

Switzerland

Switzerland has met all aspects of the terms of reference (OECD, 2021^[1]) (ToR) for the calendar year 2022 (year in review), except for the timely exchange of information on past and future rulings (ToR II.B.6). Switzerland receives one recommendation on this point for the year in review.

In the prior year report, Switzerland had received the same recommendation. Efforts have been made during the year in review to address the recommendation, but as the issue has not yet been fully resolved, the recommendation remains in place.

Switzerland can legally issue four types of rulings within the scope of the transparency framework.

In practice, Switzerland issued rulings within the scope of the transparency framework as follows:

Type of ruling	Number of rulings
Past rulings	883 ¹
Future rulings in the calendar year 2017	300
Future rulings in the calendar year 2018	228
Future rulings in the calendar year 2019	293
Future rulings in the calendar year 2020	214
Future rulings in the calendar year 2021	234
Future rulings in the year in review	282

Peer input was received from five jurisdictions in respect of the exchanges of information on rulings received from Switzerland. The input was generally positive, noting that overall information was complete and in a correct format. However, one peer indicated that exchanges on rulings were not timely.

Information gathering process (ToR I.A)

1166. Switzerland can legally issue the following four types of rulings within the scope of the transparency framework: (i) preferential regimes;² (ii) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; (iii) permanent establishment rulings; and (iv) related party conduit rulings.

1167. For Switzerland, past rulings are any tax rulings within scope that are issued on or after 1 January 2010 until 31 December 2016, provided they were still in effect as at 1 January 2018. For Switzerland, future rulings are any tax rulings within scope that are issued on or after 1 January 2017, provided they are still in effect on or after 1 January 2018.

1168. In the prior year's peer review reports, it was determined that Switzerland's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that Switzerland's review and supervision mechanism was sufficient to meet the minimum standard. Switzerland's implementation remains unchanged, and therefore continues to meet the minimum standard.

1169. Switzerland has met all of the ToR for the information gathering process and no recommendations are made.

Exchange of information (ToR II.B)

Legal basis for spontaneous exchange of information (ToR II.B.1, II.B.2)

1170. Switzerland has the necessary domestic legal basis to exchange information spontaneously. Switzerland notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

1171. Switzerland's international agreement permitting spontaneous exchange of information is the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[2]) ("the Convention").³ The necessary domestic and international legal framework for spontaneous exchange of information entered into force on 1 January 2017, allowing for exchanges from 1 January 2018.

Completion and exchange of templates (ToR II.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

1172. In the prior years' peer review reports, it was determined that Switzerland's process for the completion and exchange of templates met all the ToR, except for timely exchange of information on past and future rulings (ToR II.B.6).

1173. For the year in review, the timeliness of exchanges is as follows:

Past rulings within the scope of the transparency framework	Number of exchanges transmitted by 31 December 2022	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2022	Reasons for the delays	Any other comments
	1 ⁴	0	N/A	N/A
Future rulings within the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments

	361	32	N/A	N/A
Total	362	32		

Follow-up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0		

1174. Similar to the prior year's report, Switzerland encountered delays with the exchange of information on one past ruling and future rulings due to legal impediments and modernisation of the SEOI platform. Switzerland notes that it has further improved its IT system (CTS implementation), including an automatic periodical approval of rulings on the SEOI platform. Despite Switzerland's efforts, there were still delays during the year in review. Therefore, the recommendation remains in place and the situation will be further reviewed during next year's peer review.

1175. Switzerland still encountered delays regarding the exchange of information on past and future rulings. Therefore, the recommendation to continue to ensure that all information on past and future rulings is exchanged as soon as possible (ToR II.B.6) remains in place.

Conclusion on section B

1176. Switzerland has met all of the ToR for the exchange of information process except for the timely exchange of information on past and future rulings (ToR II.B.6). Switzerland is recommended to continue to ensure that all information on past and future rulings is exchanged as soon as possible.

Statistics (ToR IV.D)

1177. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Ruling related to a preferential regime	6	<i>De minimis</i> rule applies
Cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles	257	Antigua and Barbuda, Australia, Austria, Barbados, Belgium, Brazil, Canada, China (People's Republic of), Curaçao, Cyprus, Denmark, Germany, Greece, Estonia, France, Guernsey, Hong Kong (China), India, Ireland, Israel, Italy, Jersey, Japan, Korea, Liechtenstein, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Nigeria, Norway, Panama, Poland, Russia, San Marino, Singapore, Spain, South Africa, Sweden, United Kingdom
Permanent establishment rulings	48	Barbados, Brazil, Canada, Colombia, Denmark, Germany, Finland, Hong Kong (China), Hungary, Italy, Liechtenstein, Luxembourg, Mauritius, Netherlands, Spain, United Kingdom
Related party conduit rulings	0	
Total	311	

Matters related to intellectual property regimes (ToR I.A.1.3)

1178. In the prior years' peer review report, it was determined that Switzerland's information gathering and exchange of information processes for matters related to intellectual property regimes⁵ were sufficient

to meet the minimum standard. Switzerland's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Switzerland experienced delays in the exchange of information on past and future rulings.	Switzerland is recommended to continue to ensure that all information on past and future rulings is exchanged as soon as possible. This recommendation remains unchanged since the 2019, 2020 and 2021 peer review reports.

References

- OECD (2021), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241190-en>. [3]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115606-en>. [2]

Notes

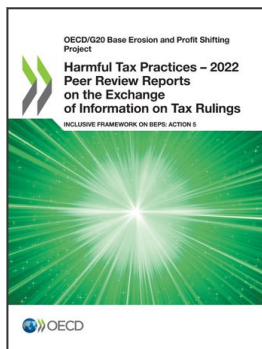
¹ Out of these 883 rulings, 225 fall in two or more categories.

² Patent box.

³ Participating jurisdictions to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm.

⁴ Switzerland had one exchange of a past ruling that was issued in 2015 and only identified in 2021 because of various changes of personnel in one of the cantons. Switzerland notes that this was an exceptional case.

⁵ Patent box.



From:

Harmful Tax Practices – 2022 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/22bbeacc-en>

Please cite this chapter as:

OECD (2023), “Switzerland”, in *Harmful Tax Practices – 2022 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/a724b99f-en>

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.