

Automatic exchange of information (AEOI)

Switzerland

On 1 January 2017 the legal basis for introducing the automatic exchange of information (AEOI) entered into force in Switzerland. This factsheet provides you with the main information you need regarding the reporting of client data under international AEOI within the meaning of Art. 14 of the AEOI Act.

What is AEOI all about?

The AEOI is an international standard that has been drawn up by the Organisation for Economic Cooperation and Development (OECD). It governs how tax authorities in the participating countries exchange data on bank accounts and securities accounts. The aim is to make cross-border tax evasion impossible.

More than 100 countries and jurisdictions have already committed to introducing the AEOI. The United States remains an exception, as it has its own standard (FATCA).

Switzerland is a participating country. On 1 January 2017, the Swiss Federal Act on the International Automatic Exchange of Information in Tax Matters (AEOI Act) came into effect.

What role does VP Bank (Switzerland) Ltd play?

VP Bank (Switzerland) Ltd (hereinafter "the Bank") is a reporting Swiss financial institution under the AEOI Act. The Bank is legally obliged to determine and document the residence(s) for tax purposes of its clients and, where necessary, to report specific data to the Swiss Federal Tax Administration (FTA).

Who is affected by AEOI?

The AEOI affects reportable financial accounts held by "reportable persons". These are natural persons and entities (such as corporations, partnerships, foundations, trusts, etc.) that are resident for tax purposes in countries with which Switzerland has signed an AEOI agreement (partner countries).

Also subject to reporting requirements are natural persons domiciled in partner countries who exercise control over an entity considered to be a passive non-financial entity (NFE), such as shareholders, beneficial owners, settlors, beneficiaries, etc. (controlling persons).

However, the AEOI does not affect persons who are subject to unlimited tax liability solely in Switzerland and are either account holders or controlling persons in a passive NFE with a client relationship with the Bank.

With which partner countries does Switzerland exchange information?

As at 1 January 2017, AEOI agreements with the European Union (for all member states including Gibraltar), with Australia, Canada, Guernsey, Iceland, Isle of Man, Japan, Jersey, Norway and South Korea had come into effect in Switzerland. In 2018, Switzerland will provide these jurisdictions for the first time with client and account data relating to 2017.

Over the years, additional partner countries will be added (always with effect from 1 January). The first exchange of information then takes place the following year.

The continuously updated list of Switzerland's partner countries is available on the website of the State Secretariat for International Financial Matters (SIF):

<https://www.sif.admin.ch/sif/en/home/themen/informati-onaustausch/automatischer-informationsaustausch/automatischer-informationsaustausch1.html>

What information is exchanged?

For a client whose residence for tax purposes is in a partner country, the Bank is required to report to the FTA both personal data and data on the reportable accounts.

Personal data includes the name, address, country of residence for tax purposes, tax identification number and date of birth of the account holder, beneficial owner or controlling person.

Data on reportable accounts include the name of the financial institution where the account is held, the account number, the total gross amount of dividends, interest and other income, the total gross proceeds from the sale or redemption of financial assets and the aggregate balance or value of the account at the end of the respective calendar year.

If an account has been closed, the amounts accumulated up to the time of the closure and the fact of the closure are reported.

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What rights do reportable persons have?

If you are a reportable person, you have the following rights pursuant to the AEOI Act and the Swiss Federal Act on Data Protection (FADP):

1. Vis-à-vis VP Bank (Switzerland) Ltd

You are entitled to the full extent of legal protection offered by the FADP towards the Bank. In particular, you have the right to know what information has been collected about you and will be reported to the FTA.

The Bank must provide you with a copy of its report to the FTA on request. In this regard, it must be noted that the information about you that is collected and reported may differ from your tax-relevant information.

Moreover, you are also entitled to request that incorrect data in the Bank's systems be corrected.

2. Vis-à-vis the SFTA

Your only rights with regard to the FTA are the right to access information and the right to request that incorrect data resulting from errors in the exchange process be corrected.

If the exchange of information would result in disadvantages for you that are not conscionable due to a lack of constitutional guarantees, you would have the rights set out in Article 25a of the Federal Act on Administrative Procedure.

You do not have the right to access FTA records. This means that, with regard to the FTA, you do not have the right to block the disclosure of personal details. In addition, you are not entitled to have the legality of forwarding information outside Switzerland reviewed or to block any illegal forwarding and/or to demand the destruction of data processed without a sufficient legal basis.

Where can I find further information?

You can find useful information on the OECD website and in particular also on the website of the State Secretariat for International Financial Affairs (SIF):

<http://www.oecd.org/tax/automatic-exchange/>

<https://www.sif.admin.ch/sif/de/home/themen/informati-onaustausch/automatischer-informationsaustausch.html>

Important note:

VP Bank (Switzerland) Ltd does not offer tax or legal advice in connection with AEOI. We recommend that clients who are affected by AEOI clarify any tax issues with a specialist. Furthermore, the AEOI and the reports of the Bank do not replace the declaration and reporting obligations of clients.