Association de
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Association of Swiss Private Banks

Automatic Exchange of Information: with which countries?

The OECD and the G20 have decided to encourage the automatic exchange of information (AEI) to combat tax evasion worldwide. On 19 November 2014, Switzerland became the 52nd nation to sign the Multilateral Competent Authority Agreement (MCAA), which defines the principles of AEI. Consultation regarding the ratification of the agreement and the draft federal law for implementation ends on 21 April 2015. The central question for Swiss private banks is: to whom will Switzerland grant AEI?

The ASPB supports ratification of the MCAA, as it is an international standard accepted by many countries. Switzerland was an active participant in the definition of the standard and committed to implementing it as of 2017 (i.e. information on income earned after 1 January 2017 will be exchanged from 2018). Ratification of the MCAA creates no obligation; the AEI becomes mandatory between two states only if both list the other as a country with which they wish to apply the standard.

The existence of a coordinated network of agreements is an essential condition for the AEI to function smoothly. There is no point in Switzerland alone granting AEI to a country, when other financial centres are equally concerned. Switzerland should therefore coordinate its choice of AEI partners with those of its main competitors, in particular New York, London, Hong Kong and Singapore. Indeed, any reluctance on the part of other financial centres about extending the AEI to a given country may signal that the latter cannot be trusted to protect the confidentiality of the information provided.

Switzerland plans to move to a FATCA Model 1 agreement with the United States. This agreement is a form of AEI, although its reciprocity is quite limited. The Swiss Government has also signed an agreement with the EU to replace the taxation of savings income with the AEI. Switzerland will likely offer AEI to several other countries with which it has close economic and political ties; for instance, an agreement has already been signed with Australia. The ASPB believes that G7 nations such as Canada or Japan and AELE member states such as Norway are good candidates for the AEI. In all other cases, however, Switzerland must ensure a "level playing field" and not try to act alone.

Similarly, Switzerland must refrain from adopting measures that do not conform to any international standard. The Federal Council has implied that new due diligence requirements in the area of taxation may be introduced at the same time as the AEI. The ASPB strenuously opposes this attempt to turn Switzerland into the world's (only) tax policeman. Countries that do not obtain AEI with Switzerland may still request spontaneous or on-demand exchange, provided they ratify the Council of Europe/OECD multilateral Convention, as Switzerland is about to do.

Negotiations on the AEI should also include acceptable solutions for regularising the past and ensuring market access. To protect domestic employment, as well as the tax revenues generated by cross-border banking, Swiss banks must be allowed to continue to serve clients from Switzerland. Agreements on the AEI are at least as important as revising double taxation treaties. Every decision to grant AEI to a country should thus be subject to an optional referendum, contrary to current provisions in the Federal Council's draft law.

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