

## **Liechtenstein: A Stable & Competitive IFC**

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Since 2008, the international financial services industry has been in a state of flux. No International Finance Centre has been immune to these developments and Liechtenstein is no exception. The government of the Principality of Liechtenstein has created a specific framework to deal with the state of the industry and which will enable the financial centre to remain internationally competitive in the future.

In parallel with this, the 2008 'Futuro' project resulted in the creation of more than 20 initiatives designed to improve the future of the Liechtenstein financial centre, which have been addressed on a step-by-step basis and with a steady dialogue with the associations, the Financial Market Authority and individual market players. This dialogue enables new feedback and ideas from the market to be incorporated into the implementation process on a regular basis.

Thanks to the EEA Agreement, Liechtenstein's financial market benefits from its participation in the European single market, the core elements of which include free movement of capital, free movement of persons and free movement of services as well as free movement of goods. The concept of a single market makes financial markets and services, which are integrated Europe-wide, open, competitive and efficient, resulting in greater stability in the financial system. Active participation in the single market also requires Liechtenstein to adopt and apply European primary and secondary financial market legislation. It should be noted that European financial market legislation also includes international standards applicable worldwide, such as Basel I to III, OECD, IOSCO, and G20 commitments.

## **IMF/Moneyval Assessment in June 2013**

Moneyval is the expert's committee of the Council of Europe for the fight against money laundering and terrorism financing. This committee was established to carry out mutual evaluations of the member states, concerning the observance of the FATF standards.

Liechtenstein was reviewed in June 2013 (the so-called 'fourth test' round) within the scope of the Moneyval-evaluation mechanism. This assessment was carried out by experts of the International Monetary Fund (IMF) and the Council of Europe Committee of Moneyval. The experts also interviewed bankers, trustees, fund managers, lawyers, etc to cover the practical effectiveness of the regulations, however, the results have yet to be made public. Liechtenstein maintains high standards, though additional recommendations for improvement may relate to the interdependences between the various financial professionals, as Liechtenstein has developed a highly integrated financial services industry, where professionals rely on each other to a certain extent.

## **Tax Agreement between Liechtenstein and Austria**

The agreement considers assets and income since 2004 which are regulated within the frame of the agreement. The agreement also contains regulations to tax future income in order that clients benefitting from cross-border services in Liechtenstein (which includes the use of foundations) stay tax compliant in an attractive environment. Foundations, trusts, asset management entities and trading/services companies benefit from a clear tax treatment and may be treated in the same way as local Austrian structures. The treaty has come into force as of 1 January 2014.

The signing of the tax agreement is the result of a constructive, pragmatic approach to cooperation aimed at compromise. The agreement creates clarity for the tax treatment of Liechtenstein trusts, foundations, companies and other entities and also covers the taxation of endowments into a foundation in a reasonable way.

Additionally, the revised double taxation agreement fixes an adjustment of the dividend taxation, an effective and comprehensive administrative assistance and enforcement assistance and in full compliance with the standards of the OECD and the EEA.

## **Protected Cell Company Regulation (PCC)**

The government published a draft in late 2013 for public consultation by the industry. It is expected that the parliament will debate this new piece of legislation in June 2014, and hence the PCC legislation could be enacted by the end of 2014. This legislation will answer the various wishes and needs of the industry to create substance. A PCC is a legal entity with a juridical form of an association, eg, a corporation, an establishment or a foundation. A segmented entity exists with two liability compartments:

- a core or non-cellular part (shareholder equity) and
- one or several segments separated of each other (cells).

The segmented entity must assure that the property of the single segments and the property of the core part remain separate and are not responsible for each other.

Cells fulfill a certain business division; this can be, for example, the management of assets, which can also fulfill charitable purposes. The following purposes are open for cells:

- charitable or beneficent activity;
- acquisition, management and utilisation of participations in other enterprises (subsidiary); as well as
- the utilisation of copyrights, patents, brands and patterns.

Each segment should be as independent as possible. The segmented entity is not a new independent juridical legal form. Rather, any legal form such as an association, a corporation, an establishment or a foundation can have the form of a segmented entity, provided that they are registered in the commercial register. Investors participating in the cells contribute to the entity's reserves and are therefore not necessarily legal shareholders. A PCC, having various investments, needs a certain level of commercial backup financed by investors. This creates the needed substance in the cross-border activity and the independence (non-related parties, no shareholder identity).

## **Regulation of the Liechtenstein Professional Fiduciaries and Trustees and Directors**

The law on Professional Fiduciaries and Trustees (LGBl. 2013 Nr. 421) regulates the license, the professional activity and the supervision of trustees and trust companies. It aims, in particular, at protecting customers, maintaining confidence in the financial market of Liechtenstein as well as supporting access to international markets and enhancing competitiveness.

Besides, it implements Directive 2005/36/EC of the European Parliament and the Council from 7 September 2005, with respect to the recognition of professional qualifications.

This law, together with the new regulations on assuming the functions of a director, according to Art. 180a PGR (law on Companies and Persons), regulates the directorship functions in companies, establishments and foundations. Liechtenstein is probably the only country in Europe that completely restricts the right to become director of entities to a license. This assures a highly professional regulated financial market.

## **Amendment of the Tax Law**

While there have been further amendments to the Tax Act, which has undergone substantial changes since 2011, the amendments in 2013 are not of significant importance to the financial industry. Further amendments in 2014 are expected to ensure a certain level of taxation for all market players. These amendments may be considered as adjustments to inefficiencies with respect of the new law.

## **Tax Treaties**

Liechtenstein signed new Tax Information Exchange Agreements (TIEAs) in 2013 with the following states

- 1) Canada, signed on 31 January 2013
- 2) India, signed on 28 March 2013
- 3) Mexico, signed on 20 April 2013

The domestic ratification procedures in respect of the TIEAs signed with Canada, Mexico and India were completed on November 8, 2013.

The TIEAs are the standardized model treaties of the OECD.

## **Multilateral Convention on Administrative Assistance in Tax Matters**

On 21 November 2013, Liechtenstein signed the Multilateral Convention on Administrative Assistance in Tax Matters. Among other things, the Convention provides for various forms of information exchange. The Convention has yet to be ratified.

To date, around 60 countries have signed the Convention, including Switzerland (on 15 October 2013), Luxembourg and Singapore; with around 30 having already ratified it.

Given that the OECD has been exerting pressure on all member and non-member states for some time, and the G20 finance ministers issued a further strong call for countries to sign in July 2013, this figure is expected to rise substantially during 2014.

Various clauses in the Convention provide for the application of individual conditions, meaning it will be possible to adjust certain provisions to the requirements of Liechtenstein.

The government of Liechtenstein has involved professional organisations such as the Liechtenstein Institute of Professional Trustees and Fiduciaries in the discussions, which will render future developments easier to predict and plan for.

Liechtenstein is offering to participate actively at OECD and Global Forum level in developing an international standard for information exchange, based on clarity, predictability, equal treatment, respect for the interests of all involved, and non-discrimination.

Liechtenstein is prepared to conclude bilateral agreements on automatic exchange of tax information based on the future OECD standard, provided these agreements give due consideration to the legitimate interests involved with countries that fulfill the requirements for this transparent approach.

Liechtenstein strongly supports the OECD's view that international co-operation must lead to shared principles and thus to the prevention of double taxation of income from cross-border activities. Clarity, predictability of regulation and equal treatment create legal certainty and allow states, businesses and private individuals to plan with confidence. Liechtenstein encourages its partner states to continue working towards this common goal, removing discrimination and ensuring unrestricted market access. These are and will remain keystones of Liechtenstein's approach to tax cooperation.

Liechtenstein believes that effective tax cooperation includes more than just information exchange. The country has continually expanded its network of double taxation treaties in recent years and has the necessary experience with different tailor-made models to assure tax compliance for the past and the future.

Liechtenstein's whole economy benefits from the competitiveness and stability of its financial industry. All the major players in the financial centre have been included in this strategic process in order to safeguard and develop the country's excellent business environment.

The financial industry will remain in steady dialogue with the government to ensure that the wealth structuring concerns are taken into consideration in future developments in the best interest of their clients.

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