SwissBanking

April 2018

Swiss private banking – regulatory competitiveness benchmarking

SBA Working Group Benchmarking

Contents

Summary

Key findings and messages

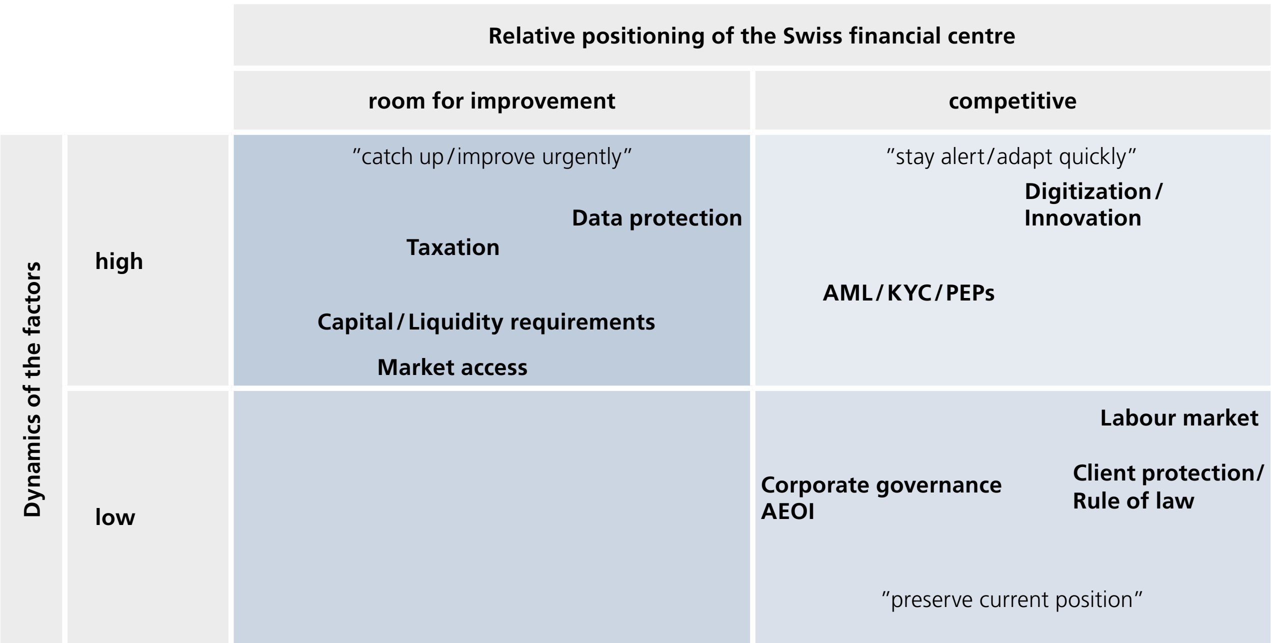
- Switzerland remains the world's leading provider of cross-border wealth management services. This leading position must be maintained and further strengthened. As part of this process, Switzerland should build on the traditional values that have enabled the Swiss financial centre to attain its leading position.
- Swiss Banks are strongly committed to maintaining their leading position in wealth management for private clients. In order to achieve this overarching goal, the current attractiveness of the Swiss financial centre as a location should be preserved and further improved with due care. Both market participants and policymakers need to make substantial efforts and follow pragmatic approaches in various areas relating to competitiveness in order to contribute to the strengthening of the Swiss financial centre.
- **Competitive/locational factors:** Swiss policymakers should refrain from proposals and actions that could lead to the deterioration of the attractiveness of the Swiss financial centre and business location. Measures are needed to preserve and further increase tax attractiveness, maintain a liberal and efficient labour system that facilitates access to highly skilled employees, and to preserve the traditional values of the Swiss financial centre, such as data protection and infrastructure efficiency.
- **International standards:** The Swiss financial sector is one of the most strictly regulated sectors of the Swiss economy. Swiss banks rely on lean, efficient and pragmatic regulation. Switzerland goes beyond internationally-established standards in many areas. Swiss banks are committed to a rapid and compliant implementation of all relevant international standards and have made constructive contributions towards this goal. The Swiss authorities should systematically exploit the room available for differentiation, and refrain from introducing rules that go beyond international standards ("Swiss finish"/gold plating).

Fig. 1

Framework conditions private banking
Relative positioning of Switzerland

Fig. 2

Action points to strengthen competitiveness



Background of the analysis

- The aim of the Working Group[1] was to conduct a benchmarking analysis to assess the competitiveness of Swiss private banking in comparison with key international competitors.
- In addition to Switzerland, the following financial centres were included in the benchmarking assessment as key competitors in terms of cross-border private banking: the Bahamas, Germany (Frankfurt), United Kingdom (London), Guernsey/Jersey, Hong Kong, Luxembourg, mainland China, Singapore, the United Arab Emirates (Dubai) and the United States (New York/Miami).

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- In order to conduct a general comparison, a set of ten different factors (including both factors for which international standards exist as well as traditional locational/competitive factors) that are of high importance for the private banking business were selected: Automatic Exchange of Information, AML/KYC/PEPs, capital and liquidity requirements, corporate governance, client protection in light of the rule of law, digitization (innovation), market access (ability to export services and attractiveness for foreign providers), taxation, labour market and data protection.
- As to the methodology applied for the analysis, the Working Group considered a very large number of existing, publicly available indices and studies related to the above-mentioned success factors, in order to create a consolidated view of all factors and the respective positioning of the competing financial centres. Particular attention was also paid to the weighting of the different indicators that were considered to elaborate the specific rankings. Due to the many different approaches used in the underlying indices and studies, the exercise necessitated choices regarding the ranking methodology to be made, and this was done with the full agreement of all working group members, but remains, to some extent, empirical. The consolidated view for all analysed factors (graphic or tabular illustration) is aimed at highlighting specific areas for action, both for policymakers and market participants.

Factor 1: AEOI

Background and significance

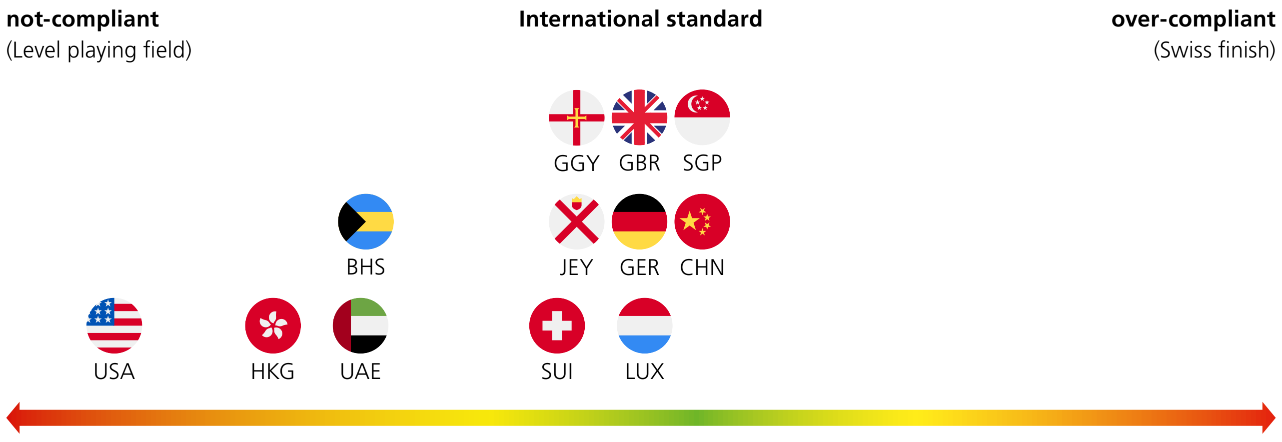
- The OECD's international AEOI standard governs how tax authorities in participating countries exchange data relating to financial account information of taxpayers. The primary objective is to prevent cross-border tax evasion.
- The member countries of the G20, the OECD and many other countries, which total over 100 jurisdictions, have committed to implementing AEOI. The US, which is implementing its own standard (FATCA), is an exception.

Positioning of the Swiss financial centre

- Compared to other peer jurisdictions, Switzerland was prompt to establish the legal framework required for collecting and exchanging data.
- The Swiss AEOI network is comparable to that of many G20 and EU member states (including direct competitors). Due to the Swiss parliamentary process, Switzerland will only start exchanging information with certain important G20 states a year later, in 2019. Other countries that use the "wider approach" (such as Singapore and Hong Kong) are in a position to expand their respective networks of agreements rapidly, since their agreements are not subject to parliamentary approval. Overall, Switzerland is generally well positioned, even if lagging only slightly behind other peer jurisdictions.
- In contrast, the US still lags far behind other peer jurisdictions due to its reluctance to adopt the OECD standard. FATCA is significantly less reciprocal than the CRS, since the US does not exchange information on the controlling persons of legal entities.

Fig. 3

AEOI



Key messages

Swiss banks are fully committed to implementing the AEOI and other tax-related international standards. Switzerland is particularly affected by the AEOI, as almost one-quarter of the world's cross-border private wealth is managed in Switzerland. Therefore, data protection and data security during the effective exchange of information as well as in the respective recipient states are of paramount importance for Swiss banks. At the same time, appropriate pressure should be kept on the US to align its standard with the OECD's provisions in order to achieve a truly level playing field. All jurisdictions must implement the same standard if the fight against tax evasion is to be successful.

Factor 2: AML / KYC / PEPs

Background and significance

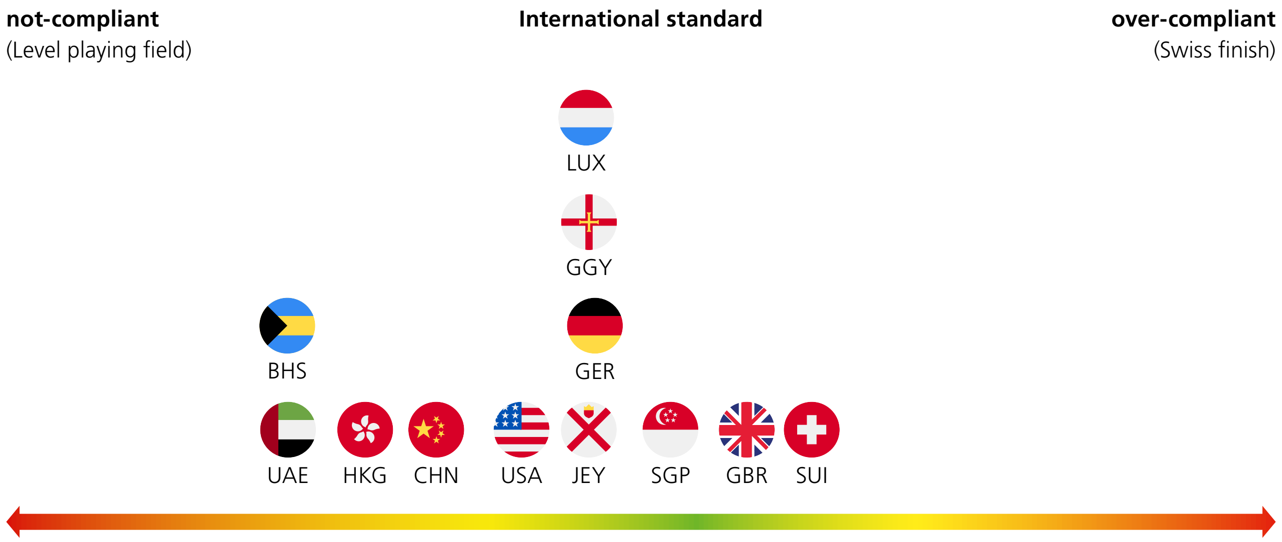
- In recent years, banks have experienced increasingly stringent regulations on anti-money-laundering (AML). The regulatory expectations are constantly evolving due to international developments, and financial institutions must ensure their AML / KYC / PEP frameworks are in step with each new adjustment.
- At the international level, the FATF conducts so-called mutual examinations of the various member states in order to assess the implementation of its recommendations. Following the mutual examinations, the FATF publishes mutual evaluation reports.

Positioning of the Swiss financial centre

- Switzerland's overall performance in the FATF's fourth mutual evaluation report was good. No significant gap was identified and Switzerland's results were above average in comparison to the other countries that had already undergone evaluation. At the same time, the Global Forum's Peer Review Phase 2 reports place Switzerland in the middle of its peers when considering the availability of information.
- In addition, among the peers rated by Long Finance, Switzerland has also received an above-average rating for its effectiveness in combatting financial crime, lagging only behind the UK.
- Overall and when compared with its peers (where data is available), Switzerland appears well-positioned in the fight against financial crime.

Fig. 4

AML / KYC / PEPs



Key messages

Switzerland has strict rules aimed at preventing money laundering and terrorist financing and Swiss banks implement the FATF's international standards with due care. Nevertheless, certain reforms may be necessary to fully eliminate the shortcomings identified in the FATF and Global Forum evaluations in order to maintain Switzerland's good standing.

Factor 3: Capital and liquidity requirements

Background and significance

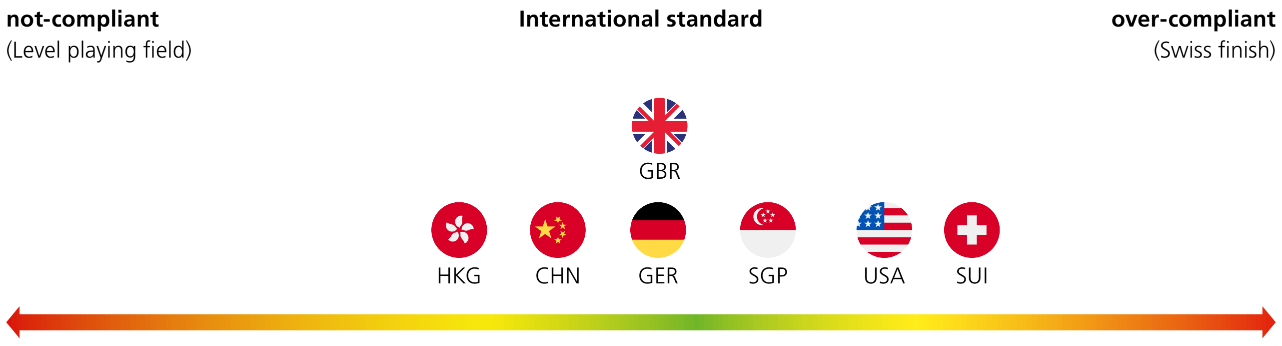
- Since the 2008 financial crisis, the stability of financial markets has become a high priority for governments. The proper functioning of the financial system helps to maintain and improve the appeal of a financial centre as a business location in the medium and long term. In this context, other stability risks that do not arise directly from systemically important banks must also be taken into account. This is particularly relevant in countries with financial institutions that are large both in international comparison and in terms of the size of the country's economy (such as Switzerland, Luxembourg, etc.).
- In addition, from a bank's perspective, adequate capital is a prerequisite for conducting banking activities, in accordance with both a bank's own internal assessment and regulatory requirements. Maintaining a strong capital position and sound capital ratios at all times supports the growth of a bank's businesses and helps to meet potential regulatory changes to capital requirements in the future.

Positioning of the Swiss financial centre

- Overall and when compared with its peers (where data is available), Switzerland is an early adopter with a tendency to gold-plate. This is also reflected in the goal of the Swiss government, national bank and supervisory authority that Switzerland "should be among the international leaders" regarding capital requirements.
- Among the financial centres included in the overall rating, the US and Singapore also rank high with regard to their respective capital and liquidity requirements, whereas Germany and the UK appear well-positioned.
- The Bahamas, Guernsey/Jersey, Luxembourg and the United Arab Emirates were not included in the ranking due to a lack of reliable and up-to-date sources.

Fig. 5

Capital & Liquidity requirements



Key messages

In international comparison, Switzerland continues to be among the countries with the strictest capital and liquidity requirements and, in certain areas, even exceeds existing international standards. In order to maintain the financial centre's competitiveness, it remains important that capital and liquidity requirements continue to be adjusted in close alignment, both in terms of content and timing, with global standards and with the implementation in other jurisdictions (e.g. EU, US). Following the early introduction and implementation of Swiss TBTF, further over-regulation or gold plating should be avoided in future and timing as well as content aligned with international consensus. It is equally important to ensure a level playing field for all participants, nationally and internationally. In this respect, rules should be consistent in the sense that adherence to some rules is not punished by other, conflicting rules. In addition, regulatory requirements should reflect true risk potential and adjustments should be made to capital ratios if a framework proves to be inconsistent.

Factor 4: Corporate governance

Background and significance

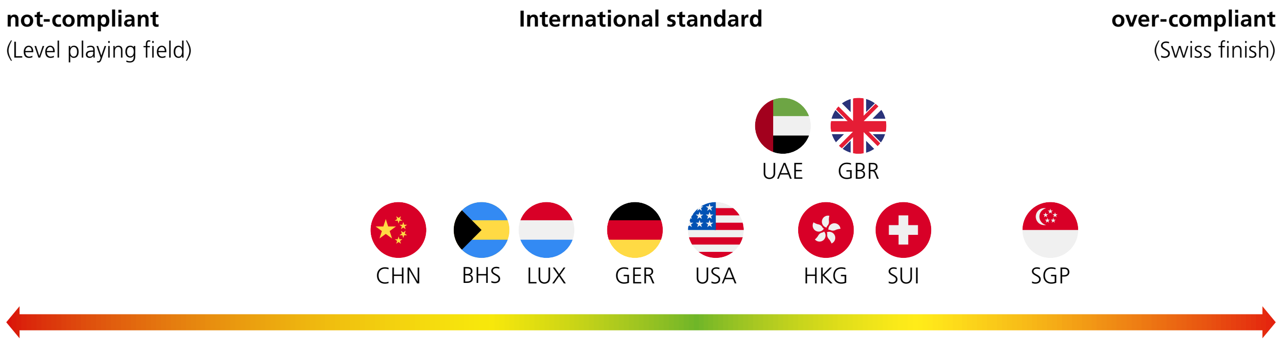
- Effective corporate governance is crucial for the proper functioning of the banking industry and the economy as a whole. Because banks play a significant role as important financial intermediaries in an economy, the economy, markets and the financial system have a high degree of sensitivity to any difficulties that could potentially arise from corporate governance shortcomings at banks.
- Banks' safety and soundness are critical for financial stability, and the manner in which they conduct their business is key to economic health. As a result, corporate governance is of great relevance both to individual banking organisations and to the international financial system as a whole.

Positioning of the Swiss financial centre

- The benchmarking analysis was conducted by taking into account both standards and principles elaborated by international regulators and organisations (e.g. OECD/G20 Principles of Corporate Governance and FSB thematic peer review on corporate governance) as well as traditional locational attractiveness reports provided by the World Economic Forum and the World Bank.
- Switzerland generally appears relatively well positioned in terms of corporate governance. It ranks second, after Singapore, and thus, together with the UK and Hong Kong, on the edge to overcompliance. Singapore is even overly compliant with regard to corporate governance requirements, going beyond international standards. In addition, the reforms made by FINMA regarding corporate governance and the further reforms planned in the context of the revision of the Corporate Law Act are expected to address the identified shortcomings in the area of shareholder protection and to further improve the positioning of the Swiss financial centre.

Fig. 6

Corporate governance



Key messages

Switzerland is strongly positioned with regards to corporate governance standards. The reforms made by FINMA concerning corporate governance and the further reforms planned in the context of the revision of the Corporate Law Act are expected to address the identified shortcomings in the area of shareholder protection and further improve Switzerland's position. In this respect, a "Swiss finish" should be avoided. In overall terms, in particular due to the FINMA circular on "Corporate Governance" which entered into force on 1 July 2017, the Swiss financial centre now has modern and seminal new rules for corporate governance. Nevertheless, Switzerland must not jeopardise its current positioning by making legislative adjustments that are incisive for Switzerland as a business location. This could particularly be the case against the backdrop of the "Responsible Business Initiative" and of a possible counter-initiative.

Factor 5: Client protection in light of the rule of law

Background and significance

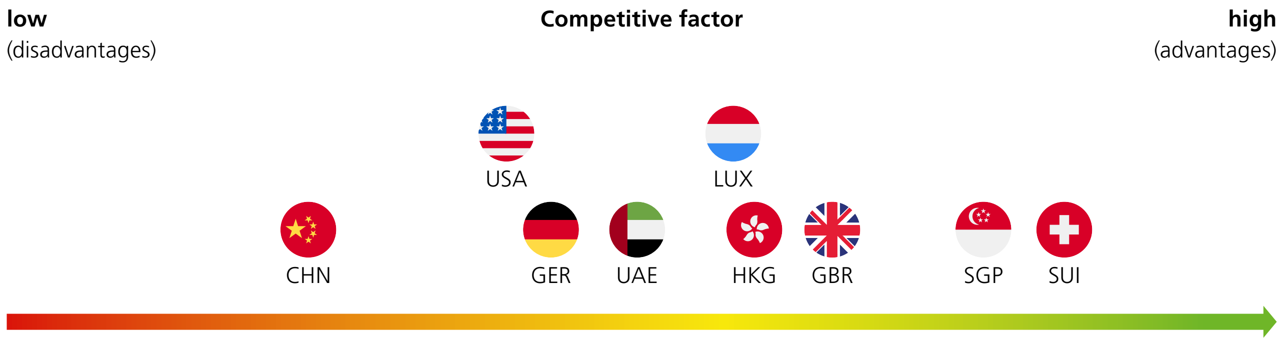
- Investors have generally become more active in the financial markets in recent years, while at the same time, more complex, wide-ranging sets of services and instruments are available to them. In consequence and in order to ensure that the related risks are appropriately addressed, legislators around the world have started to adopt specific measures to improve overall conduct of business, increase protection of client assets and client data, enhance transparency, but also establish appropriate client segmentation.
- Additionally, following the last financial crisis which undermined consumer confidence in the financial sector, new regulatory agencies were established and supervisory approaches were adjusted. These developments also significantly increased compliance costs for financial services providers.

Positioning of the Swiss financial centre

- The actual benchmarking assessment was conducted by taking into account only the more general definition of investor protection in light of the rule of law. A more modern, narrow understanding of client protection in the sense of investor protection, including factors such as transparency, suitability and appropriateness or client segmentation, was not possible due to the lack of up-to-date sources encompassing these factors in the analysis.
- Due to the rather broad focus on the security of clients' interests within the peer group, Switzerland appears very well positioned when it comes to client protection compared to its peers (where data is available). The broad focus mentioned is also the reason why countries that are generally perceived as having strong investor protection rules (e.g. Germany) are ranked at the lower end of the comparison group.

Fig. 7

Client protection in light of the rule of law



Key messages

Switzerland is very well positioned when the general level of the security of clients' interests is taken into account. In this context, Switzerland continues to be considered a major hub for private banking services, and this position results in large part from the stability of its legal framework (incl. dispute settlement), excellence of customer service, judicial independence, client capital rights protection and the low level of public sector corruption. However, due to the fact that Swiss private banks remain highly reliant on access to their international client base, a harmonisation of Swiss regulations with existing and upcoming EU regulations is needed in order to fulfil equivalency requirements. In this context, the envisaged new financial market acts (FinSA and FinIA) need to provide the Swiss financial centre with a balanced and up-to-date overall approach in the area of client/investor protection.

Factor 6: Digitization

Background and significance

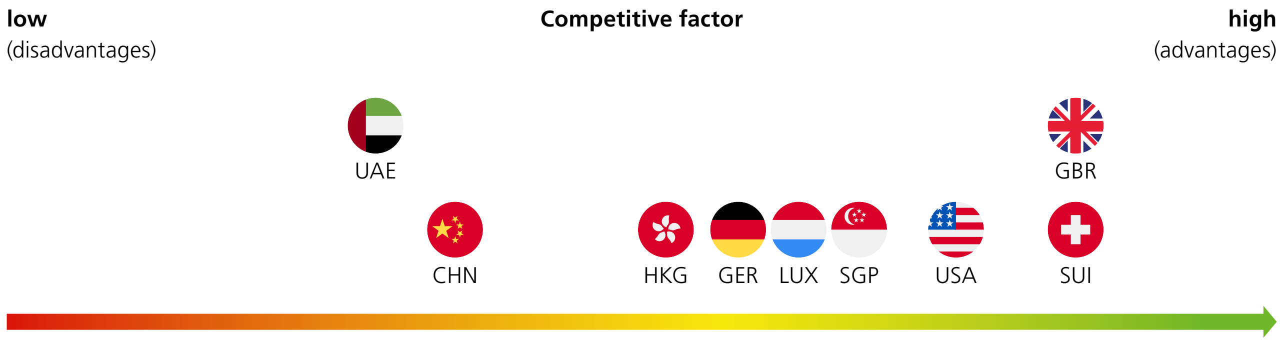
- Digitization and new technologies are both an opportunity and a challenge.
- On the one hand, efficiency gains and new product offerings that are better attuned to customers and their needs are some of the positive effects of digitization.
- On the other hand, they present a significant challenge, especially for traditional business models – in particular against the backdrop of shrinking margins and rising costs. Further to this, new technologies have the potential to facilitate market entry for new providers and therefore intensify competition.

Positioning of the Swiss financial centre

- Switzerland generally performs well when technological readiness and innovative capability are considered. This was also confirmed in the Global Information Technology Report 2016 as well as in the Global Competitiveness Report 2017–2018, both published by the WEF. However, Switzerland only ranks seventh globally in the EY Fintech Adoption Index 2017.
- Furthermore, Switzerland offers very good framework conditions (ecosystem) for the fintech sector. According to the IFZ FinTech Study 2018, Zurich and Geneva secured second and third place on a global scale comparing 30 cities, behind the leader Singapore.
- Overall and considering all above mentioned indicators, Switzerland, together with the UK, ranks first, ahead of the US and Singapore, and appears very well positioned in the area of digitization.

Fig. 8

Digitization



Key messages

Swiss banks have quickly embraced digital innovations and Switzerland generally wants to further strengthen its position as fintech hub. However, it will also be necessary to continue efforts aimed at improving the regulatory framework to support future developments and trends. In this context, Swiss banks advocate best possible framework conditions for innovative business models in order to maintain the competitiveness of the Swiss financial centre.

Factor 7: Labour market

Background and significance

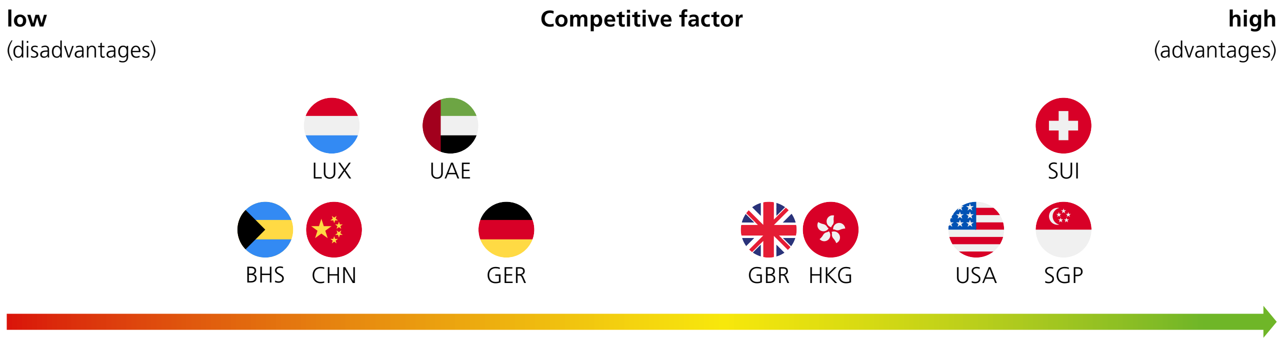
- The legal, political and economic environment for employers plays a central role in global competition among financial centres. In addition, the recruitment of specialists is a key factor for the success of globally-oriented private banks, especially since the banking sector suffers similarly from the lack of specialists as other sectors. Furthermore, export-oriented private banks are particularly reliant on specialists with strong local client or regulatory expertise related to the foreign markets covered out of Switzerland.
- Private banks in Switzerland therefore depend on competitive labour market conditions in order to maintain their leading position.

Positioning of the Swiss financial centre

- Compared to other peer jurisdictions, Switzerland, together with Singapore, are the leaders in the area of labour markets, ahead of the US and Hong Kong, also taking into account the aspects of quality of human capital as well as labour market efficiency.
- Quality of human capital relates primarily to the availability of skilled personnel and the quality of the educational system/academic institutions, whereas labour market efficiency relates to flexible regulatory practices.

Fig. 9

Labour market



Key messages

From a banking perspective, the free movement of persons and the ability to attract the best talents are critical to the success of our financial centre. It is therefore important that the Swiss labour market maintains liberal labour laws, a low regulatory burden and social stability, as highly-skilled personnel is extremely mobile. Even though Switzerland currently scores very well on the quality of its labour market, structural measures (reform of the pension system) as well as clarification with regards to Swiss-EU relations is needed in order to preserve this position. The announced initiative aimed at abolishing the free movement of persons between Switzerland and the EU must therefore be resolutely opposed.

Factor 8: Taxation

Background and significance

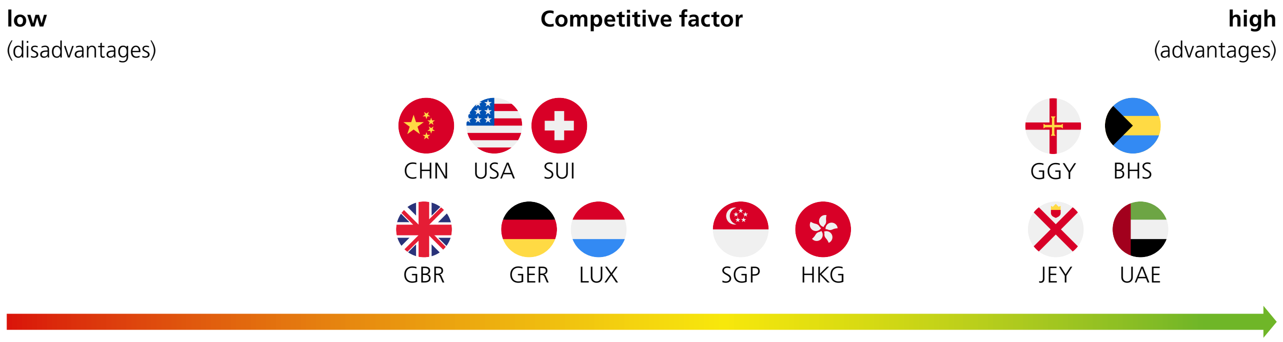
- The tax environment for financial transactions is of high importance for the competitiveness of global financial centres.
- In principle, a competitive tax system should provide favourable tax conditions for: (i) the location of companies; (ii) the choice of residence of natural persons; (iii) the investment of financial assets; and (iv) the sale of goods and services.

Positioning of the Swiss financial centre

- The comparison between financial centres was conducted on the basis of the following tax-related indicators: taxation of corporations, taxation of individuals and taxation of the finance industry.
- Switzerland, especially Zurich, Geneva and Ticino as relevant financial centres, generally ranks in the mid-range with regards to individual and corporate taxation (in the two main locations for wealth management, corporate and individual taxes are lower than in most neighbouring countries, but higher than in some competing financial centres).
- This is aggravated by the fact that Switzerland is at the bottom of the ranking for taxation of the financial industry, as it is the only peer jurisdiction where financial institutions are subject to an issuance stamp duty on equity capital. The transfer stamp duty is also a well-known obstacle for the Swiss financial centre. Other competing financial centres have no comparable transfer taxes. Additionally, the Swiss withholding tax has generally proven to be a hindrance for the Swiss financial centre.

Fig. 10

Taxation



Key messages

It is in the interests both of the financial centre as well as the overall economy that Switzerland positions itself as a country with an attractive tax regime for companies and individuals alike, including a tax system that meets international standards. However, particularly in the area of taxation of the financial industry, there is still room for improvement, because the design of the withholding tax system as well as the various stamp duties currently represent significant locational disadvantages for the Swiss financial centre. As a direct consequence, the majority of investment funds are issued abroad instead of in Switzerland. Same applies to structured financial products. Euro bond trading, originally present in Switzerland, has largely moved to London. Switzerland consequently loses value added and potential income and profit tax substrate. Therefore, this self-imposed handicap must be abolished as soon as possible. In addition, the Tax Proposal 17 and especially related substantial local reforms of the company taxation in the cantons Zurich, Geneva and Ticino are a matter of great urgency for the Swiss economy and the three wealth management centres. Swiss banks therefore welcome the efforts of the Federal Council to strengthen Switzerland’s position as a business location with the Tax Proposal 17 so that Switzerland can remain attractive for domestic and international companies.

Factor 9: Market access

Background and significance

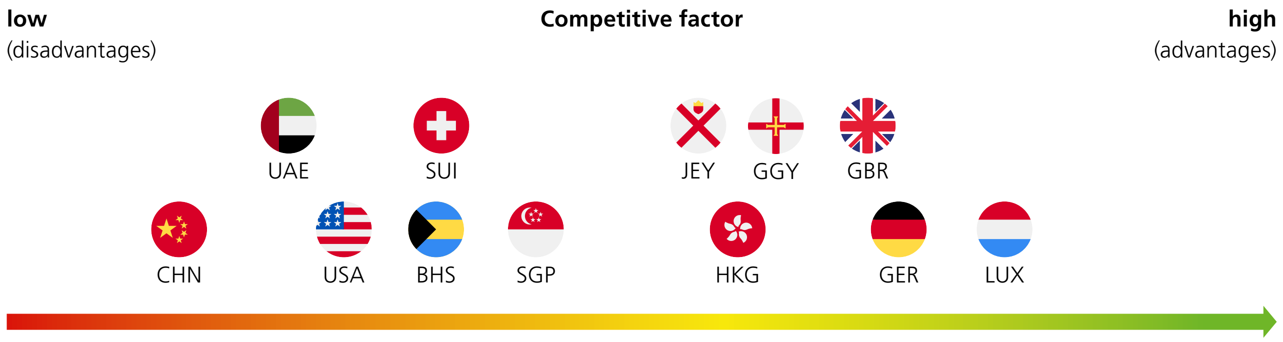
- Export-oriented private banks make a significant contribution to value creation in Switzerland and create a large number of highly qualified jobs. In order for this to remain the case, access to key foreign markets must be safeguarded and further improved in a sustainable manner.
- Moreover, a significant success factor in the global competition among leading financial centres is internationality and thus also the attractiveness of the business location for foreign providers of financial services.

Positioning of the Swiss financial centre

- Due to Switzerland's location at the heart of Europe, the EU/EEA is a strategic focal point for the Swiss banking industry's export business. However, the banks in Switzerland currently have no legal entitlement to the active provision of banking services out of Switzerland to customers in the EU.
- As a result, those countries in the peer group that are EU members are at the top of the ranking – given the facilitated access to the EU Single Market. Switzerland's ranking is low, being ahead only of the US, the United Arab Emirates and China. However, the US and China both have large domestic markets and are, therefore, less dependent on cross-border market access.
- The UK's excellent position at present is highly at risk given the existing legal uncertainties in relation to Brexit. As a result, the UK is likely to lose parts of its business to other EU-based financial centres such as Luxembourg and Germany, which can further improve their positions.

Fig. 11

Market access



Key messages

Given the rather small size of their domestic market, Swiss private banks are particularly reliant on facilitated access for the provision of services to foreign-domiciled clients. In order to preserve the current value creation in Switzerland as well as avoid the relocation of highly-qualified jobs, access to focal markets (particularly in the EU) must not only be preserved but also significantly improved in a sustainable manner. This is particularly important in light of the implementation of MiFID II by individual EU member states and the ultimate EU-UK agreement on financial services, as these developments will significantly influence the shape of the financial services landscape in Europe over the coming years. In addition, both market participants as well as policymakers must make substantial efforts to further improve the location qualities of the Swiss financial centre in order to attract foreign providers and thereby safeguard the internationality of our business location. In order to ensure the key priority of access to foreign markets or to expand such access, Swiss banks continue to support the simultaneous pursuit of three different strategies. These are independent of one another in terms of timing, political sentiment and approach: bilateral agreements with both individual EU member states and focal countries outside Europe, EU equivalence and further evaluations with regards to a possible Financial Services Agreement with the EU to minimise any loss of sovereignty for Switzerland. This is necessary in view of the future solution for cross-border trade in financial services between the EU and the UK, which will have profound consequences for other third countries to the EU such as Switzerland. In this context, dedicated efforts should also be made in parallel to gain improved market access to emerging economies with high private wealth growth rates.

Factor 10: Data protection

Background and significance

- Data protection, i.e. the rules relating to the use and practices aimed at protecting data, in particular Client Privacy/Client Identifying Data (CID) (personal data), have historically been a strong supporting factor in terms of attractiveness and competitiveness for financial centres with a greater focus on international private wealth management.
- In recent years, cyber security threats have become a major concern for financial institutions and a focus for regulators. Thousands of private banking clients have been affected by data thefts and the ensuing publication of sensitive personal data. In this context, additional organisational requirements were issued by the Swiss and other regulators in an attempt to oblige financial institutions to increase their protection against cyber threats. Such concerns are shared internationally.
- The systemic risk related to the misuse of personal data and the effectiveness of additional organisational requirements against data thefts and other cyber threats has become a key aspect in measuring the effectiveness of data protection.

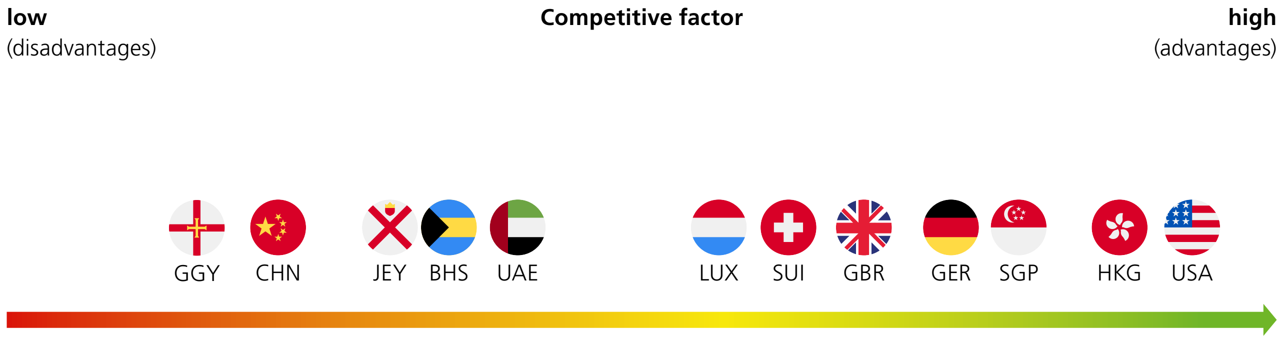
Positioning of the Swiss financial centre

- The analysis of the countries in the comparison group was conducted from the following standpoints: (i) legal framework – effectiveness of legal protection ensured by the regulatory framework for data protection; and (ii) systemic risks related to data protection (cyber risks and corruption threats, risk of misuse of data protection).
- The Swiss financial centre generally ranks in the upper middle range of the comparison group. The US, Germany, Singapore and Hong Kong are currently ahead of Switzerland. As regards the Swiss legal framework for data protection, Switzerland does not rank among the most stringent legal systems in the international comparison analysis tables. This assessment does not consider the factual effectiveness of data protection, especially of Swiss financial institutions, as no independent analysis or ratings exist in this regard. The revised Swiss Data Protection Act will ultimately generally be aligned with the EU standard, which enters into force on 25 May 2018. The Swiss legal framework should then be deemed equivalent to its EU peers, which will rank highly internationally. It is important that the split of the revision of the Swiss Data Protection Act decided in 2018 does not result in an unnecessary delay in the upgrade of Swiss data protection standards.

- In terms of combatting cyber risks, Switzerland currently ranks in the upper middle range, with additional measures being put in place following the entry into force of additional organisational and technical regulatory requirements in July 2017. How Switzerland will rank in this area in the future will depend on the financial sector's willingness to invest in this area and the quality of the technical solutions developed.

Fig. 12

Data protection



Key messages

The protection of sensitive client data and of client privacy (and in general, protection of personal data) remains part of the Swiss banks' DNA to this day. Switzerland can generally be considered to have a good level of data protection, which will be further enhanced with the revision of the Swiss Data Protection Act. Additional regulatory requirements were introduced recently by the Swiss regulator to combat systemic risks linked to cyber criminality and cyber threats. Rapid technological developments and legislative initiatives at the European and international levels require close monitoring of the Swiss legal and regulatory framework for data protection in order to adapt it as needed to international developments and emerging threats. The Swiss banks recognise this need and support the Federal Council in its efforts to adapt the Swiss provisions in line with the changing technological and social framework conditions, and to harmonise them with legal developments at the European and international levels. As companies operating internationally, Swiss banks depend on the EU to continue to grant Switzerland the status of a third country with equivalent data protection, so that cross-border data transmission remains uncomplicated with the EU. High regulatory, technical and operational standards in terms of data protection are desirable for Switzerland. Switzerland should aim to upgrade its current rating among peers. A "Swiss finish" should be avoided.

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