



Federal Act on the Automatic Exchange of Information in Tax Matters

(AEoIA)

Version 1.1.2017

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Federal Act on the Automatic Exchange of Information in Tax Matters 653.1

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dated 18 December 2015 (version as at 1 January 2017)

*The Swiss Federal Assembly of the Swiss Confederation*¹,
on the basis of Article 173(2) of the Federal Constitution, after having examined the Message of the Swiss Federal Council of 5 June 2015²,
decrees:

Section 1: General Provisions

ARTICLE 1 Subject

- 1 This Act shall govern the implementation of the automatic exchange of information in tax matters (automatic exchange of information) between Switzerland and a partner country:
 - a. based on the multilateral agreement of 29 October 2014³ of the competent authorities on the automatic exchange of information of financial accounts (AEoI Agreement) including its enclosure;
 - b. based on other international treaties that foresee an automatic exchange of financial accounts.
- 2 Any deviating provisions in the treaty pertinent to the individual case shall remain applicable.

ARTICLE 2 Definitions

- 1 For the purposes of this Act, the following terms shall have the following meanings:
 - a. *Applicable treaty*: An agreement or a treaty as per Article 1(1) that is applicable in the individual case;
 - b. *Common reporting standard (CRS)*: The common reporting standard of the Organization for Economic Cooperation and Development (OECD) for information on financial accounts;
 - c. *Partner country*: country or territory with which Switzerland has agreed on the automatic exchange of information;
 - d. *Swiss financial institution*:
 1. a financial institution domiciled in Switzerland, but not a branch office of that financial institution located outside Switzerland, or

¹ SR 101

² BBI 2015 5437

³ SR 0.653.1

2. a branch office located in Switzerland of a financial institution not domiciled in Switzerland;
 - e. *Undocumented account*: an existing account of natural persons for whom a reporting Swiss financial institution cannot establish the tax residence of the account holder in accordance with the provisions of the applicable treaty;
 - f. *Swiss Tax Identification number for natural persons*: The OASI (AHV) insurance number in accordance with the Federal Act on Old-Age and Survivors' Insurance of 20 December 1946⁴;
 - g. *Swiss tax identification number for legal entities (Unternehmens-Identifikationsnummer; UID)*: The company identification number pursuant to the Swiss Federal Act of 18 June 2010⁵ on the Business Identification Number;
 - h. *Foreign tax identification number*: the identification number of a taxable person in accordance with the law of the state or territory where that person is domiciled;
 - i. *Pre-existing account*: a financial account maintained by a reporting Swiss financial institution on the day before the start of the automatic exchange of information with a partner country;
 - j. *New account*: a financial account managed by a reporting Swiss financial institution opened on the day the automatic exchange of information with a partner country becomes applicable or thereafter;
 - k. *Lower value account*: a pre-existing individual account with a total balance or a total value of not more than one million Swiss francs on 31 December, before the automatic exchange of information with a partner country becomes applicable;
 - l. *High-value account*: a pre-existing individual account with a total balance or a total value of more than one million Swiss francs on 31 December of a year or on 31 December of a subsequent year, before the automatic exchange of information with a partner country becomes applicable.
- 2 The Swiss Federal Council may for a limited period of time define the term "participating jurisdiction" used in the applicable treaties in a broader sense than the treaties.

ARTICLE 3 Non-reporting financial institutions

- 1 As a non-reporting financial institution, which is a governmental entity, shall be deemed in particular:
 - a. the Swiss Confederation;
 - b. the Cantons and municipalities;
 - c. the bodies and representations which are wholly owned by an entity referred to in (a) or (b), in

⁴ SR **831.10**

⁵ SR **431.03**

particular the institutions, bodies and funds of the social security system at federal, cantonal and municipal level.

- 2 As a non-reporting financial institution, which is an international organization, shall be deemed in particular:
 - a. Partner organizations of an international Seat Agreement with the Swiss Confederation;
 - b. diplomatic missions, permanent missions or other representations at international organizations, consular missions or special missions whose status, privileges and immunities are defined in the Vienna Convention on Diplomatic Relations of 18 April 1961⁶, the Vienna Convention on Consular Relations of 24 April 1963⁷ or the Convention on Special Missions of 8 December 1969⁸.
- 3 As a non-reporting financial institution, which is a central bank, shall be deemed to be the Swiss National Bank and any entities wholly owned by it.
- 4 Financial institutions referred to in (1)-(3) shall be reporting financial institutions in respect of payments arising from a commitment relating to commercial financial activities which correspond to those of a specified insurance custodian bank or institution accepting deposits.
- 5 The following pension fund institutions shall be deemed a non-reporting financial institution, which is a broad participation retirement fund, a narrow participation retirement fund, a pension fund of a public legal entity, an international organization or a central bank or a legal entity with a low risk of being abused for tax evasion and which has essentially similar characteristics to those of non-reporting financial institutions under the applicable treaty, in particular:
 - a.⁹ Employee pension funds and other pension schemes that have been created in Switzerland based on Articles 48 and 49 of the Swiss Federal Act of 25 June 1982¹⁰ on Occupational Old Age, Survivors' and Invalidity Pension Provision (OPA), Article 89a (6) or (7) of the Swiss Civil Code (CC)¹¹ or Article 331(1) of the Code of Obligations (CO)¹²;
 - b. the vested benefit institutions that have been created in application of Articles 4(1) and 26(1) of the Vested Benefits Act (VBA) of 17 December 1993¹³;
 - c. the sheltering institution in accordance with Article 60 OPA;
 - d. the safety fund in accordance with the Articles 56-59 OPA;
 - e. benefit plans governed by Article 82 OPA;

⁶ SR **0.191.01**

⁷ SR **0.191.02**

⁸ SR **0.191.2**

⁹ See Article 41.

¹⁰ SR **831.40**

¹¹ SR **210**

¹² SR **220**

¹³ SR **831.42**

- f. investment foundations in accordance with Articles 53g-53k OPA, provided that all pension funds or other forms of pension schemes invested in the investment foundation are governed by (a)-(e).
- 6 If the applicable treaty does not provide a deadline, a credit card provider shall be deemed to be a qualified credit card provider and thus a non-reporting financial institution if it meets the requirements of the applicable treaty when this Act enters into force. If a credit card provider commences business activities after the entry into force of this Act, it shall be deemed to be a non-reporting financial institution if it fulfills the requirements of the applicable treaty no later than six months after commencing its business activities.
- 7 As a non-reporting financial institution, which is an exempted collective investment undertaking, shall be deemed Swiss collective investment schemes which are subject to the Collective Investment Schemes Act of 23 June 2006¹⁴ and meet the conditions laid down in the applicable treaty on participation in the collective investment undertaking and on share certificates structured as bearer securities. The Swiss Federal Council shall define the criteria according to which an undertaking for collective investment is deemed to be a non-reporting financial institution. It shall designate the undertakings.
- 8 If the applicable treaty does not provide for a time limit, collective investment undertakings shall be deemed to satisfy the conditions on unit certificates constituted as bearer securities if they:
- a. from the entry into force of this Act, do not issue shares in bearer form; and
 - b. have measures and procedures in place to ensure that shares issued in bearer form are either redeemed or no longer tradeable as soon as possible, but no later than two years after the entry into force of this Act.
- 9 If the applicable treaty provides for it, a trust shall be deemed to be a non-reporting financial institution if the trustee of the trust is a reporting financial institution that reports all information required to be reported in accordance with the applicable treaty on all of the reportable accounts of the trust.
- 10 As a non-reporting financial institution, which is a legal entity with a low risk of being misused for tax evasion and which has essentially similar characteristics to those of non-reporting financial institutions under the applicable treaty, shall be deemed to be condominium owners' associations established under Article 712(2) of the Civil Code. The Swiss Federal Council shall determine the criteria according to which a condominium owners' association is regarded as a non-reporting financial institution.
- 11 The Swiss Federal Council may designate other legal entities as non-reporting financial institutions if they are at low risk of being misused for tax evasion and have essentially similar characteristics to those of non-reporting financial institutions under the applicable treaty. It shall lay down the criteria according to which other legal entities are deemed to be non-reporting financial institutions.

¹⁴ SR 951.31

ARTICLE 4 Excluded accounts

- 1 As an excepted account, which is a retirement savings account or an account with a low risk of being misused for tax evasion and which has essentially similar characteristics to the exempted accounts under the applicable treaty, are deemed in particular:
 - a. accounts of occupational pension plans, including group insurance contracts that are maintained or held by one or more non-reporting Swiss financial institutions;
 - b. forms permitted to maintain benefit coverage, vested benefits policies and accounts that have been established on the basis of Articles 4(1) and 26(1) VBA¹⁵;
 - c. recognized forms of occupational pension plans, tied pension insurance at insurance institutions and tied pension agreements with bank foundations that have been established on the basis of Article 82(2) OPA¹⁶.
- 2 As excluded accounts with a low risk of being misused for tax evasion, which have essentially similar characteristics to the exempted accounts under the applicable treaty, are deemed in particular:
 - a. accounts that are maintained or held by one or more non-reporting Swiss financial institutions;
 - b. escrow accounts for rental security deposits as per Article 257e CO¹⁷.
- 3 The Swiss Federal Council may designate other accounts as excepted accounts if they are at low risk of being misused for tax evasion and have essentially similar characteristics to those of excepted accounts under the applicable treaty. It shall lay down the criteria according to which other accounts are deemed to be excepted accounts.

ARTICLE 5 Domicile of financial institutions in Switzerland

- 1 As financial institutions domiciled in Switzerland are deemed to be financial institutions that are liable to tax in Switzerland.
- 2 Financial institutions that are not domiciled in any state or territory for tax purposes are deemed to be domiciled in Switzerland, if they:
 - a. have been established according to Swiss law;
 - b. have the place of their management, including their actual administration, in Switzerland; or
 - c. are subject to Swiss financial market supervision.

¹⁵ SR **831.42**

¹⁶ SR **831.40**

¹⁷ SR **220**

- 3 If a financial institution is domiciled in Switzerland and one or more other states or territories, it shall be deemed to be a Swiss financial institution in respect of the financial accounts it maintains in Switzerland.
- 4 For the purposes of the applicable treaty and this Act, a financial institution in the form of a trust shall be deemed to be domiciled in Switzerland if at least one or more of the trustee(s) is domiciled in Switzerland. The domicile of the trustee shall be determined in accordance with (1)-(3).
- 5 The Swiss Federal Council shall determine the criteria according to which a financial institution is deemed to be resident within the meaning of (1). It shall also specify the tax-exempt financial institutions deemed to be resident within the meaning of (1).

ARTICLE 6 Agreements on data protection

If the applicable treaty provides that the informing authority may specify data protection provisions to be complied with by the receiving authority, the Swiss Federal Council may conclude agreements on data protection. The data protection provisions to be complied with must at least correspond to the level of protection of the Federal Act of 19 June 1992¹⁸ on Data Protection (DPA) and this Act.

Section 2: Common Reporting Standard (CRS)

ARTICLE 7 Application and further development of the AEOI Agreement

- 1 The rights and obligations of the reporting Swiss financial institutions within the framework of the implementation of the AEOI Agreement¹⁹ shall be governed by the Annex to the AEOI Agreement and by this Act.
- 2 The Swiss Federal Council may include amendments to the CRS in the Annex to the AEOI Agreement if these are of limited scope. It shall submit the remaining amendments to the Swiss Federal Assembly for approval.
- 3 Amendments of limited scope shall in particular be those which:
 - a. do not create new obligations or revoke existing rights for persons subject to reporting requirements and reporting Swiss financial institutions;
 - b. are primarily addressed to the authorities, regulate administrative-technical issues or do not incur significant financial expenses.

¹⁸ SR 235.1

¹⁹ SR 0.653.1

ARTICLE 8 Comments by the OECD

Changes to the OECD comments on the model agreement between the competent authorities and on the CRS shall be implemented for the reporting Swiss financial institutions only once they have been incorporated into a federal law, ordinance or directive of the Swiss Federal Tax Administration (SFTA).

ARTICLE 9 Facilitation in the fulfillment of reporting and due diligence obligations

- 1 Reporting Swiss financial institutions may:
 - a. involve third parties in the fulfillment of their reporting and due diligence obligations; however, they shall remain responsible for the fulfillment of their obligations;
 - b. apply the procedures applicable to high-value accounts to certain or all lower value accounts in order to fulfill their due diligence obligations;
 - c. apply the due diligence procedures applicable to new accounts to certain or all preexisting accounts; the other rules for preexisting accounts remain applicable;
 - d. waive verification, identification and reporting for certain or all preexisting accounts of legal entities if these accounts have a total balance or total value of no more than 250 000 Swiss francs as at 31 December before the automatic exchange of information with a partner country becomes applicable;
 - e. apply the residence address test or electronic records search for certain or all preexisting lower value accounts held by individuals in order to identify any reportable accounts;
 - f. in compliance with their due diligence obligations for Preexisting Accounts held by legal entities, use as evidence any classification in their records with respect to the account holder, as determined on the basis of a standardized national or international industry coding system and which they document in accordance with their customary business practice for the purposes of anti-money laundering procedures or for other legal purposes, except for tax purposes, and have this implemented before the date on which the financial account was classified as a preexisting account, unless they are not aware or should not have been aware that this classification is inaccurate or implausible;
 - g. treat as new accounts some or all financial accounts that are opened at the earliest at the date of entry into force of this Act; they may collect the foreign tax identification number when such account is opened.
- 2 They may determine the group of beneficiaries of a trust who are regarded as the controlling persons of the trust in the same way as the group of beneficiaries of a trust who are regarded as a reportable persons of the trust that is a financial institution. They must take appropriate organizational measures to ensure that they can identify distributions to beneficiaries.
- 3 The Swiss Federal Council shall determine which alternative provisions contained in the OECD commentary on the CRS shall apply.

ARTICLE 10 Specification of the general reporting duties

- 1 Where the balance or value of a financial account or other amount is expressed in a currency other than that used by the reporting Swiss financial institution in accordance with Article 12(4), the reporting Swiss financial institution shall convert the amount into the relevant currency using a spot rate. For the purpose of reporting an account, the reporting Swiss financial institution shall determine the spot rate on the last day of the calendar year or another suitable period for which the account is reported.
- 2 The Swiss Federal Council shall define the criteria based on which:
 - a. the amount and the classification of payments in favor of a reportable account are to be determined;
 - b. the different types of accounts are to be assigned to the categories of financial accounts defined in the applicable treaty.
- 3 If a person subject to the reporting obligation dies, the reporting Swiss financial institution shall treat his or her account in the same way as before the death until it is informed of the estate with its own legal personality or of the rightful heirs.

ARTICLE 11 Specification of the duties in respect of due diligence

- 1 A self-certification shall be valid until a change in the circumstances occurs, on the basis of which the reporting Swiss financial institution is or should have been aware that the self-certification is inaccurate or implausible.
- 2 Existing accounts of natural persons must be verified from the start of the applicability of the automatic exchange of information with a partner country within the following deadlines:
 - a. High-value accounts: within one year;
 - b. Lower value accounts: within two years.
- 3 Preexisting entity accounts must be verified within two years of the start of the automatic information exchange with a partner country.
- 4 The reporting Swiss financial institution may apply the deadlines set out in (2) and (3) from the entry into force of this Act.
- 5 An address collected with a form indicating that the provision of false information is punishable by law on the basis of Articles 3 and 4 of the Anti-Money Laundering Act of 10 October 1997²⁰ (AMLA) shall be deemed to be evidence-based in the home address procedure.
- 6 For the following preexisting individual accounts, the address entered in the documents of the reporting Swiss financial institution as part of the residence address test is considered current:

²⁰ SR 955.0

- a. For accounts that are considered to be dormant accounts as per Article 37I(4) of the Banking Act of 8 November 1934²¹;
 - b. for accounts other than annuity insurance contracts, if:
 1. the account holder has not made any transactions in relation to this or any other of his or her accounts with the reporting Swiss financial institution in the last three years,
 2. the account holder has not had any contact with the reporting Swiss financial institution maintaining this account in relation to this or any other of his or her accounts with this financial institution in the last six years, and
 3. in the case of a surrenderable insurance contract, the reporting Swiss financial institution has not had any contact with the account holder in relation to this or any other account of this person with this financial institution in the last six years.
- 7 Reporting Swiss financial institutions must take appropriate organizational measures to ensure that they have all the information that must be collected under the applicable treaty and this Act when opening an account, in particular, that the self-certification is granted.
- 8 If, 90 days after the opening of a new account, a reporting Swiss financial institution does not receive the name, address and date of birth of the account holder and the controlling persons, it shall close the account. It shall be conceded an extraordinary right of termination. Article 9 AMLA shall remain applicable.
- 9 If the information required by the applicable treaty and this Act is not available to a reporting Swiss financial institution 90 days after the opening of a new account, the account shall remain blocked for all inflows and outflows until all information has been received. The reporting Swiss financial institution may extend the period from 90 days to a maximum of one year if there are special reasons for the non-provision of the information.
- 10 The Swiss Federal Council shall regulate the exceptions to (8) and (9).

ARTICLE 12 Specification of the particular duties in respect of due diligence

- 1 An account with a negative balance or value shall be considered to be an account with a balance or value of zero.
- 2 The Swiss Federal Council shall determine the amounts in Swiss francs corresponding to the amounts in US dollars in the applicable treaty and in the applicable alternative provisions of the OECD commentary on the CRS.
- 3 It may adjust the amounts referred to in Article 2(1)(k) and (l) and Article 9(1)(d) if special circumstances so require.

²¹ SR 952.0

- 4 Reporting Swiss financial institutions may choose to apply the amounts in US dollars or Swiss francs. The choice then applies to all accounts of the financial institution and can be changed as at 1 January of the following year.

Section 3: Registration obligation of the reporting Swiss financial institutions

ARTICLE 13

- 1 Anyone who becomes a reporting Swiss financial institution under a treaty in accordance with Article 1(1) and this Act shall register with the SFTA at its own initiative.
- 2 In the application, the reporting Swiss financial institution must indicate:
 - a. its name or legal name and its registered office or place of residence; if it is a legal person or a company without legal personality with its registered office abroad or a sole proprietorship with its registered office abroad, the name or legal name, the place of its principal place of business and the address of its domestic management must be indicated;
 - b. the UID;
 - c. the type of activity;
 - d. the date on which it commenced activities.
- 3 If the status as a reporting Swiss financial institution ends according to a treaty in accordance with Article 1(1) and according to this Act or if business activities are discontinued, the financial institution must deregister from the FTA at its own initiative.

Section 4: Information obligation of the reporting Swiss financial institutions

ARTICLE 14

- 1 Reporting Swiss financial institutions shall inform the reportable persons directly or through their contractual party at the latest by 31 January of the year in which information concerning them is first transmitted to a partner country on:
 - a. its status as a reporting Swiss financial institution;
 - b. the treaties referred to in Article 1(1) and their content, in particular the information to be exchanged under the treaties;

- c. the list of Switzerland's partner states and the place of publication of the updated list;
 - d. the use of this information as permitted under the treaties referred to in Article 1(1);
 - e. the rights of the persons subject to reporting requirements under the DPA²² and this Act.
- 2 For accounts subject to reporting requirements that have been closed, the information shall be sent once to the last known address. The information may be omitted for accounts meeting the criteria referred to in Article 11(6)(a) or (b).
 - 3 The reporting Swiss financial institutions shall publish a list of Switzerland's partner states on their website annually updated on 31 January or refer to the list of the Swiss Federal Department of Finance (FDF).
 - 4 Upon request, the reporting Swiss financial institution shall send a copy of the report to the holder of the account that is the subject of the report.

Section 5: Reporting obligations and authorization to report

ARTICLE 15 Transmission and use of information

- 1 The reporting Swiss financial institutions shall electronically transmit to the SFTA the information to be provided under the applicable treaty and the information on their undocumented accounts once a year within six months of the end of the calendar year concerned. If a reporting Swiss financial institution has no accounts subject to reporting requirements, it shall report this fact to the FTA within the same deadline.
- 2 The SFTA shall transmit the information submitted to it by the reporting Swiss financial institutions in accordance with the applicable treaty to the competent authorities of the partner countries within the deadlines laid down in the applicable treaty.
- 3 It shall draw the attention of the competent authorities of the partner states to the restrictions on the use of the information transmitted and to the confidentiality obligations under the provisions on administrative assistance of the applicable treaty.
- 4 If the applicable treaty provides that information transmitted in the context of the automatic exchange of information may be used by the receiving authority for purposes other than tax purposes or may be transmitted by the receiving authority to a third country, provided that the competent authority of the state which transmitted the information consents to such use or transmission, the FTA shall give its consent after appropriate review. If the information is to be passed on to prosecuting authorities, the FTA shall give its consent in agreement with the Swiss Federal Office of Justice.

²² SR 235.1

- 5 Information transmitted to the FTA in accordance with (1) may only be re-used for the application and enforcement of Swiss tax law if it could have been obtained under Swiss law.

ARTICLE 16 Statute of limitation

- 1 The requirement that the reporting Swiss financial institution submit its report shall expire five years after the calendar years have lapsed in which the report had to be submitted.
- 2 The statute of limitation shall be interrupted with each official act directed at enforcing the filing of the report made known to a reporting Swiss financial institution. With the interruption, the statute of limitation shall begin anew.
- 3 The statute of limitation becomes effective at the latest ten years after the calendar year has elapsed in which the report had to be transmitted.

ARTICLE 17 Trust deemed to be a reporting financial institution in another country

If a trust is deemed to be a reporting financial institution in another country under its law, any trustee resident in Switzerland shall be authorized to submit the report on behalf of the trust to the competent authority of that country.

Section 6: Rights and obligations of persons subject to reporting requirements

ARTICLE 18 Notification duty in the event of a change in circumstances in the case of self-certifications

Anyone who has provided personal information in accordance with the applicable treaty and this Act must notify the reporting Swiss financial institution of any change in circumstances and provide the newly applicable information by way of a self-certification.

ARTICLE 19 Data protection claims and procedures

- 1 In regard to information collected by reporting Swiss financial institutions and its transmission to the competent authorities of the partner states, the persons subject to reporting requirements shall have the rights under the DPA²³.
- 2 With respect to the FTA, persons subject to reporting requirements may invoke only their right to information and demand that erroneous data based on incorrect transmissions be corrected. Should the transmission of the data entail disadvantages for the persons subject to the reporting obligation which cannot be expected of them due to the lack of guarantees under the rule of law, they shall be entitled to the rights under Article 25a of the Administrative Procedure Act of 20 December 1968²⁴.

²³ SR **235.1**

²⁴ SR **172.021**

- 3 If the information submitted to the competent authority of a partner state is corrected as a result of a legally binding decision, the reporting Swiss financial institution shall submit the corrected information to the FTA. The latter shall forward the corrected information to the authority concerned.

Section 7: Information automatically transmitted from abroad

ARTICLE 20 Use of the Swiss tax identification number for natural persons

Reporting financial institutions and the competent authorities of a partner state shall use the OASI insurance number for the transmission of the information required for the automatic exchange of information concerning natural persons.

ARTICLE 21 Forwarding of information

- 1 For the purpose of applying and enforcing Swiss tax law, the FTA shall forward information automatically transmitted to it by other states to the Swiss authorities responsible for levying and collecting the taxes falling within the scope of the applicable treaty. It shall point out to these authorities the restrictions in the use of the information and confidentiality requirements that apply as per the provisions on administrative assistance of the applicable treaty.
- 2 It shall forward the information automatically transmitted by another state to other Swiss authorities to which the information is of interest, provided that this is permissible under the applicable treaty and provided for under Swiss law. It shall seek the agreement of the competent authority of the informing State, where appropriate.

Section 8: Organization and proceedings

ARTICLE 22 Duties of the Swiss Federal Tax Administration (SFTA)

- 1 The SFTA shall ensure the correct application of the applicable treaty and of this Act.
- 2 It shall issue regulations and take all decisions necessary for the implementation.
- 3 It may require the use of specific forms and may request that certain forms are submitted in electronic form exclusively.
- 4 It may issue directives. These shall be based on the OECD comments on the model agreement between the competent authorities and on the CRS.

ARTICLE 23 Processing of data

- 1 Based on applicable treaties and this Act, the SFTA may process personal data, including information on administrative or criminal proceedings and tax-related penalties in order to fulfill its tasks.
- 2 It may systematically use tax identification numbers (TIN) as per Article 2(1)(f)-(h) for the fulfillment of its tasks, based on applicable treaties and this Act.

ARTICLE 24 Information system

- 1 The SFTA shall maintain an information system to process personal data, including personal data on administrative or criminal proceedings and tax-related penalties that it has received based on of the applicable treaties and this Act.
- 2 The data may be processed solely by SFTA employees or by experts monitored by the SFTA.
- 3 The information system shall serve the SFTA to fulfill its duties in accordance with the applicable treaties and this Act. Namely, it may be use to:
 - a. receive and transmit information in accordance with the applicable treaties and Swiss law;
 - b. maintain a register of reporting Swiss financial institutions;
 - c. process judicial proceedings in connections with the applicable treaties and this Act;
 - d. carry out reviews in accordance with Article 28;
 - e. impose and enforce administrative and criminal sanctions;
 - f. process requests for administrative and legal assistance;
 - g. fight tax offenses;
 - h. prepare statistics.
- 4 The Swiss Federal Council shall define the specificities, in particular on:
 - a. the organization and management of an information system;
 - b. the categories of the processed personal data;
 - c. the catalog of data on administrative and criminal prosecutions and sanctions;
 - d. access and modification rights;
 - e. the retention period, storing and destruction of data.

- 5 The SFTA may grant the Swiss authorities to which it transmits information pursuant to Article 21(1) access to the data in the system which they require in order to fulfill their statutory tasks. The Swiss Federal Council shall define to which authorities the SFTA may grant access to which data.

ARTICLE 25 Duty to provide information

Persons and authorities to whom the SFTA transmits information received from abroad in accordance with the applicable treaties and this Act, as well as Swiss financial institutions, must provide the SFTA with information on all facts relevant to the implementation of the treaties and this Act.

ARTICLE 26 Duty of confidentiality

- 1 Persons entrusted with or otherwise involved in the enforcement of an applicable treaty or this Act shall maintain the information gained in the course of their work confidential towards other authorities and private individuals.
- 2 Professional secrecy does not apply:
 - a. to the transmission of information or to publications in accordance with the applicable treaty and this Act;
 - b. to judicial and administrative bodies, which the FDF has authorized to obtain official information from the authorities entrusted with the enforcement of this Act in individual cases;
 - c. if the applicable treaty permits the lifting of professional secrecy and the Swiss law provides a legal basis for this lifting.
- 3 Findings on third parties made in the course of a review as per Article 28 may be used only for the implementation of the applicable treaty.

ARTICLE 27 Statistics

- 1 The SFTA shall publish the statistics required for the country review of the Global Forum on Transparency and Information Exchange for Tax Purposes.
- 2 There exists no right to access data that goes beyond the information published in accordance with (1).

ARTICLE 28 Review

- 1 The SFTA shall review whether the Swiss financial institution have fulfilled their duties as per the applicable treaties and this Act.
- 2 To clarify the circumstances, it may:
 - a. engage in on-site inspections or demand the handover of the financial institution's accounting records, receipts or other documents;

- b. obtain written or verbal information.
- 3 If it determines that a financial institution did not assume or only inadequately assumed its duties, said entity is given the opportunity to comment on the detected deficiencies.
 - 4 If the financial institution and the SFTA cannot reach an agreement, the SFTA shall issue a ruling.
 - 5 Upon request, the SFTA shall issue a declaratory ruling on:
 - a. the capacity as financial institution based on the applicable treaties and this Act;
 - b. the content of the reports based on the applicable treaties and this Act.

ARTICLE 29 Applicable procedural law

Unless this Act provides otherwise, the Administrative Procedure Act of 20 December 1968²⁵ shall apply.

ARTICLE 30 Rights of appeal

- 1 An appeal may be lodged in writing against orders of the SFTA in accordance with Articles 22-29 within 30 days of their opening.
- 2 The appeal shall contain the requests and state the facts serving as justification.
- 3 If a valid appeal has been raised, the FTA shall review the decision without relation to the applications filed and issue a reasoned appeal decision.
- 4 The appeal decision shall be subject to objection under the general provisions on the Swiss federal judiciary organization.

Section 9: Suspension and termination

ARTICLE 31

The competent Swiss authority shall act only with the Swiss Federal Council's approval if it, based on the applicable treaty:

- a. suspends or terminates the automatic exchange of information with a partner state;
- b. terminates the treaty.

²⁵ SR 172.021

Section 10: Penal provisions

ARTICLE 32 Breach of reporting and due diligence obligations

A fine of up to CHF 250,000 shall be imposed on any person who willfully:

- a. violates the due diligence obligations set out in the applicable treaty and in Articles 9-12 regarding the review of accounts and the identification of persons subject to reporting requirements;
- b. violates the registration obligation stipulated in Article 13.
- c. violates the information obligation stipulated in Article 14(1) and (3);
- d. violates the reporting obligation stipulated in Article 15(1).

ARTICLE 33 Violation of administrative orders

Anyone who, in the course of a review as per Article 28, intentionally fails to comply with an official ruling addressed to it, shall be liable to a fine of up to 50 000 Swiss francs.

ARTICLE 34 Violations in business operations

If the fine would amount to a maximum of 50 000 Swiss francs and if the determination of the punishable persons as per Article 6 of the Federal Act on Administrative Criminal Law (ACLA) of 22 March 1974²⁶ were to result in investigative measures disproportionate to the penalty, the persecution of these persons may be abandoned and in their stead, the business operation (Article 7 ACLA) may be sentenced to paying the fine.

ARTICLE 35 Incorrect self-certification

A fine of up to CHF 10 000 shall be imposed on anyone who deliberately provides a Swiss financial institution with false information about themselves, does not communicate changes in circumstances or provide false information about changes in circumstances.

ARTICLE 36 Self-declaration

- 1 If the offender reports a breach of duty at his or her own initiative, he or she shall remain unpunished if he or she:
 - a. has provided complete and accurate information on the actual scope and content of the commitments;
 - b. has contributed to the clarification of the case's facts and to the fulfillment of duties; and
 - c. has never before made a voluntary disclosure for a deliberate violation of the same kind.

²⁶ SR 313.0

2 The impunity of the offender shall also have an effect on the participants.

ARTICLE 37 Procedures

1 For the prosecution and assessment of violations of this Act, the ACLA²⁷ applies.

2 The SFTA is the prosecuting and sentencing authority.

ARTICLE 38 Selection of partner countries

The Federal Council analyzes the data protection provisions applicable in the possible partner countries and the possibilities for regularization before submitting the introduction of an automatic exchange of information with these countries to the Federal Assembly. The Federal Council shall summarize the results of said analysis in its Dispatch.

Section 11: Final provisions

ARTICLE 39 Approving powers

The Federal Assembly shall approve by simple federal decision:

- a. the inclusion of a country or territory on the list referred to in Section 7(1)(f) of the AEoI Agreement²⁸.
- b. international treaties falling within its competence with countries to be included on this list, on market access for financial service providers and on the regularization of the tax situation of taxpayers.

ARTICLE 40 Repeal of another ordinance

...²⁹

ARTICLE 41 Coordination with the amendment of 25 September 2015 of the Swiss Civil Code (personnel pension plan foundations)

With the entry into force of the amendment of 25 September 2015³⁰ of the Civil Code³¹ (personnel pension plan foundations), Article 3(5)(a) of this Act reads as follows:

...³²

²⁷ SR **313.0**

²⁸ SR **0.653.1**

²⁹ This amendment may be seen in AS **2016** 1297.

³⁰ AS **2016** 935

³¹ SR **210**

³² Inserted above.

ARTICLE 42 Referendum and entry into force

1 This Act is subject to an optional referendum.

2 The Swiss Federal Council is to determine the date upon which this Act enters into force.

Date of entry into force:³³ 1 January 2017

Article 39: 27 May 2016

³³ Federal Council Decree of 20 April 2016

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