Consistent Cross-Border Management – a Key Success Factor

by Ertugrul Tuefekci and Adrian Müller

January 2016

kpmg.ch

Transnational business activities and the related regulatory requirements for financial intermediaries are in the focus of regulators worldwide since the eruption of the financial crisis seven years ago. The turbulences on the financial markets and the international tax transparency developments changed the financial market environment significantly and will continue to shape the Swiss financial center with its long-standing tradition in offshore banking. Financial intermediaries are facing numerous additional regulatory requirements and are particularly challenged in maintaining their cross-border business relationships.

Supervisory authorities across the globe imposed stricter rules for unlicensed foreign financial intermediaries. In the wake of these changes, the involved risks for cross-border business activities have expanded significantly and the fact that the applicable regulations differ from jurisdiction to jurisdiction is further increasing complexity. The tightening of the cross-border rules has de facto protectionist effects, what leads for the Swiss financial center – as a non-member of the European Single Market and the European Economic Area (EEA) – to market restrictions and thus to considerable competitive disadvantages within Europe. Waiting for a change of regime or a breakthrough in market access negotiations could turn out to be a precarious strategy. Those Swiss financial intermediaries that face the current cross-border challenges with a solid cross-border framework however can benefit from real and sustainable growth opportunities. The regulatory hurdles for cross-border activities are a challenge for the entire industry and cross-border management has therefore not lost its relevance and importance.

Changing Customer Needs in Focus

As a result of the change in strategy of the Swiss financial center, the associated alteration of the parameters and the increased regulatory requirements, the Swiss financial industry experienced asset outflows in the amount of several tens of billions from the cross-border business in Europe. In addition to significant restructuring of assets of the clients themselves, Swiss financial intermediaries also performed far-reaching adjustments of their client portfolios as well as business strategy and withdrew completely from certain offshore markets. This transformation is an ongoing process continuously setting market shares free and therefore creating an attractive as well as sustainable growth opportunity for financial intermediaries with a consistent cross-border management. Just one year before the first automatic exchange of tax information between tax authorities of the respective Member States (in particular within the EU), undeclared accounts have become rare and the remaining declared clients deliberately opted for Switzerland as their preferred offshore location.

The commitment of the remaining international clients to Swiss virtues and quality however can certainly not be considered to be an unconditionally positive attitude towards the Swiss financial center. Declared assets are rather easy to transfer and offshore clients have increasing demands on the service quality and the available product offering. These changing needs require a detailed evaluation of the existing cross-border rules in order to mitigate potential risks and to offer suitable products. Consequently, such clientele can be maintained exclusively by financial intermediaries with a solid cross-border framework, due to the fact that trained staff, comprehensive cross-border policies and catalogues are indispensable in order to be able to offer the desired products and services that are in line with local regulatory requirements.

What distinguishes a solid cross-border framework?

Financial intermediaries must bring all of their cross-border activities for each market individually in compliance with the applicable foreign laws and regulations. Otherwise, they would face regulatory sanctions and unquantifiable reputational damage. A violation of foreign regulations may further be an indication that the Bank has not defined appropriate internal control processes, which may lead to the conclusion by the FINMA that an irreproachable business conduct cannot be ensured. Due to the resulting reputational damage and potential legal as well as financial consequences, the failure to comply with cross-border rules might therefore even reach life-threatening dimensions.

Regardless of all these risks, the importance of the internal cross-border framework is still underestimated in many cases. In practice, the structures required under Swiss regulatory law are formally in place, but often not implemented effectively. Despite the fact that a consequent implementation and application of the cross-border framework throughout the company is truly essential, financial intermediaries still preferably proceed according to the minimum principle and dispense with regular training and the development of internal expertise in order to reduce expenses. However, the user-friendliness of existing policies as well as catalogues, constant updating of the contents, adequate training of employees and designation of cross-border contact persons are crucial. The best catalogues and policies are of limited use if employees are not adequately trained and know these well. The financial intermediary must document and be able to attest in a comprehensible way that all reasonable efforts and measures to prevent cross-border offenses have been taken. In this context, performing cost-cutting exercises or postponing reasonable overdue investments would be difficult to justify. Investments in the cross-border framework represent an indispensable component of any risk-conscious and sustainable business policy. In order to remain efficient in the present challenging environment and reduce operating costs without loss of quality, the trend in cross-border management is progressively heading towards automation. The new Client and Product Suitability requirements can furthermore be integrally combined with the cross-border rules in one holistic tool.

Conclusion

Taking all potential risks into account, Swiss financial intermediaries with international exposure and transnational growth plans are well advised to invest in a solid cross-border framework with regular training, effective due diligence as well as control processes, clear policies, designated contact persons and up-to-date cross-border catalogues. Such investment has a preventive effect, enabling the company to demonstrate a determined and consistent implementation and mitigating the described risks to a minimum. The internal cross-border management accordingly constitutes an essential component for sustainable success in offshore Asset Management and Private Banking. As long as the product and service offering of Swiss financial intermediaries is aligned to the changing customer needs in accordance with all applicable laws and regulations, the Swiss financial center will keep up its long tradition and continue to play a significant role internationally.

Contact

KPMG AG
Badenerstrasse 172
PO Box
8036 Zurich

kpmg.ch

Ertugrul Tuefekci
Director
Financial Services

+41 58 249 34 40
etuefekci@kpmg.com

Adrian Müller
Assistant Manager
Financial Services

+41 58 249 65 80
adrianmueller@kpmg.com