study groups.

#### 2.4 International financial market regulation

Based in Basel at the Bank for International Settlements, the Financial Stability Board (FSB) coordinates international efforts in the area of financial market regulation and supervision in collaboration with other international bodies. In 2015, the FSB continued to push ahead with its work on the adoption and implementation of international standards. Switzerland has two seats on the FSB, occupied by the Federal Department of Finance (FDF) and the Swiss National Bank (SNB), which defend its interests. The Swiss Financial Market Supervisory Authority (FINMA) is also represented in various working groups (see Figure 8).

While some of the FSB's work on standards is still in the development stage, a large part of it is dedicated to evaluating their implementation. The implementation of reforms is evaluated through thematic and country-specific peer reviews and various FSB progress reports. In addition to these peer reviews and reports, the Implementation Monitoring Network, which is

led by the FDF, draws up an annual overview of the implementation of reforms in member states. In 2015, the findings on the status of the global reform agenda led to the first-ever comprehensive FSB annual report which was published in view of the G20 summit.

The FSB continues to work to limit the risks that global systemically important financial institutions pose to financial stability. For instance, the FSB approved a new standard in November 2015 on the total loss-absorbing capacity (TLAC) of global systemically important banks (G-SIBs) in resolution. The TLAC requirements supplement existing capital requirements for G-SIBs and should ensure that sufficient capital is available in the event of a crisis to stabilise or wind up a G-SIB without recourse to public funds. The FSB list of G-SIBs which was last updated in November 2015 comprises 30 banks, including the two big Swiss banks. From 1 January 2019, G-SIBs must fulfil a minimum TLAC requirement of 16% of risk-weighted assets and a TLAC leverage ratio<sup>1</sup> (unweighted capital ratio) of 6% of the Basel III leverage ratio denominator. From 1 January 2022, these requirements will be increased to 18% and 6.75%.

Swiss authorities have campaigned within the FSB for the highest possible global TLAC requirements in order to limit the risks posed to financial stability and to help ensure that the same conditions are in place for global systemically important banks. The efforts of Switzerland and a few like-minded countries have helped to raise the international minimum requirement to 18% in a second phase. Although the TLAC standard naturally contains compromises, it is nevertheless a significant achievement for the FSB and is yet another step towards alleviating the too big to

<sup>1</sup> Leverage ratio: requirement for percentage of total exposure under Basel III

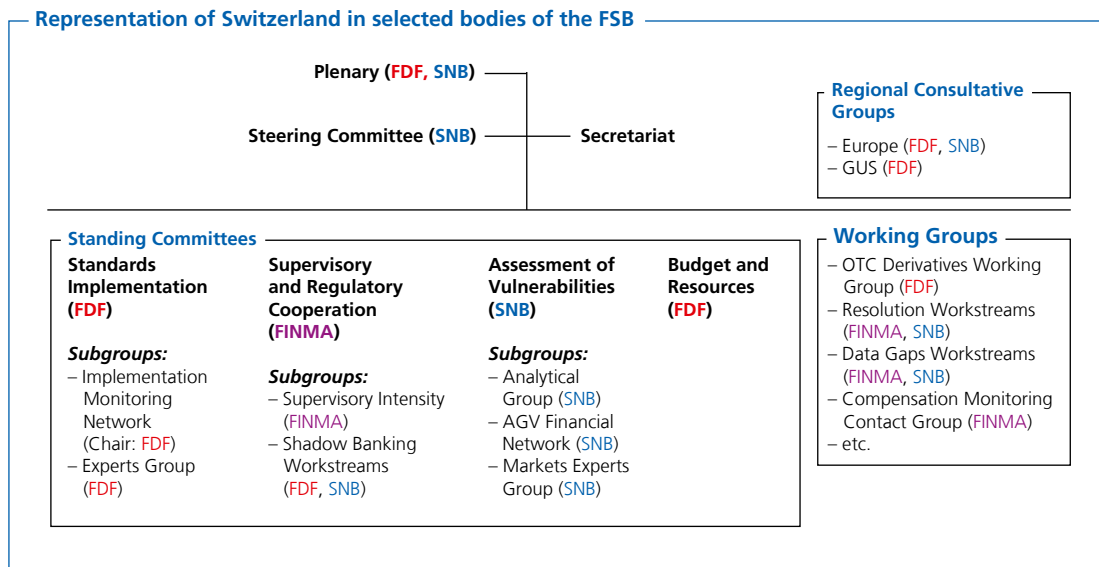


Fig. 8

fail problem. Switzerland will implement the TLAC standard as part of the adjustments to the too big to fail requirements, which will be higher overall than the international standards (see section 3.3.1).

The FSB has also developed basic principles for the cross-border effectiveness of measures and for cross-border cooperation in the resolution of a systemically important financial institution. The FSB standards on the resolution of financial institutions, on which a second peer review was launched in 2015, have been only partially implemented internationally. Switzerland will continue to campaign for more progress here. Other key FSB work in 2016, from a Swiss perspective, concerns the resilience, restructuring capacity and resolvability of financial market infrastructures and particularly central counterparties which play an important role in derivatives trading. Central counterparties reduce the counterparty default risk in transactions in that they act as contracting parties between buyers and sellers.

Progress has also been made on the work concerning global systemically important insurers (G-SIIs) in the FSB and the International Association of Insurance Supervisors (IAIS). In October 2015, the IAIS and the FSB adopted the requirements for higher loss-absorbing capacity for

G-SIIs. A basic capital standard for G-SIIs was already adopted in 2014. In the medium term, a more developed capital standard for all internationally active insurance groups should replace the basic capital standard. At present, there are nine insurers on the list of G-SIIs adopted by the FSB annually in November, which still does not include any Swiss insurance companies. In November 2015, the IAIS initiated a public consultation on further developing the methodology for defining G-SIIs. This should also address the unresolved issue regarding the status of reinsurers, which are currently not included under G-SIIs.

Another priority for the FSB are the international reforms of over-the-counter (OTC) derivatives trading regulation. These reforms call for the reporting of derivative transactions to central trade repositories, the clearing of derivatives trading through central counterparties, the shifting of trade to electronic platforms as well as additional capital requirements and risk mitigation obligations for non-centrally cleared derivatives. In Switzerland, the regulatory reforms of derivatives trading will be implemented in the Financial Market Infrastructure Act (FMIA; see section 3.3.1). In 2015, the FSB published two progress reports on the reforms of derivatives trading and a peer review on reporting duties and the associated obstacles that make it diffi-

cult for supervisory authorities to effectively use the information reported. The avoidance of duplications in the derivatives area through the recognition of equivalent foreign regulations (i.e. deference) will remain a key issue in 2016.

The supervision of non-banks that are involved in credit intermediation (known as shadow banks) continues to be a priority for the FSB. The latest FSB annual report puts the assets of the entire shadow banking sector at between USD 36 and 68 trillion. In collaboration with the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO), the FSB adopted regulatory standards applicable from 2012 that aim to reduce the transfer of risks from the banking sector to other sectors subject to less stringent regulation. In November 2015, the FSB also published additional standards on repo and securi-

ties lending transactions. This work will continue in 2016. Swiss authorities are following the developments and will analyse the possible implications for the regulatory framework in Switzerland. In 2015, IOSCO performed two assessments, one on money market funds and one on securitisation.

In addition, the FSB took an interest in new issues in 2015 and initiated work, for instance, on the effects of climate change on financial stability. In the area of climate, the FSB has set up a working group led by the private sector for the dissemination of climate-related information to enable market participants to better manage the risks. Another issue of concern to the FSB is the withdrawal of international banks in correspondent banking. The FSB is also studying the effects of misconduct on financial stability.

### **LEI – an identification number for greater financial stability**

Global financial markets are shaped by inter-related connections between financial market participants. Until recently, however, the financial sector did not have a uniform global system for identifying participants.

The 2008 financial crisis uncovered gaps with regard to financial data and the evaluation of systemic risks that were attributed to insufficient identifiability of financial market participants. For instance, in the case of the Lehman Brothers' insolvency, for market participants and supervisory authorities its interconnectedness was not apparent. For this reason, efforts were stepped up in the wake of the financial crisis to develop a uniform identification system for financial market participants, i.e. the legal entity identifier (LEI). An LEI is a unique, universal identification number for financial market participants. The LEI system stems from a G20 initiative and was initially developed in the FSB.

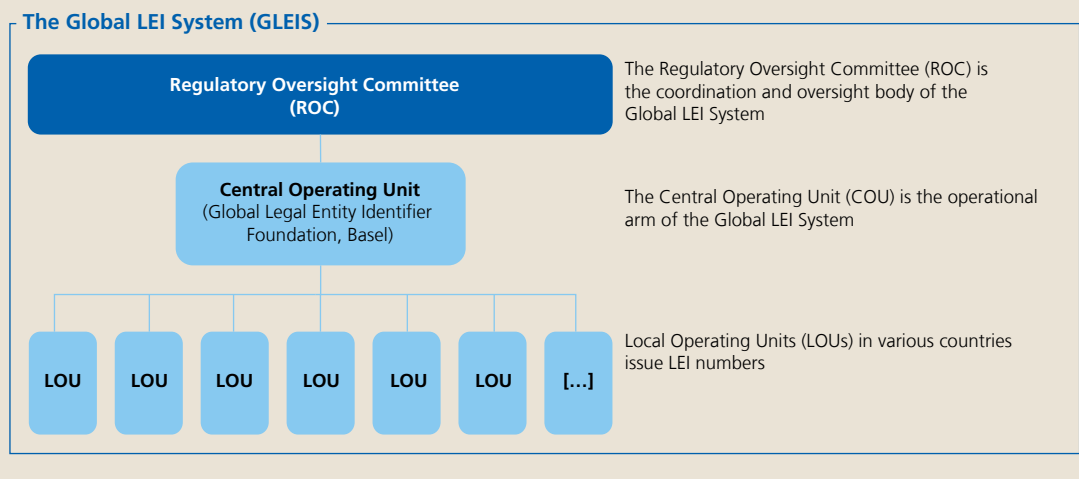
The current structure of the LEI system covers three tiers: The Regulatory Oversight Commit-

tee (ROC) is an international broad-based committee of over 60 authorities from over 40 countries. It comprises central banks, finance ministries and oversight authorities, and coordinates and oversees the LEI system. The second tier is made up of the Global Legal Entity Identifier Foundation as the operational arm of the LEI system and a link to the third tier. The third tier covers local registries that issue LEI numbers. In 2016, the aim is to establish the basis in Switzerland so that the Federal Statistical Office can issue LEI numbers.

For the time being, at the international level the LEI is primarily used to identify parties to derivatives transactions. On 1 January 2016, the LEI was introduced into Swiss law in the area of reporting duties such as these under the Financial Market Infrastructure Act. It is already clear that the LEI is becoming increasingly relevant, also in other financial market areas (such as in the resolution of banks or combatting anti-money laundering). Given the LEI's relevance for the financial market, the State Secretariat for International Financial Matters (SIF) has been following the development of the LEI system from the outset,

initially as an observer and since December 2015 as a full member of the ROC. In addition to SIF, the Swiss National Bank (SNB) is also a

ROC member. This ensures that Switzerland can bring its interests to bear in the further development of the LEI system.



## 2.5 Combating money laundering and terrorist financing

### 2.5.1 Implementation of the revised FATF standards

The Federal Act of 12 December 2014 for Implementing the Revised FATF (Financial Action Task Force, see section 2.5.3) Recommendations of 2012 came into force in two stages. The enactment of the framework law resulted in the amendment of various legislative texts. In particular, the amendments to the Swiss Code of Obligations came into force as early as 1 July 2015. However, the amendments to the Swiss Civil Code, the Swiss Criminal Code and the Anti-Money Laundering Act, including their implementing provisions, did not come into force until 1 January 2016. In the process, market participants were granted the necessary time period for making the organisational and procedural changes.

The revised FATF recommendations of 2012 were written into national law. This strengthens Switzerland's system to combat money laundering and terrorist financing and adjusts it to international standards.

### 2.5.2 National risk analysis

In November 2013, the Federal Council created an interdepartmental coordinating group on combating money laundering and the financing of terrorism (CGMF) in response to a recommendation by the FATF to this effect. This group has been tasked with coordinating measures related to combating money laundering and terrorist financing in the Federal Administration and ensuring the ongoing evaluation of the risks in this area. As a first step, the group drew up a report on the national evaluation of the risks of money laundering and terrorist financing in Switzerland, which describes for the first time in a single document all of the associated risks in Switzerland and thus provides an overall assessment of the current situation. The Federal Council acknowledged and published the first "Report on the national evaluation of the risks of money laundering and terrorist financing in Switzerland" in June 2015.

The most important threats in the area of money laundering were found to be linked to fraud, misappropriation, bribery and participation in a criminal organisation. Predicate offences are largely committed by persons domiciled abroad. Politi-

cally exposed persons and the use of complex structures with domiciliary companies for asset management purposes are considered special risk factors. The reports concludes that Switzerland has a full and effective range of resources for combating money laundering and terrorist financing and that the current system adequately responds to the risks. However, the group has recommended measures for consolidating the current regime, which include the promotion of dialogue between the public and private sectors, the development and systematisation of statistics and specific recommendations for areas not subject to the Anti-Money Laundering Act, such as the real estate sector, non-profit organisations, free ports and commodities trading.

The FDF published a report on safe-deposit boxes and their risks of abuse for money laundering and terrorist financing at the end of 2015. Other specific risk analyses are currently being prepared, particularly in relation to the predicate offences of bribery, fraud and non-profit organisations.

### 2.5.3 FATF

The Financial Action Task Force (FATF) is conceived as a leading international body for combating money laundering and is headquartered at the OECD in Paris. It regularly reviews its members' national regulations for the implementation of the 40 recommendations. These mutual evaluations are performed by representatives of other FATF member states.

In 2015, Switzerland continued its preparatory work for the fourth mutual evaluation. The evaluation will not only verify incorporation of the 40 FATF recommendations into national law but also examine for the first time ever if the corresponding requirements have been effectively implemented. Switzerland is due to conclude the review by October 2016. The report on the national evaluation of the risks of money laundering and terrorist financing contributes significantly to demonstrating that Switzerland has taken adequate and effective measures at the national level in the areas of prevention, detection, communication and repression to tackle the risks of money laundering and terrorist financing.

In addition to the fourth round of mutual evaluations, the FATF is currently focused on combat-

ing terrorist financing and is stepping up its recommendations in this area. Given the developments related to the threat posed by the Islamic State (IS), the FATF is adapting its standard to include the repression of the financing of foreign terrorist fighters. Typologies of IS financing were also discussed. The FATF has also strengthened its recommendation in connection with the risk of abuse of non-profit organisations. Finally, the consequences for states that failed to either fully or sufficiently meet the requirements of these recommendations were also discussed. Switzerland needs to adapt, where applicable, its national directives vis-à-vis the above-mentioned points.

## 2.6 Bilateral cooperation

### 2.6.1 Financial dialogues and closer contact with leading financial centres

The aim of financial dialogues is to forge and foster close contacts with key partner state authorities involved in financial matters and facilitate a regular exchange of opinions and experiences as well as collaboration in areas of mutual interest. This includes exchanges on the international financial system and on financial market policy and regulation as well as positioning in international financial forums such as the IMF, the FSB, the FATF, the OECD and in the G20's work in the financial sphere. Financial dialogues also provide an opportunity to voice the market access concerns of the Swiss financial sector and other bilateral issues with the relevant country. SIF holds these dialogues in collaboration with other authorities.

Relations with key countries – particularly G20 members and leading financial centres – were intensified during these contacts. In 2015, for instance, Switzerland held talks with Brazil, China, the EU, Germany, Hong Kong, Japan, Poland, the United Kingdom, the United States and, for the first time, with Canada and Singapore. The content and form of the financial dialogues vary according to the partner state. While a broad range of topics was discussed with Japan and emerging market countries, the focal point of the talks with the EU and the United Kingdom was financial market regulation matters. Dialogue with the USA in 2015 also covered issues regarding the international financial sys-

tem along with financial market regulation. Talks with China primarily focused on the internationalisation of the renminbi (see section 2.6.2). In 2016, SIF intends to further pursue the dialogues initiated and to extend them to other countries where appropriate.

### **2.6.2 Financial cooperation with China**

China is pushing ahead with the internationalisation of the renminbi currency – supported by financial market reforms on the domestic front – in a targeted manner. In this context, China is also encouraging the development of “renminbi hubs” abroad. These hubs provide the link between Chinese and international financial markets in respect of existing capital controls.

Swiss authorities are making every effort to provide the necessary framework conditions so that the Swiss economy can benefit from the opportunities arising for trade and the financial services business from this development. Against this backdrop, SIF and the People’s Bank of China (PBoC) started to hold regular financial dialogue in December 2013. In the three rounds of talks held to date and in other high-ranking contact between the authorities, Switzerland was able to intensify financial cooperation with China within a short period of time and take specific measures for increasing Switzerland’s participation in the internationalisation of the renminbi.

The currency swap agreement signed by the SNB and the PBoC in July 2014 enables the purchase and redemption of renminbi and francs between the two central banks, as a result of which the required liquidity can be provided when necessary. In addition, the SNB and the PBoC created the basis for renminbi clearing in Switzerland with a memorandum of understanding (MoU) in January 2015. At the same time, the Chinese authorities extended the Renminbi Qualified Foreign Institutional Investor (RQFII) programme to include Switzerland with a quota of RMB 50 billion renminbi. Swiss financial institutions can use this quota to invest directly from Switzerland in renminbi on the Chinese financial markets. In November 2015, the PBoC also authorised direct trading between the renminbi and the Swiss franc on the official Chinese foreign exchange trading platform. The availability of a direct exchange rate between the renminbi and the Swiss franc helps to reduce transaction costs for market participants.

The launch of business activities by the designated Chinese renminbi clearing bank, the China Construction Bank (CCB), may provide further positive impetus for boosting the volume of renminbi-based financial services business in Switzerland. The CCB has had a licence to establish a branch in Switzerland since the autumn of 2015.

This concrete progress in financial cooperation supplements the free trade agreement and double taxation agreement between Switzerland and China, which came into force on 1 July 2014 and 8 November 2014 respectively. The framework conditions are thus largely in place for the increased involvement of Switzerland’s financial centre in the progressive internationalisation of the renminbi.

At the official level, there is regular interaction with the Chinese authorities to also discuss Switzerland’s involvement in the development of the Chinese financial sector. Common interests at the multilateral level are also the subject of discussions. For instance, Switzerland was involved in the founding of the Asian Infrastructure Investment Bank initiated by China. In addition, China invited Switzerland to take part in the G20 Finance Track under its 2016 presidency.

### **2.6.3 Regulatory dialogue with the EU**

The EU’s regulatory efforts are creating major challenges for Switzerland’s financial market policy. Access to the EU/EEA area is of great importance for the Swiss financial centre. Swiss financial intermediaries export a significant proportion of their services to the European domestic market, which has always been a key area for Swiss financial institutions’ cross-border business because of the close geographic and cultural ties.

The ongoing further development of EU law is creating new obstacles for market access. If Switzerland loses cross-border access to important areas of the EU financial market, this could have far-reaching consequences for the competitiveness of the Swiss financial centre. European legal developments play a key role here. In recent years, the EU has made considerable progress in harmonising the traditionally very fragmented national market access guidelines for financial service providers from third countries, such as Switzerland. This growing harmonisation presents Switzerland with both opportunities

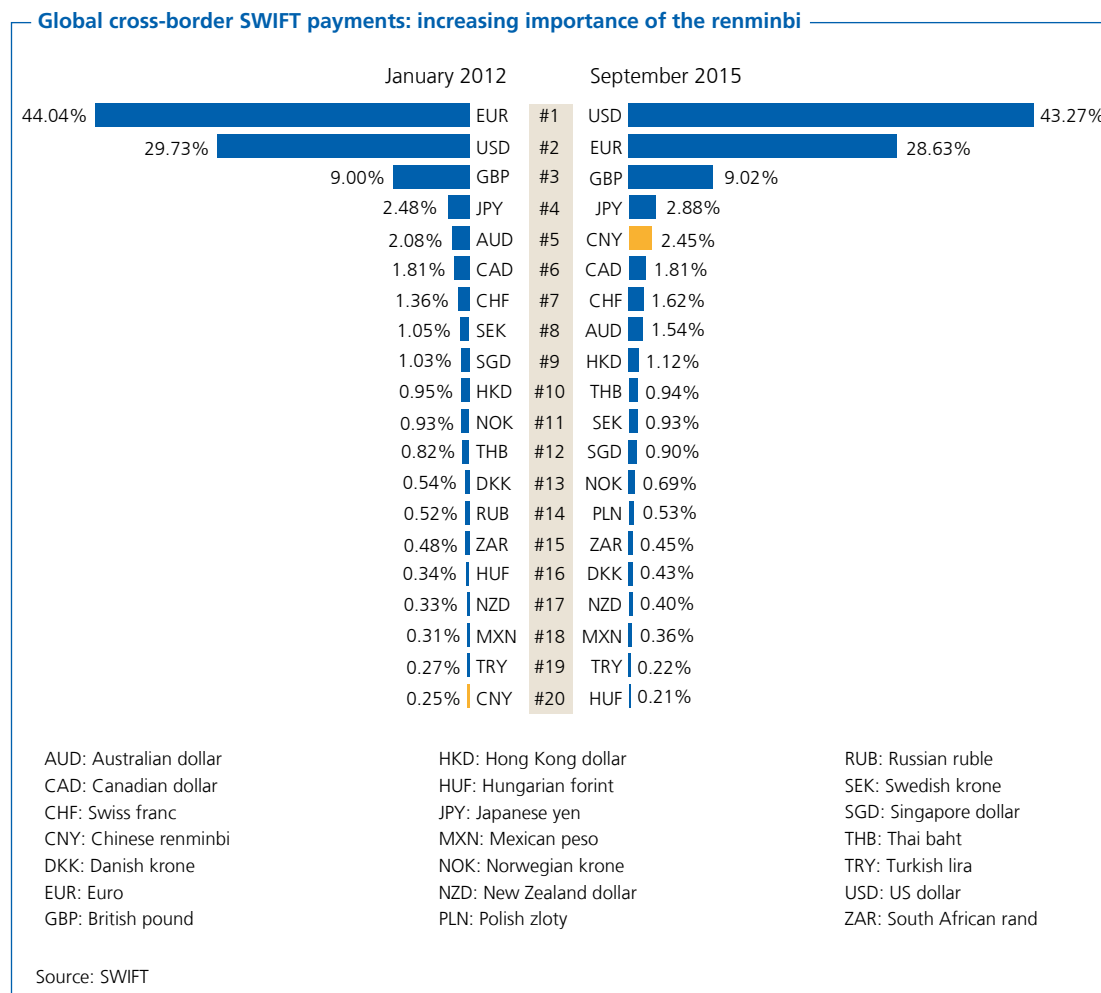


Fig. 9

and risks. On the one hand, harmonised market access regulations set clear requirements and criteria for market access which serve to guide third countries. On the other hand, the European Commission's checking of these equivalence requirements involves considerable uncertainty from the third country's point of view.

Against this backdrop, Switzerland's annual regulatory dialogue with the European Commission, initiated in 2012, is all the more important. This institutionalised contact gives Switzerland a key opportunity to identify any need for action at an early stage and voice Swiss concerns. At the fourth round of regulatory talks in November 2015, the focus was on topics such as European legal developments and the associated market access issues. In addition to the annual dialogue,

discussions on regulatory issues are also held regularly at a technical level with the European Commission.

#### 2.6.4 Activities in the area of customs and technical support

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 – partly together with EFTA countries – bilateral administrative assistance agreements with the EU and its member states, as well as with Colombia, Iceland, Israel, Norway, 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 come into force due to its pending ratification by an EU member state, but which is provisionally applied with several EU member states. The agreements are designed above all 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 engaged in negotiations with the United States on an administrative assistance agreement in the customs area.

The FCA also provides technical support to a number of partner countries, such as the countries of Switzerland's IMF constituency. The provision of specific expertise can make a major

contribution to improving the efficiency of customs authorities. Greater financial efficiency in turn helps to strengthen 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 2015, for instance, the FCA's cooperation with the customs administrations of Kyrgyzstan, Kazakhstan and Azerbaijan was further intensified. Also in 2015, the FCA supported and successfully carried out several short-term missions launched by the OSCE in Central Asia as part of its membership of the OSCE Troika. Furthermore, the FDF concluded agreements on the provision of technical assistance with individual countries from its IMF constituency. In addition, Switzerland provides a financial contribution to the work of the Global Forum in connection with the introduction of the automatic exchange of information in tax matters (section 4.2.1) among the world's poorer countries, in particular in Africa.



# 3 Competitiveness, market access and ability to withstand crises

**Outlook:** In October 2015, the Federal Council defined the parameters for the revised TBTF provisions and instructed the FDF to conduct a hearing and submit the texts of the ordinances to the Federal Council by the first quarter of 2016. The Federal Council will also adopt a revised report on strategic directions for the Federal financial market policy by summer 2016. Plans have also been made to conclude work on the partial revision of the Insurance Policies Act (IPA) and to initiate the consultation by mid-2016.

### 3.1 Overview

In order to minimise the stability risk of the Swiss financial centre, Switzerland responded rapidly following the financial crisis and implemented the corresponding provisions (too big to fail, TBTF) in 2012. The Federal Council identified additional need for action in February 2015 and set the parameters for amending the TBTF provisions in October 2015. In the area of regulation, new financial market laws are also planned or are already in force.

### 3.2 Significance of the Swiss financial centre

In 2014, Switzerland generated total value added of approximately CHF 61 billion through the provision of financial and insurance services. This equates to a 9.5% share of gross domestic product (GDP; see Figure 10) for the financial sector and puts Switzerland on the same level as other major financial centres, such as Singapore, the UK and the USA. Luxembourg's financial sector, however, accounts for almost 30% of its GDP.

Switzerland had a total of 275 banking institutions at the end of 2014, and over 40% of these 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. Both companies and private households are reliant on a sufficient supply of credit funding. At the end of June 2015, the outstanding credit volume, i.e. the amount of credit from banks actually being used, amounted to approximately CHF 1,221 billion. Three quarters of this amount related to domestic mortgage receivables.

The Swiss financial centre is a leading location for private wealth management internationally. It

accounts for a 25% share of the global cross-border wealth management market (see Fig. 11). At the end of 2014, the total wealth managed by Swiss banks in Switzerland amounted to some CHF 6.7 trillion. According to information provided by the Swiss National Bank, this sum has actually increased in spite of regulatory changes and the transition to tax transparency with other countries.

In addition to banks, insurers and pension funds also form part of the financial sector. At the end of 2014, there were 224 insurance companies under regulatory supervision in Switzerland, and

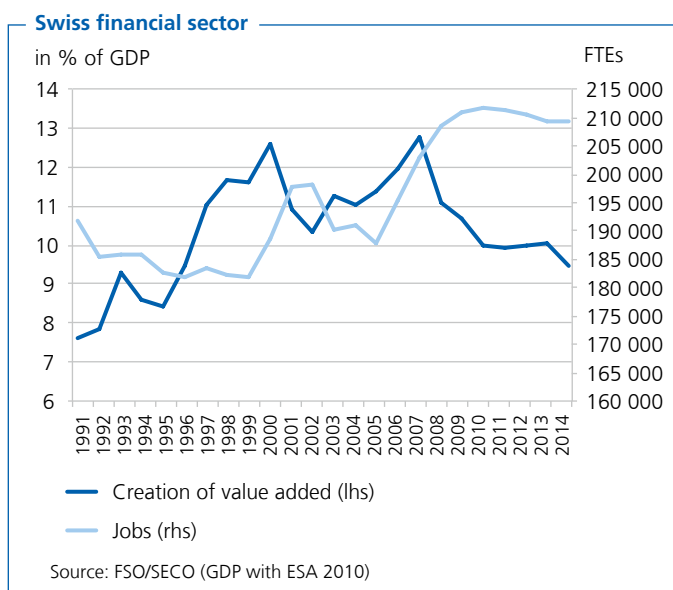


Fig. 10

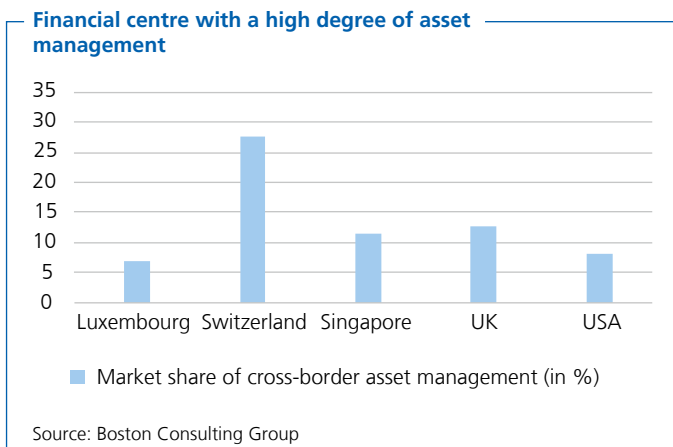


Fig. 11

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 565 billion at the end of 2014. Half of this sum was invested in fixed-income securities. Likewise, the 1,957 pension funds are also key participants in the Swiss financial centre. Their invested capital amounted to CHF 720 billion at the end of 2013, of which a third was invested in bonds and over a quarter in equities.

Switzerland is one of the world's leading financial centres, as shown by international studies such as the Global Financial Centres Index (GFCI, see Figure 12). The 18th edition of the GFCI from September 2015 examined 84 financial centres. Different elements of competitiveness, such as infrastructure and human capital, were analysed along with individual segments of the financial sector, such as banks and insurers. London is in top position in the rating with New York coming a close second. The Asian financial centres of Hong Kong and Singapore follow in the third and fourth place. In seventh place, Zurich holds the top spot among the continental European cities, followed by Geneva in 13th place.

### Digitisation in the financial sector

Paying with mobile phones, trading in virtual currencies, crowdfunding: technological developments are presenting traditional financial institutions with a major challenge; internet groups such as Google and Facebook are noticeably moving into this market. However, digitisation also stimulates competition between business locations, and Switzerland has not yet reached its full potential as an international business location for digital financial innovation. With a view to suitable framework conditions and the positioning of the financial centre, it is therefore important that the public sector collaborates with private stakeholders. For this reason, SIF closely follows international developments in this area.

### 3.3 Financial market policy

At the Federal Council's request, the Federal Department of Finance (FDF) appointed the "future of the financial centre advisory board" in March 2015. Led by Professor Aymo Brunetti, the board commenced its work in June 2015. It should ensure regular exchanges between all of

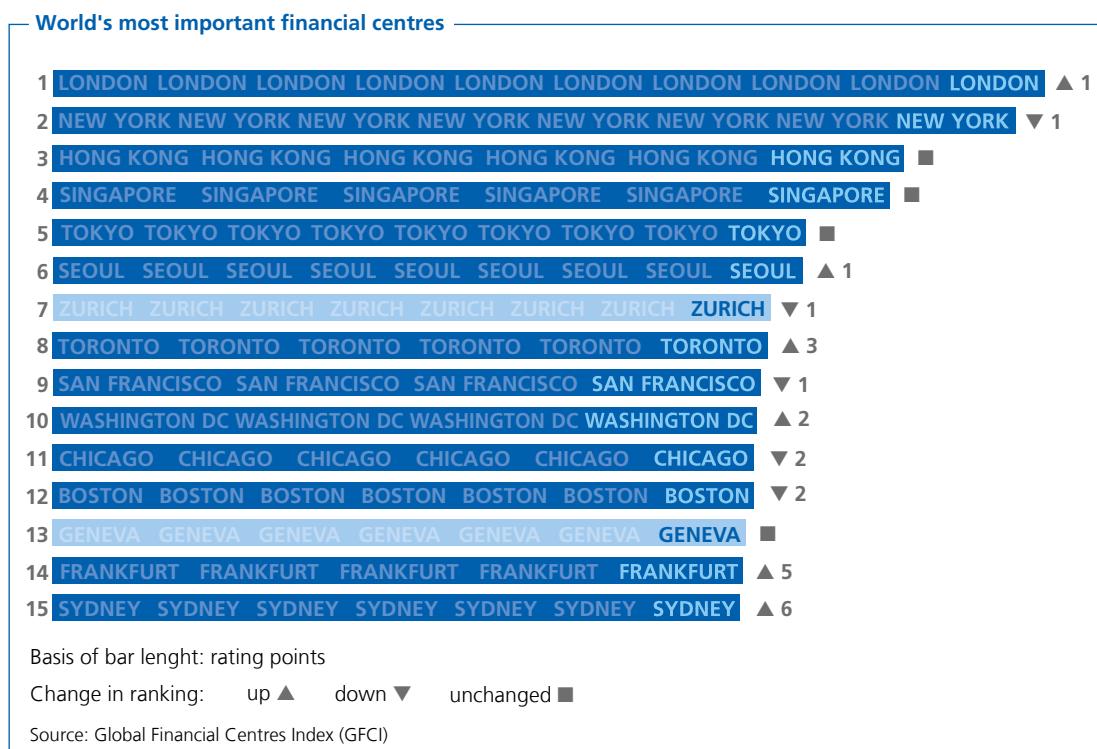


Fig. 12

the main players and assess the strategic challenges and the future prospects for financial business in Switzerland with regard to the economy as a whole. In this way, requests made by Parliament are also fulfilled.

In May 2015, the Federal Council defined the next steps concerning further recommendations made by the group of experts for the further development of the financial market strategy. It instructed the FDF to avoid double taxation effects that could arise as a result of the introduction of a financial transaction tax in the EU. It also commissioned a review of deposit protection and the incentives in the Swiss tax system for private individuals to take on debt.

**Sustainability in the financial sector**

Sustainability in the financial sector is becoming increasingly significant both at the national and international levels. Various international bodies and organisations, including the G20 and the Financial Stability Board (FSB), are currently tackling this issue (see section 2.4). The focus for these bodies is primarily on the risks that could materialise for financial institutions and systemic stability, which involve the physical risks of climate change, potential liability risks and the risks that may be triggered by the transition to a low-carbon economy.

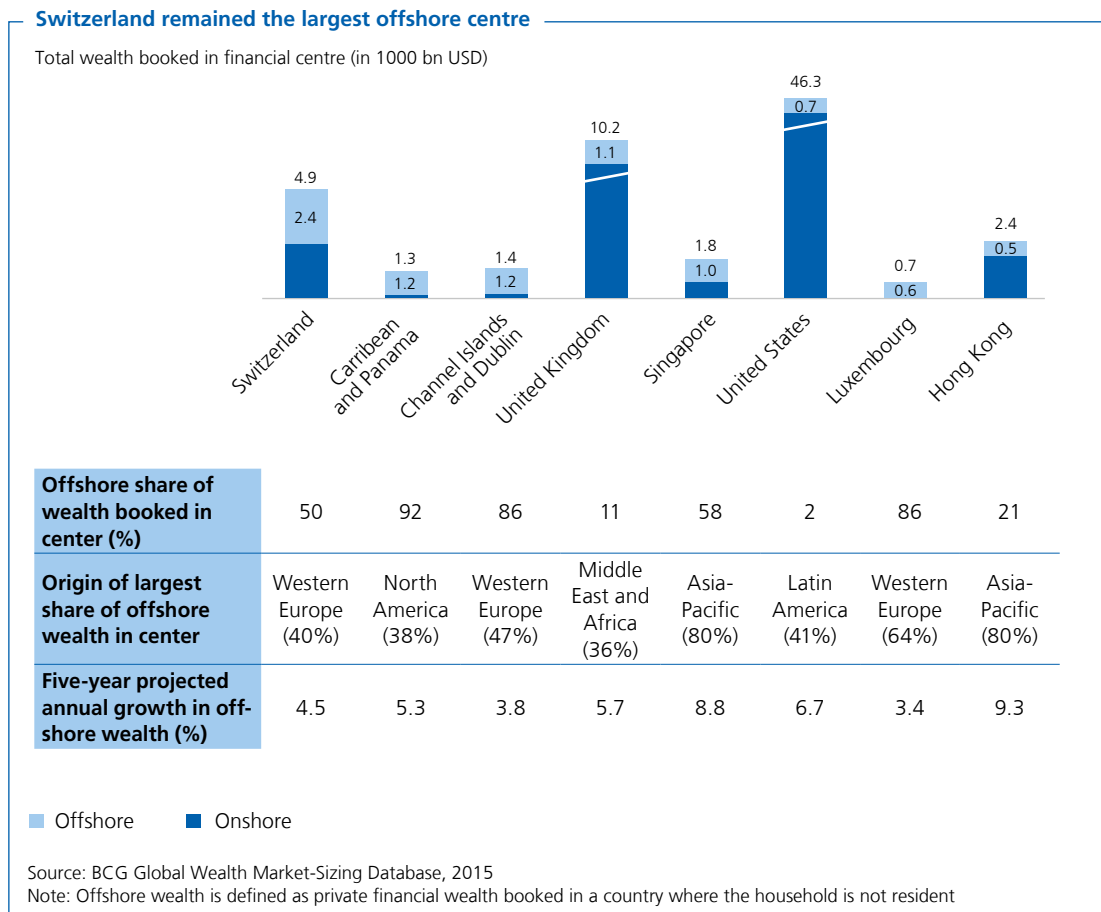


Fig. 13

At the same time, the sustainability issue also gives the Swiss financial centre the opportunity to position itself accordingly and to give greater consideration to environmental and social factors. As part of Switzerland's financial market policy, State Secretariat for International Financial Matters (SIF) deals intensively with the issue of sustainability, is actively involved in the work on this and is committed to an internationally coordinated approach. SIF intends to further pursue talks on this matter with the private sector.

mented abroad, every two years thereafter. In its first evaluation report of this kind of 18 February 2015, the Federal Council concluded that Switzerland's approach was to be seen in a positive light by international standards and that a major change of direction was not required. To eliminate the weaknesses identified, it instructed the Federal Department of Finance (FDF) to draw up proposals for necessary legislative amendments in collaboration with the Swiss Financial Market Supervisory Authority (FINMA) and the Swiss National Bank (SNB), and with the targeted inclusion of the systemically important financial institutions concerned.

### 3.3.1 Regulatory projects

#### Too big to fail

Incorporated in the Banking Act and applicable since 1 March 2012, the too big to fail (TBTF) provisions should prevent systemically important financial institutions from having to be bailed out using taxpayers' money in a crisis situation. The Federal Council is required by law to review the Swiss TBTF provisions no later than three years after entry into force and, with regard to comparability and the extent to which the corresponding international standards are imple-

In October 2015, the Federal Council adopted the parameters for these amendments: the TBTF risks will once again be significantly reduced by further increasing the resilience of systemically important banks and enhancing the possibility of restructuring or orderly resolution without costs to taxpayers. Nevertheless, Swiss banks have retained their competitiveness as Switzerland has primarily followed international standards and the requirements of leading financial centres. Not only has it fulfilled the Basel III standards and the Financial Stability Board (FSB) surcharge

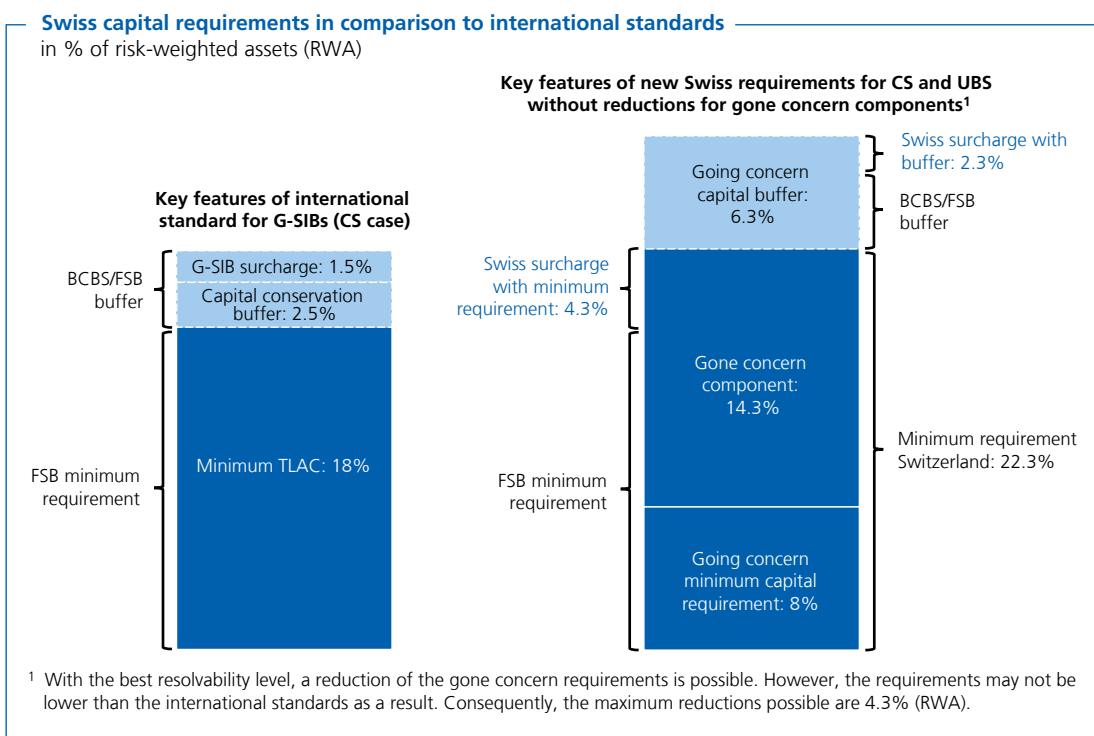


Fig. 14

for global systemically important banks, it also meets the total loss-absorbing capacity (TLAC) requirements for banks recently adopted by the FSB (see section 2.4). The specific amendments to the Capital Adequacy Ordinance and the Banking Ordinance are due to be adopted by the Federal Council in the first quarter of 2016.

An overview of the most important amendments:

*Going concern requirements*

By fulfilling going concern requirements, systemically important banks should have sufficient capital to ensure continuity of service even in a stress scenario. The going concern requirements consist of a basic requirement for all systemically important banks, which is 4.5% for what is known as the unweighted equity ratio (leverage ratio) and 12.9% for risk-weighted assets (RWA). There is also a progressive component, depending on the degree of systemic importance. This surcharge is set based on the market share and size of the bank. Including the surcharge, the going concern requirements for the two big banks are currently 5% (leverage ratio) and 14.3% (RWA).

The new going concern requirements are higher than international standards. They are comparable with the requirements for systemically important banks in the United States and are slightly higher than the UK requirements. The requirements were also tightened with respect to the quality of the capital: in the future, banks can meet the leverage ratio requirements using only a maximum of 1.5% in Tier 1 contingent convertible bonds. They must provide the rest using common equity Tier 1 capital (e.g. paid-in share capital and disclosed reserves). The requirements for risk-weighted assets can be fulfilled using a maximum of 4.3% in Tier 1 contingent convertible bonds.

*Gone concern requirements*

Going concern requirements cannot always prevent a bank from being restructured or wound up. For such a case, systemically important banks operating internationally (big banks like UBS and Credit Suisse) must also hold gone concern capital. This will be used either for restructuring the bank or to ensure continuation of the bank's functioning units and wind up the other units without public funds being required for this.

For systemically important banks operating internationally, these requirements mirror the going concern requirements in that 5% (leverage ratio) and 14.3% (based on risk-weighted assets, RWA) are required for this kind of capital. The Banking Act gives FINMA the possibility of granting banks concessions on the gone concern requirements. In terms of quality of capital, gone concern requirements are generally met with bail-in instruments (bonds that can be converted to common equity on FINMA's orders). However, if banks use low-trigger CoCos, which are more valuable from a regulatory viewpoint, the leverage ratio requirements can be reduced by a maximum of 1.0%, applying a rate of 2 low-trigger CoCos to 3 bail-in bonds, and the RWA requirements by 2.9%.

In principle, action is also needed in the area of gone concern requirements for systemically important banks that do not operate internationally (ZKB, Raiffeisen and PostFinance). However, emergency plans of this kind are still being prepared by the banks in question. Once the basics of these plans are established, it will then be possible to determine the additional gone concern requirements. The matter will be examined in the next evaluation report on Switzerland's too big to fail provisions for the attention of Parliament. The report must be adopted by the Federal Council by the end of February 2017.

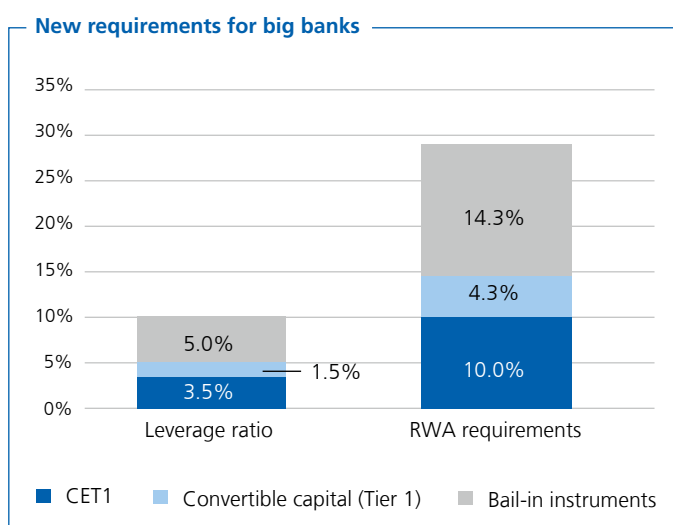


Fig. 15

### Emergency plans

Under current law, there is no deadline for complete implementation of the Swiss emergency plans. Provision will be made for a deadline of this nature and will generally be three years from the point in time when a bank is designated as systemically important. The two big Swiss banks that operate internationally (UBS, Credit Suisse) must have fully implemented their emergency plans by 31 December 2019. Global resolvability is also part of the review of the Swiss emergency plan.

### Basel III

Basel III is a comprehensive package of reforms developed by the Basel Committee on Banking Supervision (BCBS) designed to strengthen the regulation, supervision and risk management of the banking sector. The aim is to increase the banking sector's ability to absorb shocks arising from financial and economic stress. Risk management and governance should also be improved, and the transparency and disclosures of banks strengthened. Under its Regulatory Consistency Assessment Programme (RCAP), which reviews the implementation of minimum standards in member states, the BCBS concludes that Swiss banking regulation is largely attuned to the Basel III framework. The overall assess-

ment of "compliant" is a seal of approval for the Swiss financial centre. With the banks currently working on implementation, Switzerland remains on track.

### Financial Services Act and Financial Institutions Act

The Financial Services Act (FinSA) and the Financial Institutions Act (FinIA) are designed to strengthen client protection, enhance the competitiveness of the financial centre and create a level playing field for service providers.

The FinSA governs the prerequisites for providing financial services and offering financial instruments. For instance, financial service providers are obliged to seek information on the financial situation and take into account the clients' knowledge when providing advice. A key information document must be prepared for financial instruments offered to retail clients. This is a brief document drafted in easily understandable language. The FinIA makes provision for a differentiated supervisory regime for financial institutions that operate an asset management business in any form. The managers of individual client assets as well as those who manage the assets of Swiss occupational benefits schemes will also require authorisation in the future.

### BCBS requirements to be implemented:

	Basel III	2015	2016	2017	2018	As of 01/01/2019
capital	Minimum common equity Tier 1 capital ratio	4.5%				
	Minimum Tier 1 capital ratio	6%				
	Overall minimum capital ratio	8%				
	Capital conservation buffer		0.625%	1.25%	1.875%	2.5%
	<b>Total capital requirements</b>	<b>8%</b>	<b>8.625%</b>	<b>9.25%</b>	<b>9.875%</b>	<b>10.5%</b>
	Countercyclical capital buffer		0–0.625%	0–1.25%	0–1.875%	0–2.5%
	Leverage ratio	3%, Disclosure obligations and observation phase			Conversion to mandatory requirements	
Liquidity	Liquidity coverage ratio	60%	70%	80%	90%	100%
	Net stable funding ratio	Observation phase			Conversion to mandatory requirements	

The consultation on the two bills was generally positive, although certain adjustments were required. The Federal Council approved various amendments to the bills, namely in the area of law enforcement, continuing professional development and the issue of a register of client advisers. In November 2015, the Federal Council adopted the dispatch on the two legislative projects for the attention of Parliament. Entry into force is scheduled for early 2018.

**Financial Market Infrastructure Act**

The new Financial Market Infrastructure Act (FMIA) contains financial market infrastructure regulation and duties for financial market participants in securities and derivatives trading. The act will adjust the Swiss regulatory framework in line with market developments and international standards. It should boost the stability and competitiveness of Switzerland’s financial centre and improve the protection of financial market participants. Parliament approved the act in June 2015. The referendum deadline expired without a referendum being called. In November 2015, the Federal Council brought the act and the implementing provisions into force, effective from 1 January 2016.

The regulatory plans of the EU and other countries – particularly the United States and Japan – for implementing international standards in the area of derivatives trading and for financial market infrastructures are largely complete or well advanced. Decisive among these in the EU are the European Market Infrastructure Regulation (EMIR), the Markets in Financial Instruments Directive (MiFID II) and the associated Markets in Financial Instruments Regulation (MiFIR), as well as the Regulation on Securities Settlement and on Central Securities Depositories (CSDR). A number of provisions on third-country regimes contained in these regulations are based on the principle of equivalence. Without regulation that is equivalent to that of the EU, there is a danger that Swiss market participants will become less competitive or Swiss financial market infrastructures will lose access to the EU market. The intention with the FMIA was therefore to seek regulation equivalent to that of the EU

**Insurance Policies Act**

The Insurance Policies Act (IPA) regulates the rights and duties of insurers, policyholders and

insurance intermediaries. In March 2013, Parliament rejected the total revision of the IPA and instructed the Federal Council to carry out a partial revision. Parliament also drew up a non-exhaustive list of points that are to be taken into consideration.

The steering group in charge, which includes representatives of the FDF, the sector, consumer protection and FINMA as well as two external experts, has initiated the necessary work. The Federal Council intends to initiate the consultation on the partial revision of the IPA in the second quarter of 2016.

**Liechtenstein**

In July 2015, the agreement between Switzerland and Liechtenstein on insurance against natural forces provided by private insurance companies was signed. Liechtenstein is thus included in the solidarity circle of private Swiss providers of insurance against natural forces. At the same time, the basis for calculating benefit cuts will be redefined.

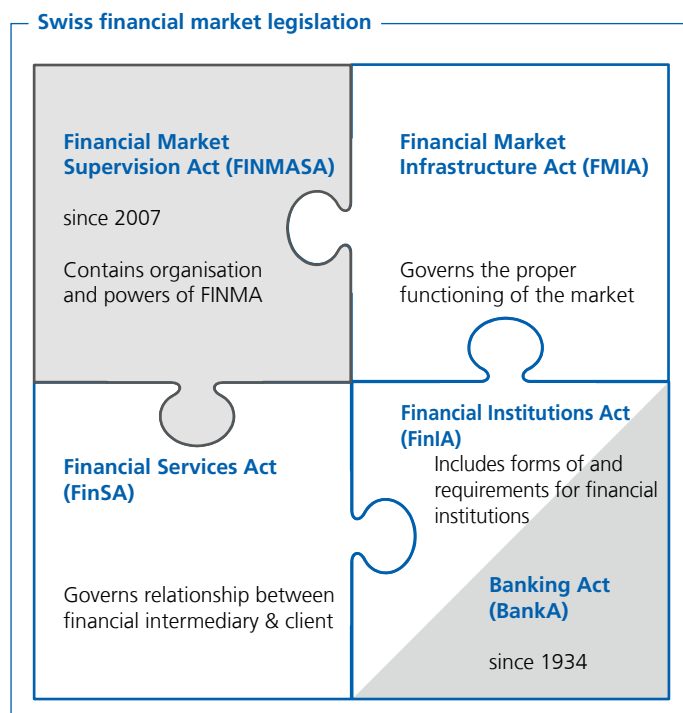


Fig. 16

**International comparison of regulatory requirements for G-SIBs (as at end 2015)**

At an international level and in significant financial centres, efforts are currently under way to introduce additional regulations for systemically important banks. An important basis is formed by the Basel III capital and liquidity guidelines, which should be binding for all banks operating internationally. In addition, there are specific requirements for G-SIBs<sup>1</sup>, which the G20 adopted pursuant to the FSB's proposal. In addition to a size-dependent capital surcharge, these also include 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. G-SIBs should also hold sufficient loss-absorbing capital in the event of a crisis (total loss absorbing capacity, TLAC). The international standards and national implementation of the requirements for G-SIBs are set out in the table. In the case of national requirements, the highest requirements actually applied are shown (CH: UBS/CS, UK: HSBC, US: JP Morgan).

		Switzerland				GB				USA								
		International standards (Basel III / FSB)																
		Total Tier 1	CET 1	AT 1	Tier 2	Total Tier 1	CET 1	AT 1	Tier 2	Total Tier 1	CET 1	AT 1	Tier 2	Total Tier 1	CET 1	AT 1	Tier 2	
<b>Going concern capital</b>	RWA	9.5–11%	8–9.5%	1.5%	2%	14.3%	10%	4.3%	4.3%	11%	9.5%	1.5%	2%	13%	11.5%	1.5%	2%	
	Minimum	6%	4.5%	1.5%	2%	8%	4.5%	4.3%		6%	4.5%	1.5%	2%	13%	4.5%	1.5%	2%	
	Puffer (2.5% + GSIB-Zuschlag)	3.5–5%	3.5–5%			6.3%	5.5%	0.8%		5%	5%			7% <sup>3</sup>	7%			
	<b>Leverage Ratio</b>	<b>3%</b>				<b>5%<sup>2</sup></b>	3.5%	1.5%		<b>3.875%</b>	3.25%	0.625%		<b>5–6%</b>	3%			
<b>Gone concern capital</b>	Minimum					3%	1.5%	1.5%		3%	2.375%	0.625%		3%				
	Buffer					2%	2%			3%	0.875%			3%				
	<b>RWA</b>						<b>10–14.3% *</b>								<b>10.5%</b>			
	<b>Leverage Ratio</b>						<b>3.75–5% *</b>								<b>4.5%</b>			
<b>TLAC (no buffer)</b>	<b>RWA</b>						<b>18%</b>								<b>18%</b>			
	<b>Leverage Ratio</b>						<b>6.75% *</b>								<b>9.5–10.5%</b>			
	<b>RWA</b>						<b>21.5–23%</b>								<b>23.5%</b>			
<b>Total requirement</b>	<b>Leverage Ratio</b>						<b>6.75%</b>								<b>9.5–10.5%</b>			
	Liquidity coverage ratio LCR																	
<b>Risk diversification</b>		60% 2015, 100% from 2019				100% from 2019, for SIBs from 2015				100% from 2019, for SIBs from 2015				100% from 2017				
		– Cluster risk max. 25% of Tier 1, for G-SIBs max. 15% – Effective from January 2019				– Cluster risk max. 25% of CET1 (in accordance with Art. 136 CAO)				– Exposure to financial institution max. 25% total capital (total exposure to financial institutions 200%), Proposal				– <i>Under development</i>				
<b>Organisational measures</b>		– No international requirements of organisational measures				– No direct organisational requirements (FINMA orders on a subsidiary basis) – Proof of ability to continue systemically important functions independently via emergency plan (separability)				– Ring-fencing (functional separation) of economically important services; ban on proprietary trading for ring-fenced entity				– Volcker Rule: separation of ownership of proprietary trading and exposure to venture capital/PE and hedge funds – Intermediary holding requirement for foreign big banks				
		– Key Attributes of Effective Resolution Regimes for Financial Institutions, incl. Recovery and Resolution planning – TLAC standard (published, see above)				– Swiss emergency plan must be developed by end of 2019 – Private law recovery and sovereign resolution plans – Only systemically important banks – Capital discount if global resolvability improves – SPE strategy				– Recovery and resolution plans in accordance with Bank Recovery and Resolution Directive (BRRD) – Affects banks with assets over EUR 50 billion – Resolution funds – SPE strategy				– Resolution plans for banks with assets over USD 50 billion – Recovery plans within framework of annual capital planning and stress test – SPE strategy				
<b>Measures for a crisis scenario</b>																		

<sup>1</sup> Global systemically important banks (G-SIBs) are the banks designated as such by the FSB each year (currently 30 banks; Credit Suisse and UBS from Switzerland)  
<sup>2</sup> The LR requirement consists of a basic requirement of 4.5% and a progressive component. Based on information from banks concerning the size they intend to reach in the near future, a leverage ratio of 5% and an RWA requirement of 14.3% will apply for the two big banks.  
<sup>3</sup> The USA have gone beyond the international minimum standard for the systemic important surcharge for G-SIBs. The surcharges are between 1.0 and 4.5% of RWA.  
<sup>4</sup> The UK is planning to implement TLAC under European MREL regulation. The specific requirements are not yet known.  
<sup>\*</sup> Depending on the discount. Discounts are possible if international requirements are not undershot.



The new agreement supplements the Agreement of 19 December 1996 on Direct Insurance and Insurance Intermediaries that ensures market access in Liechtenstein for Swiss insurers. It also provides greater legal certainty in the cross-border insurance business with Liechtenstein. The agreement will be implemented by the financial market supervisory authorities in the context of supervisory cooperation.

### 3.3.2 Market access

In the wake of the financial crisis, the framework conditions for the cross-border financial services business were tightened. For the Swiss financial centre with its leading position in the cross-border wealth management sector, access to foreign financial markets is a key success factor. Maintaining and possibly improving Switzerland's access to these markets are therefore a priority objective for the Federal Council.

In accordance with the negotiating mandates for introducing the automatic exchange of information for tax purposes adopted by the Federal Council in October 2014, Switzerland should request and strive to obtain market access for financial services from Switzerland during discussions. Switzerland is pursuing three courses of action simultaneously at various levels, which allows the different implementation timeframes to be taken into account.

#### Bilateral agreements

At the bilateral level, Switzerland is endeavouring with selected partner states to remove potential obstacles to market access. The aim here is to strengthen legal certainty for cross-border business from Switzerland.

In this context, Switzerland came to an arrangement with Germany in July 2015 to implement the existing agreement on market access. Under this agreement, Swiss banks can provide their services in Germany from Switzerland without being physically present in Germany. Switzerland has also initiated and further pursued technical discussions with France and Italy to facilitate or improve market access. With Austria and the UK, Switzerland is endeavouring to maintain the market access agreements concluded under the withholding tax agreements. It is also seeking to engage the Dutch and Spanish authorities in talks on market access issues.

#### EU equivalence approach

The equivalence approach of the European Union (EU) is also important for Switzerland: in selected areas where the EU makes provision for equivalence processes, Switzerland aims to achieve regulation that is equivalent to that of the EU. The European Commission then decides whether or not to recognise the financial market regulation and supervision of a third country as being equivalent. The EU equivalence processes are not consistently regulated, however, and cannot always be understood or foreseen by third countries.

In its interaction with the EU, the State Secretariat for International Financial Matters (SIF) is advocating the swift conclusion of the ongoing equivalence processes. The EU thus confirmed in June 2015 that the Swiss regulatory framework for insurance is in line with EU directives (see box).

#### Swiss insurance regulatory regime is equivalent to that of the EU

In 2015, the European Commission decided that from 2016, Swiss regulation of the insurance industry would be recognised as equivalent to Solvency II. Solvency II is the insurance directive which will be applied by the EU from 2016. It contains the concept of equivalence of third countries in three areas:

- If a direct insurer in the EU concludes a reinsurance contract with a reinsurer from an equivalent third country, this contract must be treated in the same way as a contract with a reinsurer from the EU. In addition, the third-country reinsurer cannot be forced to hold its assets with which it covers its obligations to EU insurers in the EU. The cross-border business of Swiss reinsurers will thereby be facilitated and potential additional costs linked to investment management will be avoided.
- Insurance groups headquartered in the EU must calculate their group solvency in accordance with the provisions of Solvency II, whereby the activities of their subsidiaries must also be included. However, if a third country is recognised as equivalent, the insurance group can then use the solvency results of the subsidiaries in that country in the group solvency calculation, which should generally reduce costs.

- If an insurance group headquartered outside the EU has subsidiaries in the EU, then the EU member states will impose group supervision on this group. However, if the insurance regulatory regime of the group's country of domicile is equivalent, then the EU member states will rely on the group supervision implemented by the third country. The supervisory authority of the third country will be recognised as a global group supervisor, which will result in savings for the insurance groups. However, this advantage must be put into perspective in that even in the case of equivalence, member states can conduct subgroup oversight.

In November 2015, the European Commission also recognised Switzerland's supervisory regime for central counterparties as equivalent to the relevant provisions applicable within the EU. The equivalence decision provides the basis for Swiss central counterparties to access cross-border markets in the EU.

#### **Financial services agreement with the EU**

In March 2015, the State Secretariat for International Financial Matters (SIF) engaged in initial exploratory talks with the European Commission about the possible conclusion of a sectoral financial services agreement (FSA). The EU has made any continuation of these talks conditional upon developments in its overall relations with Switzerland, particularly in relation to the free movement of persons and institutional matters. A sectoral agreement would give Swiss financial service providers market access that is equivalent to that of their EU competitors as well as the greatest possible legal certainty in the long term.

Clarification was sought within the Confederation regarding the possible structure and challenges of such a market access agreement for the financial sector. Any possible agreement would probably be based on greater adoption of the relevant EU law in the area of financial services. However, this would entail various institutional and legal challenges for Switzerland.

The issues related to an FSA will be examined further in consultation with the sector. If an FSA is pursued further, this will require Switzerland to take strategic decisions on the orientation of its foreign financial market policy in general and on Switzerland's future regulatory approach in the financial sector in particular.

#### **3.3.3 Commodity trading**

Switzerland's commodities sector continues to be significant for the Swiss economy, as reflected for instance in the receipts from merchandising – largely in commodity trading – which accounted for some 3.9% of Swiss gross domestic product (GDP) in 2014, according to the Swiss National Bank's statistics. Given the many connections between the commodities sector and the financial sector, a prosperous commodities sector is also important for Switzerland's financial centre. Banks, for instance, play a key role in the financing of trade in commodities.

In August 2015, the Federal Council approved and published the second status report on the implementation of the recommendations made in the background report on commodities. Real progress was made in many areas. The background report on commodities with its 17 recommendations was published in March 2013. The aim of the recommendations is to maintain Switzerland's competitiveness as a business location and take specific action to address the risks associated with companies' activities in terms of human rights, environmental and social standards, corruption and reputation.

New legislation was enacted in the areas of over-the-counter derivatives trading (see section 3.3.1) and anti-money laundering (see section 2.5). The Federal Council intends to fully implement international standards with these measures, among others. The Federal Council also wishes to promote transparency with regard to payments made by commodity companies to governments, and has submitted a corresponding consultation draft within the scope of the revision of the law on companies limited by shares. At the international level, Switzerland is

continuing to support the Extractive Industries Transparency Initiative (EITI), which promotes transparency and accountability among resource-rich countries with regard to their management of these resources. Furthermore, work has progressed on the application of voluntary corporate social responsibility standards to commodity trading companies, and the dialogue between the industry, non-governmental organisations and the cantons has been further improved.

The Federal Council believes that Switzerland is well positioned by international standards with regard to its efforts to ensure a competitive and morally sound location for commodity companies, and it attaches great importance to these efforts. It has instructed the interdepartmental platform on commodities under the joint leadership of the Federal Department of Finance (FDF), the Federal Department of Economic Affairs, Education and Research (EAER) and the Federal Department of Foreign Affairs (FDFA) to report again on the status of implementation of the recommendations by the end of 2016.

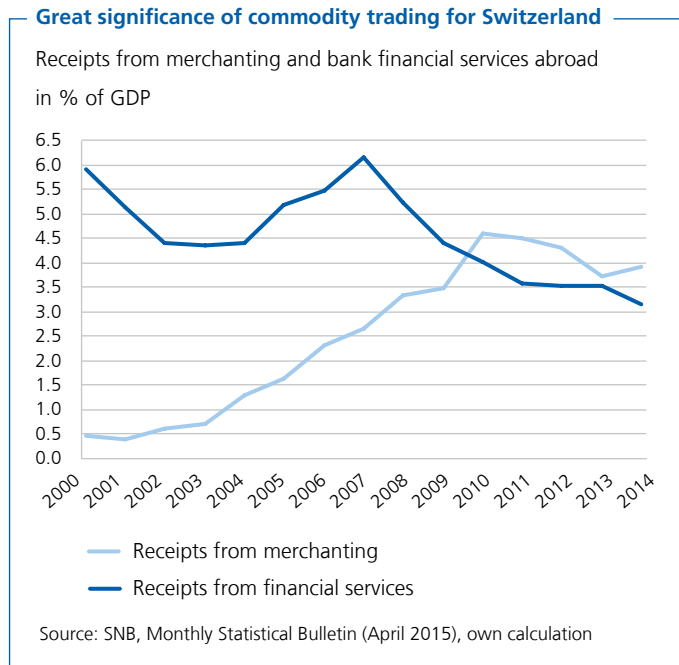


Fig. 17

## 4 International tax matters

**Outlook:** By 2017, the legal basis for introducing the automatic exchange of information in tax matters (AEOI) should, if no referendum is called, come into force and thereby allow the gradual activation of the AEOI with partner states from 2017. The dispatches for the automatic exchange of information in tax matters between Switzerland and the EU and with Australia have been submitted to Parliament for approval for effective implementation from January 2017. The Global Forum will decide in summer 2016 on Switzerland's phase 2 report and will give it a rating. The effectiveness and efficiency of the exchange of information upon request when applying the international administrative assistance standard will be examined in this phase. Where corporate taxation is concerned, Switzerland supports international efforts to ensure fair tax practices and a level playing field for all. Parliament will discuss the third series of corporate tax reforms. The first measures to implement the BEPS actions will be introduced. The negotiations with the US on switching from FATCA model 2 to FATCA model 1 should be concluded.

### 4.1 Overview

In the summer of 2015, the Federal Council clearly stated its strategic options, particularly concerning the introduction of the automatic exchange of information in tax matters (AEOI) and started the required parliamentary approval procedures. In June 2015, the dispatches on the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters (administrative assistance convention) and on the legal basis required for implementing the AEOI were submitted to Parliament. Parliament approved the proposals in December 2015. In addition, in November 2015, the Federal Council adopted the dispatches on the AEOI between Switzerland and the EU and also with Australia. In accordance with the Federal Council's negotiating mandate, discussions on the introduction of the AEOI with other partner countries are under way. Switzerland ensures the integrity, credibility, attractiveness and stability of its financial centre and position as a business location through its involvement in the development and effective implementation of internationally recognised standards.

Based on the progress made by Switzerland in implementing the recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), in March 2015, Switzerland received authorisation to proceed to the second phase of its peer review, which was launched in October 2015. This is a significant challenge for Switzerland and should be concluded in the summer of 2016.

As far as business taxation is concerned, the Federal Council implemented the mutual understanding of October 2014 with the EU within the scope of the dispatch on the Federal Act on Tax-Related Measures to Strengthen the Competitiveness of Switzerland as a Business Location (CTR III) of 5 June 2015. In this, it proposes putting an end to the different taxation of domestic and foreign company profits by the cantons. The reform is compatible with the current international standards.

After two years' work, the project of the OECD and G20 to combat base erosion and profit shifting (BEPS) officially finished with the OECD's publication of the results of the 15 actions in October 2015. In November 2015, they were endorsed by the G20 heads of state and government at the summit in Antalya (Turkey), who called for timely implementation. In Switzerland, the implementation of BEPS is in part guaranteed by the third series of corporate tax reforms and in part by other measures which are being prepared.

Finally, Switzerland has intensively pursued tax cooperation with important partners such as Italy, France, the United States and India. Concerning the United States, there has been progress in the negotiations on switching to FATCA model 1. The execution of the US programme for banks has been expedited and many agreements have been concluded.

### 4.2 Exchange of information in tax matters

#### 4.2.1 OECD standard on the automatic exchange of information

##### Development of the OECD standard

In July 2014, the OECD Council adopted the global standard for the automatic exchange of

information in tax matters (AEOI standard). Switzerland actively participated in the development of the AEOI standard.

In addition to approving the AEOI standard, the OECD Council issued a recommendation in which the OECD member states and other states that endorsed the recommendation undertook to adopt the AEOI standard. The G20 finance ministers then confirmed the new AEOI standard during their meeting held in September 2014 in Cairns, Australia. By the end of 2015, 97 states had committed themselves to the exchange of information in accordance with the AEOI standard: 56 from 2017 and the remaining 41, including Switzerland, from 2018. In addition, on the fringes of the plenary meeting of the Global Forum, 51 states signed the Multilateral Competent Authority Agreement on the Automatic

Exchange of Financial Account Information (MCAA) which serves to implement the AEOI. In the meantime, 78 states have signed the MCAA. The Federal Council agreed to a declaration on Switzerland's participation in the MCAA in November 2014.

### Implementation

Implementation can proceed based on two models. Firstly, it is possible to agree to AEOI implementation in bilateral treaties (model 1). Secondly, the automatic exchange of information can be implemented on the basis of the MCAA (model 2).

The MCAA is based on the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters (administrative assistance convention)<sup>2</sup>.

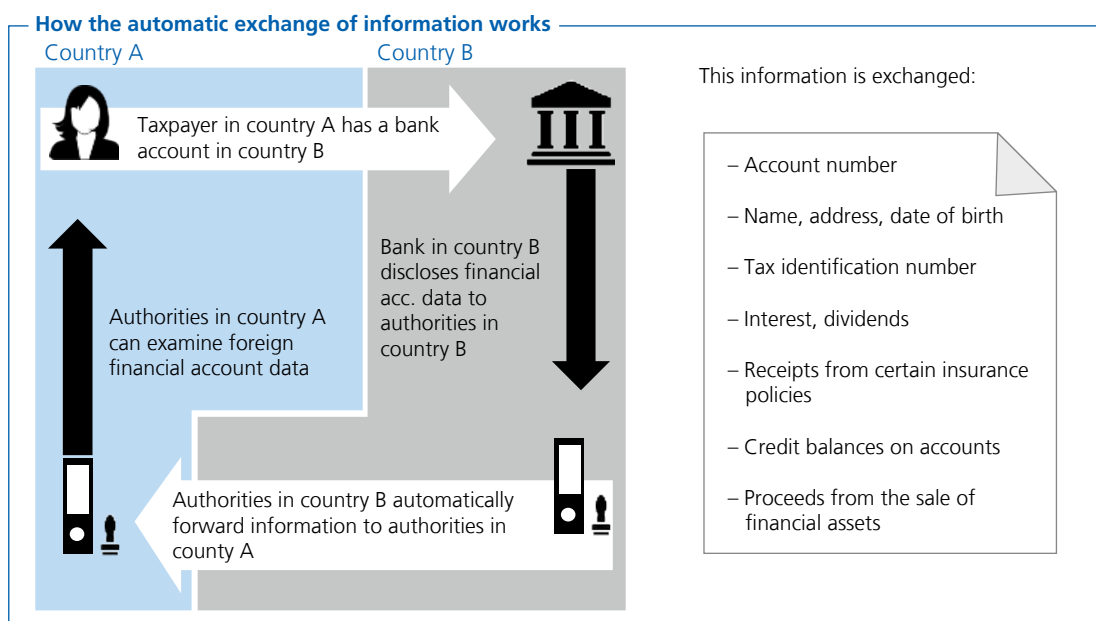


Fig. 18

<sup>2</sup> Switzerland signed the administrative assistance convention in October 2013. 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, in particular the AEOI can be agreed to under the convention. However, the AEOI is not mandatory. The application of the AEOI in particular requires an additional agreement between two or more contracting states.

Approval of the automatic exchange of information

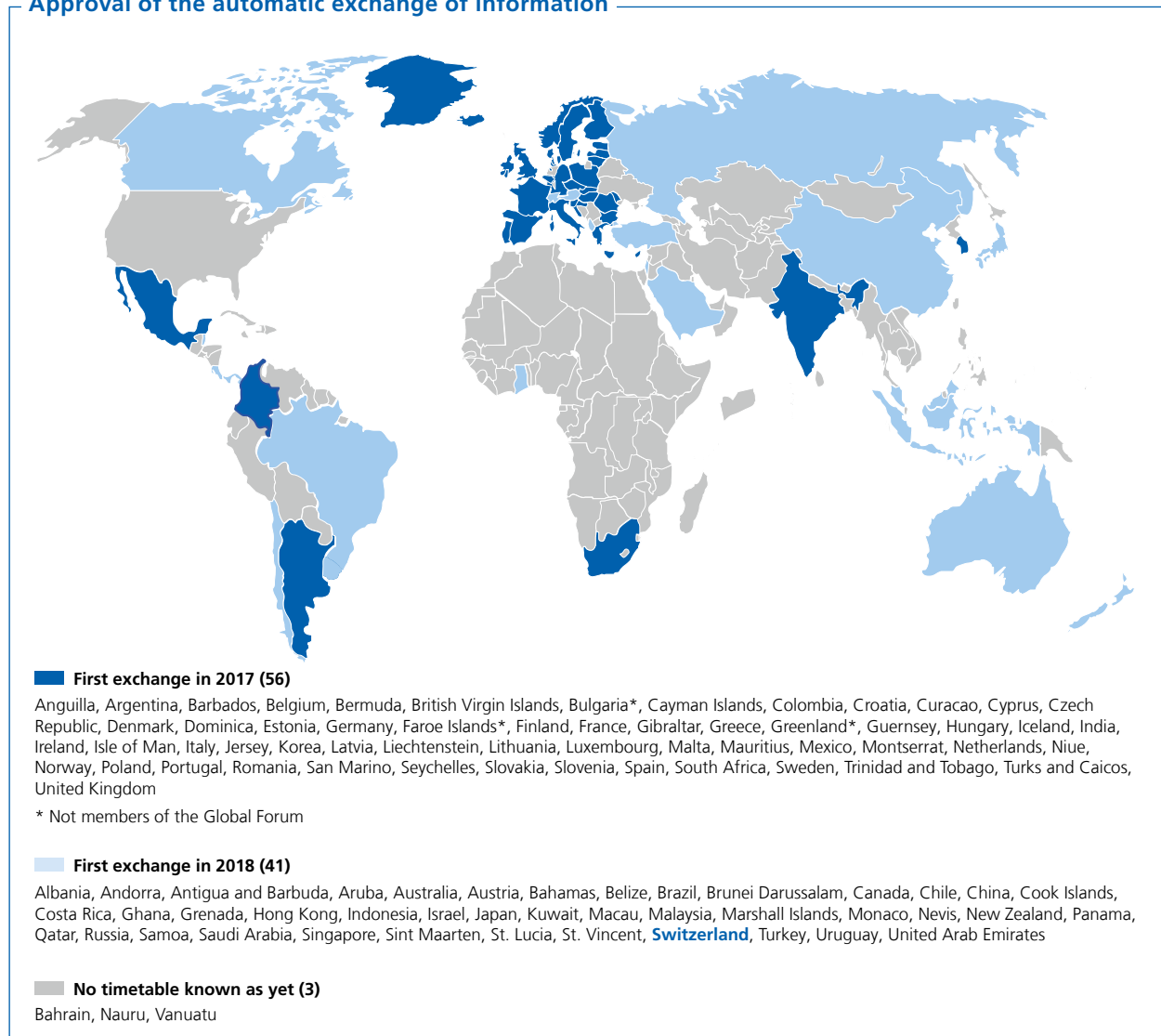


Fig. 19

The MCAA is designed as an agreement between the competent authorities, whereby signature by a state is without prejudice to a corresponding parliamentary decision in that state. The MCAA makes provision for the automatic exchange of information being activated bilaterally between the signatory states, provided both states have brought the administrative assistance convention into force, have signed the MCAA, and have confirmed that they have the laws necessary for implementing the AEOI standard. Moreover, both states must have informed the MCAA secretariat that they wish to exchange information automatically with the other state.

The legal foundations for introducing the AEOI (the administrative assistance convention, the MCAA and the bill for a federal act on the international automatic exchange of information in tax matters) were submitted to the Federal Assembly for approval in June 2015. The three

bills were passed in the final vote in December 2015 and should come into force on 1 January 2017 so that data can be collected from 2017 and exchanged from 2018.

**Introduction of the AEOI with partner states**

*Introduction of the AEOI with Australia*

In March 2015, Switzerland and Australia signed a joint declaration on the application of the AEOI. Subject to the approval processes applicable in both countries, they intend to start collecting data from 2017 and mutually exchange data on the basis of the MCAA from 2018. The AEOI with Australia will thus be introduced in accordance with model 2. In November 2015, the Federal Council submitted the corresponding federal decree to Parliament for approval.

Negotiations on the introduction of the AEOI on the basis of the MCAA (model 2) are currently under way with other countries with which Switzerland has close economic and political ties.

*Introduction of the AEOI with the EU*

In May 2015, Switzerland and the EU signed an agreement regarding the introduction of the AEOI. The introduction of the AEOI in relation to the EU is based on model 1. The agreement on the automatic exchange of financial account information to promote tax honesty in international matters (AEOI agreement with the EU) applies to all 28 EU member states and replaces the taxation of savings agreement between Switzerland and the EU that has been in force since 2005. Subject to the approval processes applicable in Switzerland and the EU, Switzerland and the EU intend to start collecting data from 2017 and to mutually exchange this data from 2018. In November 2015, the Federal Council submitted a corresponding federal decree to Parliament for approval.

**4.2.2 Global Forum**

The Global Forum on Transparency and Exchange of Information for Tax Purposes uses a peer review process to examine the uniform implementation of and compliance with the administrative

assistance standards internationally. The Global Forum is the largest international organisation in the tax area, as it currently has 130 members plus the EU, as well as 15 regional and international bodies with observer status. Switzerland is one of the few countries represented in the Steering Group, which has 19 members, in the Peer Review Group, which has 30 members, and in the automatic exchange of information working group (AEOI group). All members are subject to reviews, as are certain jurisdictions that are not members but are considered relevant for the Global Forum’s work. The aim is to prevent countries from gaining a competitive advantage by refusing to apply international standards or to join the Global Forum.

Compliance with the OECD standard on the exchange of information upon request is examined in two phases. Phase 1 involves investigation of whether or not the necessary legal foundations exist, while phase 2 looks at the effectiveness and efficiency of the exchange of information upon request in practice. A compliance rating is awarded at the end of the peer review process once both phases have been completed. During its first round of reviews, the Global Forum has examined more than 100 states and territories since 2010 in terms of compliance with the OECD

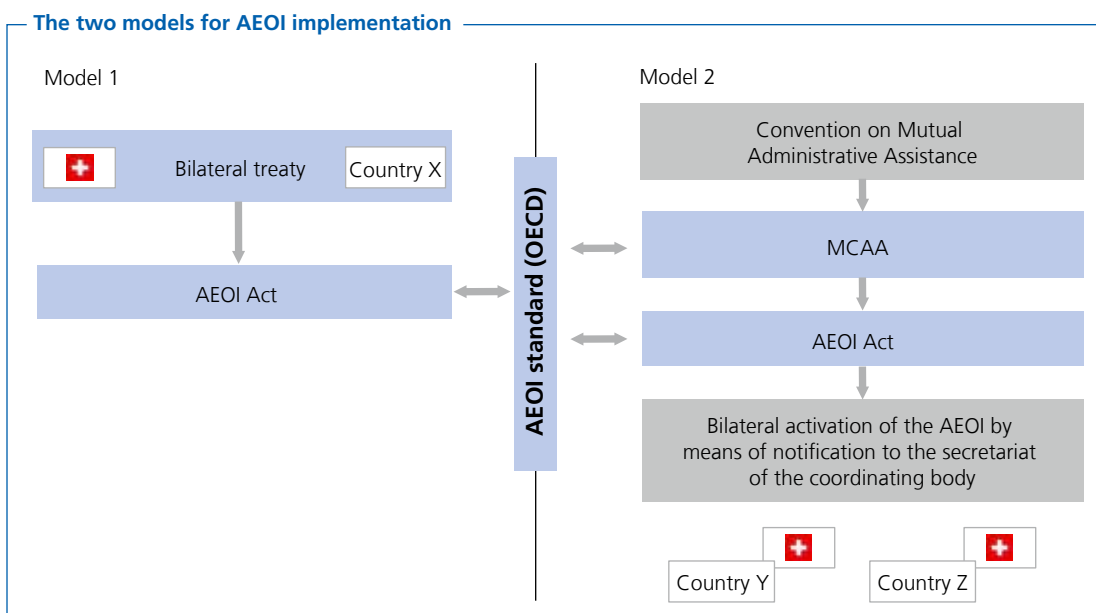


Fig. 20

standard on the exchange of information upon request and awarded 86 ratings to states and territories that have completed their phase 2 review (see Figure 21).

### 2015 plenary meeting

At the annual plenary meeting in Barbados at the end of October 2015, the Global Forum took stock of the progress made in 2015.

The following points should be emphasised:

- Revised terms of reference and a methodology on the basis of which assessments on the exchange of information upon request should be conducted in the second round of reviews starting in 2016 were approved at the plenary meeting.
- An initiative was launched to assist African member states of the Global Forum to better combat tax evasion and illicit financial flows in Africa with the help of the exchange of information.
- Liechtenstein’s final report was approved at the plenary meeting with the rating “largely compliant”. Switzerland welcomes Liechtenstein’s positive rating, in particular because it is recognition of the progress achieved by Liechtenstein in recent years in administrative assistance. There are similarities between Switzerland and Liechtenstein in administrative assistance issues. However, the legal framework and practices in administrative assistance of the two countries appear to be too different in design to enable conclusions to be drawn for Switzerland from Liechtenstein’s positive rating.

### Switzerland’s peer review

On 13 March 2015, the Global Forum adopted Switzerland’s supplementary report for phase 1, whereby Switzerland was admitted to phase 2 of the Global Forum peer review on the exchange of information upon request. Switzerland’s efforts in recent years on implementing the recommendations of the Global Forum have thus been recognised. The following measures taken by the Federal Council contributed in particular to its admission:

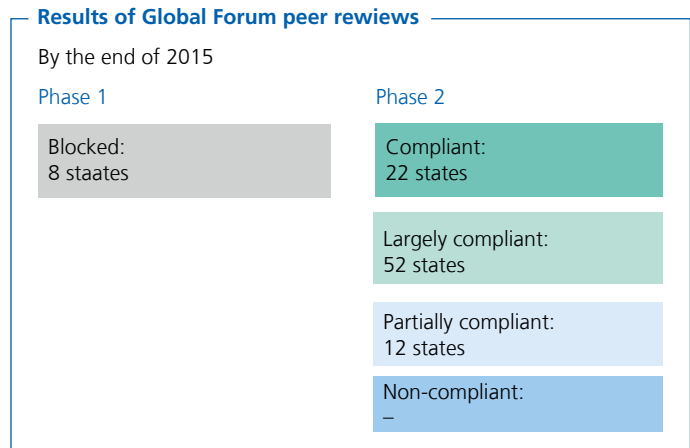


Fig. 21

- Introduction in the Tax Administrative Assistance Act of an exception regarding the prior notification of persons affected by an administrative assistance request. The revised Act entered into force in August 2014.
- Updating of a large part of the double taxation agreement (DTA) network in line with the standard by means of bilateral negotiations and the signing of the OECD/ Council of Europe Convention on Mutual Administrative Assistance in Tax Matters in October 2013, bringing to 90 the number of partner states and territories.
- Legislative amendments regarding the identification of the holders of bearer shares within the framework of the implementation of the revised Financial Action Task Force (FATF) recommendations. The provisions that enable the owners of bearer shares to be identified in the Federal Act for Implementing the Revised Recommendations of the Financial Action Task Force of 2012 came into force on 1 July 2015.

Phase 2 of Switzerland’s peer review officially started on 1 October 2015. The Global Forum will examine the practical implementation and the efficiency of Swiss administrative assistance in tax matters in this phase. Within the scope of this examination, the Global Forum members can comment on their collaboration with Switzerland in administrative assistance. Moreover, an evaluation team will visit Switzerland at the



start of 2016 to examine the effectiveness and efficiency of the exchange of information upon request in practice. At the end of phase 2, a report will be published for Switzerland and a compliance rating will be awarded.

**Revision of the Tax Administrative Assistance Act**

In regard to phase 2 of Switzerland’s peer review, the Federal Council conducted a consultation procedure on the revision of the Tax Administrative Assistance Act in the second half of 2015. This revision should provide for an easing of Swiss practices with regard to stolen data. It should now be possible for Switzerland to respond to requests if a foreign country has obtained the stolen data via the normal administrative assistance channels or from public sources. If a country has actively acquired stolen data, administrative assistance will still not be possible. The proposed legislative amendment will clarify the legal situation while also taking account of international developments. It should contribute to Switzerland being able to achieve a positive rating in phase 2 of its peer review.

**Monitoring of the implementation of the automatic exchange of information**

In order to ensure that the individual countries are effectively implementing the AEOI standard, the Global Forum was mandated to monitor the

participant jurisdictions by means of future AEOI peer reviews. Similar to the reviews for the exchange of information upon request, these reviews should also be conducted based on clearly established rules. In line with this, the AEOI Group is now drawing up terms of reference and a methodology which can be applied when evaluating whether or not participant jurisdictions are effectively implementing the AEOI. The first comprehensive peer reviews should start in 2019. Up until then, certain aspects of the AEOI standard, e.g. the legal basis, will be examined separately.

The Global Forum performs preliminary assessments to check whether or not the individual jurisdictions comply with the high confidentiality and data security requirements which are required for the AEOI. The results of these assessments are designed to help the individual jurisdictions decide with which countries they wish to implement the AEOI. Switzerland has made an expert available to the Global Forum for these confidentiality assessments and is actively involved in them.

**4.2.3 FATCA**

The FATCA agreement between Switzerland and the USA simplifies matters for Swiss financial institutions when implementing the unilateral US Foreign Account Tax Compliance Act (FATCA).

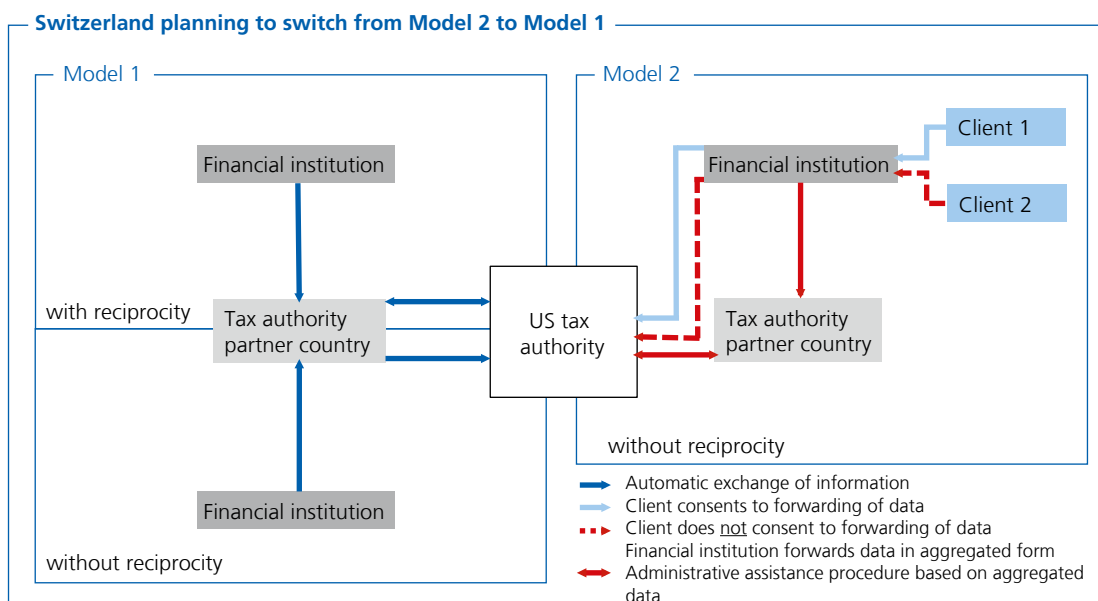


Fig. 22

Implementation in Switzerland is based on Model 2 (cf. Figure 22), which means that Swiss financial institutions disclose account details directly to the US tax authority with the consent of the clients concerned. In the absence of a declaration of consent, the United States has to request client data through administrative assistance channels. However, such requests cannot be issued until the protocol amending the double taxation agreement between Switzerland and the United States has come into force.

The FATCA agreement between the USA and Bermuda entered into force on 19 August 2014. Among other things, the agreement contains provisions from which Switzerland was not able to benefit previously in its FATCA agreement. In March 2015, the USA gave Switzerland written assurance of the same provisions as Bermuda based on the most favoured nation clause in the FATCA agreement between Switzerland and the USA. To ensure that the retroactively applicable adjustments do not lead to additional expenses for Swiss financial institutions, a Memorandum of Understanding was concluded on 28 July 2015.

Based on the Federal Council's mandate of 8 October 2014, in 2015, SIF entered into negotiations with the USA on a new Model 1 FATCA agreement. Unlike the current FATCA agreement, the new FATCA agreement will provide for the automatic exchange of information between the tax authorities (see figure 22).

#### **4.2.4 United Nations**

The Committee of Experts on International Cooperation in Tax Matters is responsible, among other things, for the further development of the UN's Model Double Taxation Convention between Developed and Developing Countries. Other important topic areas are development cooperation and the provision of technical assistance in the tax area to developing countries. In 2015, the committee issued a handbook which provides developing countries with a practical instrument to protect the tax base. In addition, the committee provides support to developing countries when it comes to participating in international discussions and effectively implementing the results of the OECD/G20 BEPS project.

Furthermore, the committee also provides a framework for general dialogue on international

collaboration in tax matters, which is of great significance for financing sustainable development. This function of the committee also recognises the Addis Ababa Action Agenda which was adopted at the Third International Conference on Financing for Development in July in Addis Ababa, Ethiopia. The decision was taken at the conference to boost resources and in particular to schedule two annual meetings of the committee. Improving the transparency, efficiency and effectiveness of tax systems in developing countries remains an important task on the development agenda.

During its 11th meeting in Geneva in October 2015, the committee accepted reports on the work of the various sub-committees and distributed tasks for further work or issued directives for existing mandates. The focus was on taxation of services, commodity production and implementing the results of the BEPS project. The taxation of royalties and mechanisms for international dispute resolution in tax matters were also discussed.

### **4.3 Business taxation**

#### **4.3.1 Dialogue with the EU on business taxation**

In October 2014, Switzerland and the EU signed a joint statement in Luxembourg. This contains the mutual intentions and joint principles in terms of business taxation of the Federal Council and the representatives of the 28 EU member states. This marked the end of almost a decade of controversy between Switzerland and the EU which occasionally put relations between the two partners under considerable strain.

In the statement with the EU, the Federal Council reaffirmed its intention to abolish distortionary tax regimes, particularly those that provide for ring-fencing, i.e. the different treatment of domestic and foreign revenue. New tax measures are to be based on the international standards of the OECD. In return, the EU member states' corresponding countermeasures should be lifted. An obligation for Switzerland regarding the EU's internal Code of Conduct for business taxation was ruled out. It is the relevant principles and criteria of the OECD that matter for Switzerland.

The mutual understanding between Switzerland and the EU will be implemented with the third series of corporate tax reforms. In the dispatch to the proposal of 5 June 2015, the Federal Council proposes putting an end to the different taxation of domestic and foreign company profits by the cantons. The reform is compatible with the current international standards.

### 4.3.2 Addressing base erosion and profit shifting (BEPS)

In October 2015, the OECD published the final results of the base erosion and profit shifting (BEPS) project after two years of work. Some of the results of the BEPS project are minimum standards which will have to be complied with by the countries which took part in the project. In particular, this includes:

- *Preferential regimes:* The OECD has finished reviewing 39 existing preferential regimes of OECD member states and other states associated with the BEPS project. Five Swiss regimes came under review. In June 2015, the Federal

Council adopted the dispatch on the Corporate Tax Reform Act III. The reform will make provision for cantonal tax status applied for holding companies, domiciliary companies, mixed companies as well as the regulations on the allocation for principal companies to be abolished by the end of 2019. Switzerland was thereby able to prevent these regimes from being qualified as harmful.

- *Patent/IP boxes:* A new standard for the privileged taxation of intangible assets was drawn up (nexus approach). Based on this approach, revenue from eligible intangible assets must be in proportion to research and development conducted in the place of taxation to be able to benefit from privileged taxation. Countries which already have an IP box must adapt these regimes to the new rules by 30 June 2021 at the latest and take measures so that their existing IP regimes can no longer accept new entrants after 30 June 2016. Currently none of the 16 IP regimes reviewed by the OECD complies with these new rules.

BEPS Action Plan		
Coherence	Substance	Transparency
Actions:		
Neutralise the effects of hybrid mismatch arrangements 2	Prevent treaty abuse 6	Collect/analyse data on BEPS and actions to address it 11
Strengthen CFC rules 3	Prevent circumvention of permanent establishment status 7	Disclosure obligations 12
Limitation of interest deductions 4	Intangibles* 8	Re-examine transfer pricing documentation 13
Counter harmful tax practices 5	Risks and capital* 9	Improve dispute resolution mechanisms 14
	Other high-risk transactions* 10	
Address the tax challenges of the digital economy		1
Develop a multilateral instrument		15
* Ensure that transfer pricing outcomes are in line with value creation		
<span style="display: inline-block; width: 10px; height: 10px; background-color: #cccccc; border: 1px solid #000;"></span> Implementation 2014 <span style="display: inline-block; width: 10px; height: 10px; background-color: #0070c0; border: 1px solid #000;"></span> Implementation 2015		

Fig. 23

Within the scope of the third series of corporate tax reforms (CTR III), the Federal Council proposed the introduction of an IP box in line with the international standard. In Switzerland, only the canton of Nidwalden currently has an IP box. It will carry out the changes required within the deadline set by the OECD.

- *Spontaneous exchange of information on rulings:* A framework has been set up for the spontaneous exchange of information on tax rulings. Only rulings which come under one of the categories identified as posing a risk of base erosion and profit shifting will be subject to the mandatory spontaneous exchange of information.

For Switzerland, the multilateral OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters as well as the amendments to the Federal Act on International Administrative Assistance in Tax Matters (Tax Administrative Assistance Act) will contain the necessary legal basis for the spontaneous exchange of information. This international standard will be implemented in the Ordinance on International Administrative Assistance in Tax Matters, on which a consultation will be carried out in the first quarter of 2016.

For states which have the necessary legal basis, the OECD report envisages the spontaneous exchange of information on rulings which were granted from 1 January 2010 and which are still in force in 2014. For countries like Switzerland which do not have a legal basis for carrying out the spontaneous exchange of information yet, the report specifically stated that they must create the legal basis. With regard to the schedule, it also stated that this must comply with the legal framework of each country. For Switzerland, this means that no information can be exchanged on rulings which are no longer valid after implementation of the administrative assistance convention.

- *Dispute resolution mechanisms:* Countries undertake to at least provide access to a mutual agreement procedure if the application of a double taxation agreement (DTA) would result in double taxation. Switzerland already

complies with the OECD requirements in dispute resolution. Switzerland even goes beyond the minimum standard by including in its DTAs arbitration clauses, whereas the minimum standard only provides for access to the mutual agreement procedure.

- *Anti-abuse clause on double taxation agreements:* New anti-abuse clauses will prevent benefits established in DTAs from being granted to persons who do not reside in any of the contracting states and are thus not entitled to claim the DTA benefits.

Switzerland has started to propose introducing the anti-abuse clauses recommended by the OECD in its DTA negotiations. The multilateral instrument which aims to amend all DTAs simultaneously and which should be developed by the end of 2016 could be an interesting tool for Switzerland. Switzerland is actively participating in this work, but it will wait for the results in order to consider signing.

- *Transfer pricing documentation:* In accordance with the new rules, multinational companies must prepare transfer pricing documentation (a master file and a local file). Companies with annual consolidated group sales of more than EUR 750 million must also prepare a country-by-country report. Furthermore, there is the requirement that this country-by-country report is automatically exchanged with all the countries in which the group is present. The minimum standard covers only the preparation and exchange of the country-by-country reports. It is up to each individual country to decide whether or not it wishes to request transfer pricing documentation.

The goal of the country-by-country report is to provide an overview of the global distribution of profits of multinational groups and their tax payments as well as certain indicators concerning the location of group assets. States must establish a legal basis to automatically exchange the country-by-country reports with the tax authorities of the countries where a group entity is located. The OECD has drawn up a multilateral agreement between the competent authorities concerning the automatic exchange of country-by-country reports which will be used to implement the exchange of

country-by-country reports. This agreement is based on the multilateral OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters. An initial opportunity for signing will be provided at the end of January 2016.

Switzerland intends to exchange country-by-country reports based on the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports. This will involve signing the agreement as well as creating the necessary legal basis for the establishment of the country-by-country report and its exchange. A consultation will be carried out on the agreement and also on the new law. In the event of a positive result, both of these will be submitted with a dispatch to Parliament for approval.

In other areas of the BEPS project such as the rules on hybrid mismatch arrangements and limitations of interest deductions, it is desired and expected that the participating states agree on common approaches on the basis of the results. Other project results such as the CFC rules, took the form of recommendations and best prac-

tices. In the case of the recommendations, there is no need for action in the short term. Switzerland will analyse the results and examine whether or not it wants to incorporate the recommendations into Swiss law. The FDF will submit an analysis report by the end of 2016.

#### 4.4 Bilateral cooperation in tax matters

##### 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 upon request (Article 26 of the OECD Model Convention) to which its member states are expected to adhere. In 2009, Switzerland resolved to fully adopt the standard. By the end of 2015, Switzerland had signed 53 double taxation agreements (DTAs) containing the new standard. Of these, 46 have come into force. The opportunity for negotiations was used to agree more favourable provisions in existing DTAs (e.g. reduction of withholding tax rates on dividends, interest and royalty payments), eliminate certain cases of discrimination and negotiate arbitration clauses, or enter into new DTAs.

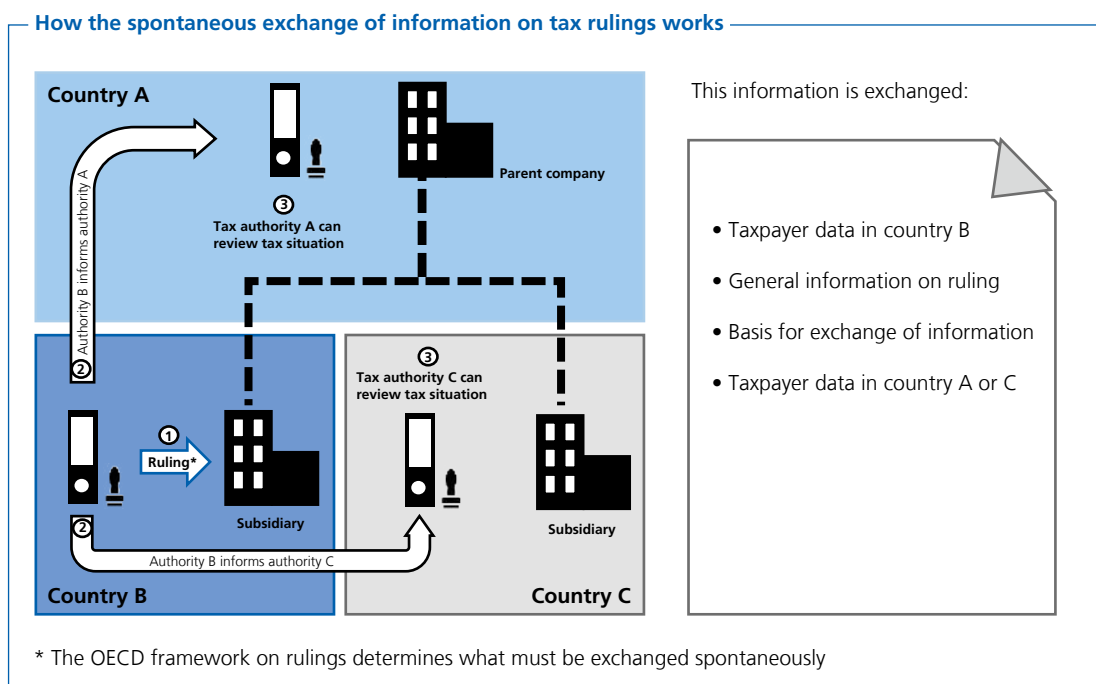


Fig. 24

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. Today, Switzerland has DTAs with approximately 100 states. The DTAs with Argentina and Cyprus came into force in 2015. The agreement with Argentina closes a loophole which arose due to Argentina terminating the earlier DTA in 2012. The agreement with Cyprus means that Switzerland now has a DTA with all of the EU member states.

Since the Federal Council's decision in April 2012 to enter into administrative assistance agreements in accordance with the international standard not only in the form of DTAs but also via tax information exchange agreements (TIEAs), Switzerland has signed ten TIEAs. Three of these – with Jersey, Guernsey and the Isle of Man – have been applicable since 1 January 2015. In 2015, four more TIEAs – with Andorra, Greenland, San Marino and the Seychelles – came into force have been applicable from 1 January 2016. The Federal Council dispatch on adopting the TIEA signed with Belize and Grenada in the summer of 2015 will be dealt with by Parliament in the first half of 2016.

Furthermore, in November 2015, Switzerland also signed a TIEA with Brazil after lengthy negotiations. With the conclusion of the agreement, Switzerland is permanently removed from Brazil's blacklist of countries with low levels of taxation and insufficient access to information on the participation holders of legal entities, which will give Swiss companies operating in Brazil greater legal certainty and investment security. The Swiss and Brazilian authorities will also strive to further intensify tax-related cooperation, which in the future could also include the conclusion of provisions for the avoidance of double taxation.

#### **4.4.2 Bilateral tax dossiers**

##### **France**

The tax and financial dialogue with France initiated in November 2013 has been pursued. This consists of regular exchanges on all pending tax and financial issues (double taxation, taxation of cross-border commuters, administrative assistance, implementation of the OECD's work con-

cerning base erosion and profit shifting, access to financial services markets, etc.). This dialogue will help to stabilise bilateral relations in tax and financial matters.

##### **Italy**

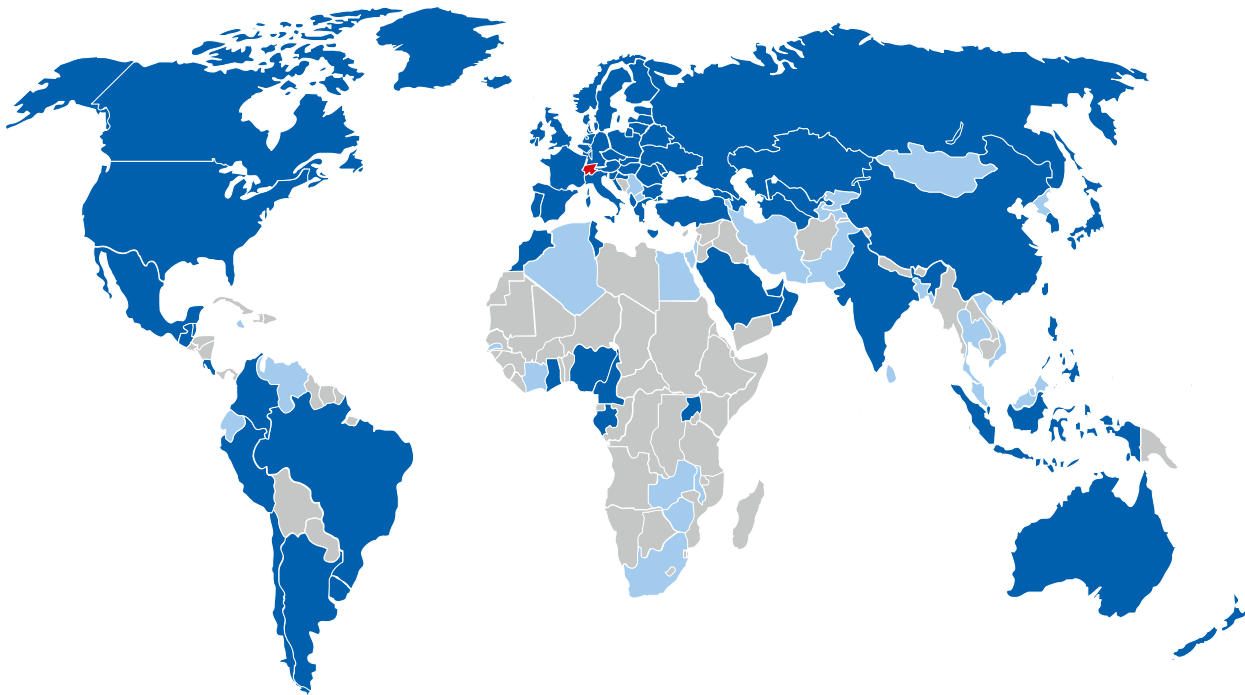
In February 2015, Switzerland and Italy signed a protocol amending the agreement concluded between the two states for the avoidance of double taxation as well as a roadmap for tax and finance matters. This protocol contains a provision on the exchange of information upon request based on Article 26 of the OECD Model Tax Convention. The roadmap contains a clear political commitment on various important points for bilateral relations in tax and financial matters. On all of these points, solutions have been agreed or a work programme has been established.

The agreement signed in February 2015 facilitated in particular implementation of the Italian spontaneous disclosure programme, in force since 1 January 2015, and has considerably increased legal certainty for Italian taxpayers who have an account in Switzerland. The aim was to ensure orderly transition to the future automatic exchange of information in keeping with the OECD standard without massive outflows of capital. In this way, the Swiss financial centre and Ticino's financial centre in particular will continue to enjoy good prospects.

Discussions were pursued in line with the parameters set in the roadmap, in particular in connection with the agreement on the taxation of cross-border commuters, market access for financial service providers, as well as on the topic of the enclave of Campione d'Italia and certain tax regulations.

In December 2015, Switzerland and Italy initialled an agreement on the taxation of cross-border commuters and a protocol of amendment to the double taxation agreement. The cross-border commuters agreement sets out in concrete terms and implements one of the main commitments made by the two states in the roadmap signed in February 2015. The agreement, which will replace the one from 1974, still has to be signed by both governments and approved by the respective parliaments.

Switzerland's international administrative assistance in tax matters



**Administrative assistance in accordance with international standard**

**DTAs/TIEAs in force (53)**

Andorra <sup>2)</sup>	Denmark <sup>1)</sup>	Hong Kong <sup>1)</sup>	Korea <sup>1)</sup>	Qatar <sup>1)</sup>	Sweden <sup>1)</sup>
Argentina <sup>1)</sup>	Estonia <sup>1)</sup>	Hungary <sup>1)</sup>	Luxembourg <sup>1)</sup>	Romania <sup>1)</sup>	Taiwan <sup>1)</sup>
Australia <sup>1)</sup>	Faroe Islands <sup>1)</sup>	Iceland <sup>1)</sup>	Malta <sup>1)</sup>	Russia <sup>1)</sup>	Turkey <sup>1)</sup>
Austria <sup>1)</sup>	Finland <sup>1)</sup>	India <sup>1)</sup>	Mexico <sup>1)</sup>	San Marino <sup>2)</sup>	Turkmenistan <sup>1)</sup>
Bulgaria <sup>1)</sup>	France <sup>1)</sup>	Ireland <sup>1)</sup>	Netherlands <sup>1)</sup>	Seychelles <sup>2)</sup>	United Arab Emirates <sup>1)</sup>
Canada <sup>1)</sup>	Germany <sup>1)</sup>	Isle of Man <sup>2)</sup>	Norway <sup>1)</sup>	Singapore <sup>1)</sup>	United Kingdom <sup>1)</sup>
China <sup>1)</sup>	Greece <sup>1)</sup>	Japan <sup>1)</sup>	Peru <sup>1)</sup>	Slovakia <sup>1)</sup>	Uruguay <sup>1)</sup>
Cyprus <sup>1)</sup>	Greenland <sup>2)</sup>	Jersey <sup>2)</sup>	Poland <sup>1)</sup>	Slovenia <sup>1)</sup>	Uzbekistan <sup>1)</sup>
Czech Republic <sup>1)</sup>	Guernsey <sup>2)</sup>	Kazakhstan <sup>1)</sup>	Portugal <sup>1)</sup>	Spain <sup>1)</sup>	

**DTAs approved by Parliament (3)**

Belgium	Ghana	United States
---------	-------	---------------

**Signed DTAs/TIEAs or multilateral administrative assistance convention (43)**

Albania <sup>1)3)</sup>	British Virgin Islands <sup>3)</sup>	El Salvador <sup>3)</sup>	Latvia <sup>3)</sup>	New Zealand <sup>3)</sup>	Turks & Caicos <sup>3)</sup>
Anguilla <sup>3)</sup>	Cameroon <sup>3)</sup>	Gabon <sup>3)</sup>	Liechtenstein <sup>1)3)</sup>	Nigeria <sup>3)</sup>	Uganda <sup>3)</sup>
Aruba <sup>3)</sup>	Cayman Islands <sup>3)</sup>	Georgia <sup>3)</sup>	Lithuania <sup>3)</sup>	Oman <sup>1)</sup>	Ukraine <sup>3)</sup>
Azerbaijan <sup>3)</sup>	Chile <sup>3)</sup>	Gibraltar <sup>3)</sup>	Mauritius <sup>3)</sup>	Philippines <sup>3)</sup>	
Barbados <sup>3)</sup>	Colombia <sup>3)</sup>	Grenada <sup>2)</sup>	Moldova <sup>3)</sup>	Saudi Arabia <sup>3)</sup>	
Belize <sup>3)</sup>	Costa Rica <sup>3)</sup>	Guatemala <sup>3)</sup>	Monaco <sup>3)</sup>	Sint Maarten <sup>3)</sup>	
Bermuda <sup>3)</sup>	Croatia <sup>3)</sup>	Indonesia <sup>3)</sup>	Montserrat <sup>3)</sup>	South Africa <sup>3)</sup>	
Brazil <sup>3)</sup>	Curaçao <sup>3)</sup>	Italy <sup>1)3)</sup>	Morocco <sup>3)</sup>	Tunisia <sup>3)</sup>	

**Administrative assistance, but not in accordance with international standard**

**DTAs in force (32)**

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

**Initialed DTAs (2)**

Nordkorea	Zimbabwe
-----------	----------

**No administrative assistance**

<sup>1)</sup> Double taxation agreement (DTA) <sup>2)</sup> Tax information exchange agreement (TIEA) <sup>3)</sup> OECD/Council of Europe multilateral administrative assistance convention

Fig. 25

**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
Individual penalties	Individual penalties on a flat-rate basis	No penalties	No penalties

Fig. 26

After years of controversy, a new foundation was laid in 2015 that will make it possible to strengthen cooperation, improve relations between the two countries and develop bilateral economic relations in a positive atmosphere.

### USA

Based on the joint statement signed in August 2013 and the US Department of Justice’s unilateral US programme that entered into force on the same day, Swiss banks that assumed they may have violated US law (category 2) had to register with the US Department of Justice (US DOJ) by 31 December 2013 and fulfil the requirements of the US programme by 30 June 2014. Many Swiss banks have seized this opportunity for resolution of the past.

In 2015, 75 category 2 banks signed Non-Prosecution Agreements (NPA) with the US DOJ. In May 2014, Credit Suisse was the first of the institutions classified as a category 1 bank to conclude an agreement with the US DOJ to resolve the past. Other banks of the category 1 are still in negotiations.

Switzerland is in regular contact with the US DOJ, working towards ensuring that Swiss banks are treated fairly and are not disadvantaged relative to US or other banks. Such contact also makes it possible to call for compliance with the Swiss legal system.

### India

The issue of tax cooperation based on data obtained illegally is a contentious subject which has a negative influence on tax cooperation with

India and Switzerland’s position in the Global Forum. Regular dialogue has taken place since 2014 both at the political level and at the expert level. In 2015, the Head of the FDF had several meetings with India’s finance minister on the fringes of international meetings. Regular exchanges also take place between the tax authorities. These contacts have contributed to a better understanding of the respective positions and to significant progress in terms of administrative assistance. Nevertheless, India remains firm on the question of tax cooperation on the basis of HSBC data which it considers to have received legitimately based on the applicable administrative assistance mechanisms.

### Greece

In March 2015, the discussions on unresolved tax issues were resumed, having been suspended for a year. Switzerland and Greece wish to strengthen cooperation to combat tax crime. The revised double taxation agreement between Switzerland and Greece, which allows for the exchange of information upon request in accordance with the latest OECD standard, has been in force since 2012. Moreover, Switzerland and the EU initialled an agreement regarding the automatic exchange of information in tax matters in March 2015. Subject to ratification, this should enter into force in 2017 and would also include Greece. In this way, tax fraud and evasion can be combatted more effectively in the future.



# Review and outlook

Important taxation and financial reforms at the international level were implemented or advanced in Switzerland in 2015. Important adjustments were made above all in the regulatory environment in the areas of capital requirements for big banks, financial market regulation and in the area of taxation. At the same time, relations with important neighbouring countries were normalised to a large extent through a number of negotiations.

Today, the Swiss financial market is in good shape in spite of regulatory adjustments and the transition to tax transparency with other countries. In addition, the financial centre was able to maintain its international position. According to information from the banks, overall private wealth managed by banks in Switzerland has increased and Switzerland's leading global position in this field is not under threat.

Switzerland's financial centre will face major challenges in the future too. The international environment will continue to undergo rapid changes and the pressure on Switzerland to take international regulations into account will not diminish.

In 2016, Switzerland will be committed to successful implementation of the AEOI standard which is based on reciprocity and takes into account the principle of speciality, i.e. it ensures that the information transmitted is only used for tax purposes. The network of AEOI partner countries should be expanded taking these criteria strictly into account. The implementation in Switzerland will be examined in due course by the Global Forum as part of its peer reviews. It is important that there is a level playing field for all here. In particular, the same criteria must be applied for all financial centres when monitoring is conducted.

Furthermore, the third series of corporate tax reforms will be an important topic in 2016. In autumn 2015, the OECD published new international guidelines to combat erosion of the tax base and profit shifting in jurisdictions with low or literally no taxation. Switzerland was actively involved in the new OECD guidelines that were published in October 2015 and firmly defended its interests. Switzerland is striving for implemen-

tation of the BEPS minimum standards, as largely taken into account in the third series of corporate tax reforms. For example, provision is made for a standard-compliant patent box (or royalty box), as well as the abolition of tax regimes criticised internationally. With regard to the exchange of information on tax rulings, Switzerland will create the necessary legal basis with the approval of the OECD/Council of Europe multilateral administrative assistance convention.

Other important topics in 2016 are the Global Forum peer reviews. In 2014, Switzerland submitted a supplementary report to the Global Forum, which it approved in March 2015. This led to Switzerland being admitted to the second phase of peer reviews. With this admission, Switzerland's efforts in recent years on implementing the recommendations of the Global Forum have been recognised. The phase 2 review commenced on 1 October 2015 and it is likely to last until mid-2016.

A review is also planned by the Financial Action Task Force (FATF). The FATF is conceived as a leading international body for combating money laundering and is headquartered at the OECD in Paris. It regularly evaluates its members' national regulations on the implementation of the 40 recommendations. These evaluations are performed by representatives of other FATF member states. In 2015, Switzerland continued with the preparatory work for the fourth mutual evaluation. In this review, it will be examined to see whether or not the 40 FATF recommendations have been implemented in national law and, for the first time, if the regulations have been implemented effectively. Switzerland will probably conclude the evaluation by October 2016. In the future, efforts to combat terrorist financing will gain in importance in this body.

In 2016, further market access negotiations will take place. Together with selected partner countries, Switzerland is striving at the bilateral level to remove potential obstacles to market access and will raise this issue generally in the context of the AEOI. The goal is to increase legal certainty in cross-border business from Switzerland. In this context, Switzerland already came to an arrangement with Germany to implement the existing agreement on market access. Switzer-

land has also initiated and further pursued technical discussions with France and Italy to facilitate or enhance market access. Switzerland is endeavouring to retain the market access agreements concluded as part of the withholding tax agreements with Austria and the United Kingdom. It is also seeking to engage the Dutch and Spanish authorities in talks on market access issues.

The equivalence approach of the European Union (EU) is also still important to Switzerland: in selected areas where the EU makes provision for equivalence procedures, Switzerland seeks regulation that is equivalent to that of the EU. The European Commission then decides whether or not to recognise the financial market regulation and supervision of a third country as being equivalent.

In the future, Switzerland will also remain committed to actively ensuring that its interests are protected in the major international bodies such as the International Monetary Fund (IMF), the OECD, the G20 and the Financial Stability Board.

This report, now in its sixth edition, illustrates that Switzerland has to a large extent successfully met the numerous international challenges in the area of financial and tax matters. Due to the international connectedness of Switzerland, it is highly likely that the present situation will change again in the future. The status quo is not an option for ensuring competitiveness in the long term. Switzerland will also make every effort in the future to secure a stable, competitive, morally sound and internationally respected financial centre and business location that continues to contribute significantly to prosperity in our country. In doing so, the sectors concerned, the cantons and political circles will continue to be regularly informed and consulted in good time, in keeping with the tradition of Switzerland's political landscape.



