Double benefit for investors in Liechtenstein

Investors profit from membership of the European Economic Area and ties with Switzerland

The Principality of Liechtenstein is the only country in Europe belonging to two economic regions simultaneously. The Customs Treaty and Currency Agreement with Switzerland tie Liechtenstein into the Swiss economic territory. At the same time, thanks to its membership of the European Economic Area (EEA), Liechtenstein is also one of the countries of the European Single Market. Switzerland on the other hand is not a member of the EEA. For Liechtenstein and, above all, for investors wishing to place their money here, this unique situation brings many advantages.

Liechtenstein's close association with Switzerland goes back to the years following the First World War. Previously, this tiny country on the upper Rhine had because of ancient connections between the princes of Liechtenstein and the House of Habsburg been intimately connected with the «Danube Monarchy» of Austria-Hungary.

What had proved advantageous in the nineteenth century now became a disadvantage. Like Austria, during the 1914-18 War Liechtenstein was placed by the Allies under a raw-materials blockade. Many businesses had to close. The customs revenue so essential to the national exchequer dropped to a tenth of what it had been. When food too became scarce, Switzerland stepped in with supplies. As a result, by 1919 Liechtenstein had run up a debt of 450,000.-- Swiss francs, which it was able to repay only thanks to a donation from the prince. Following the collapse of the Austrian krone (then the official legal tender in Liechtenstein), the country lost virtually all its savings.

Liechtenstein turns to Switzerland

On 2 August 1919 the Liechtenstein parliament (the Landtag) voted to terminate the 1852 Customs Treaty with Austria. The same year saw the beginnings of a rapprochement with Switzerland. An embassy was established in Bern, and Switzerland took over diplomatic representation of Liechtenstein in other countries. A Postal Treaty negotiated in 1920 came into effect on 1 January 1921 (and is due to lapse in 1999 following privatisation of postal services).

On 1 January 1924, after concluding a Customs Treaty in the previous year, Liechtenstein became part of the Swiss customs territory. From May 1924, the official national currency became the Swiss franc (CHF).

European Economic Area (EEA) – the way forward

For years two economic blocs have faced each other in Europe: the EEC of the 1958 Rome treaties (the later EC), and since 1959 the European Free Trade Association (EFTA). In 1972 the member-states of both bodies signed a free-trade agreement. In 1989 the president of the EC Commission, Jacques Delors, proposed the creation of a joint economic region for all EC and EFTA countries. In 1991 the agreement concerning the European Economic Area (EEA) was signed.

Switzerland voted in a referendum against joining the EEA. All other EFTA countries voted in favour. The EEA came into existence on 1 January 1994 – without Switzerland and initially also without the Principality of Liechtenstein, which first had to negotiate with Switzerland over the future of the two countries' bilateral relations. The voters of Liechtenstein approved the new agreements with Switzerland on 9 April 1995, and on 1 May 1995 Liechtenstein became a member of the EEA.

Liechtenstein's integration in the Swiss currency territory does not affect its autonomy as financial centre.

In the period that followed, close relations formed between the two countries. These provided an essential foundation for Liechtenstein's economic upswing. The Principality adopted more and more legal regulations from Switzerland. On the one hand it was committed to doing so under the Customs Treaty; on the other hand, wholly practical reasons favoured the adoption of Swiss law.

Autonomy in the financial sector

However, in the fields of financial, company and tax law Liechtenstein has gone its own way. An innovative tax law came into effect in 1923, and Liechtenstein's liberal Persons and Companies Law followed in 1926. Since then the holding privilege for domiciliary companies and the many corporate forms possible in Liechtenstein have attracted foreign investors to the country and stimulated the development of Liechtenstein as a financial centre.

The country's banks are closely tied in with the Swiss financial system. The first Banks Act of 1961 drew heavily on its Swiss counterpart. Liechtenstein's banks maintain close business relations with financial institutions in Switzerland, which for them constitute an important investment address for the funds entrusted to them. At an early stage Liechtenstein's banks also became members of the Swiss Bankers' Association. A Currency Agreement followed in 1980. This underlined, in terms of international law, what had long been in practice the integration of Liechtenstein in the Swiss currency territory.

A self-confident foreign policy

In terms of economic and foreign policy, until the 1960s Liechtenstein marched in step with Switzerland. Then, however, the Principality's increasing economic upswing strengthened national self-confidence and Liechtenstein began (timidly at first) to develop independent foreign-policy initiatives. It joined various international organisations as a member in its own right. In 1975 the country received observer status at the Council of Europe, and in 1978 it became a full member. Even before that it had sent its own delegation to the Conference for Security and Cooperation in Europe (CSCE, the forerunner of today's OSCE). Membership of the United Nations followed in 1990. This signified international recognition of Liechtenstein sovereignty.

Economically integrated in Europe

Alongside achieving autonomy in the financial sector and developing a self-confident foreign policy, Liechtenstein also sought to join the movement towards economic integration in Europe.

As early as 1959, when EFTA (European Free Trade Association) was founded, Liechtenstein's participation was governed by a supplementary protocol, and on 21 May 1991 Liechtenstein was admitted to full membership. With this step, the government enabled the Principality to take part in the negotiations concerning the EEA as an independent treaty partner. Just over a year later this turned out to have been particularly advantageous when Switzerland voted against signing the EEA Agreement on 6 December 1992 while a few days later the citizens of Liechtenstein voted in favour.

Tax advantages and currency in the EEA

Taxes are not covered by the EEA Agreement. Unlike EU membership, membership of the EEA does not require Liechtenstein either to harmonise national rates of taxation or to provide international cooperation in tax matters. Conclusion of double-taxation agreements with other EEA states is not compulsory. Special tax concessions for holding and domiciliary companies are not affected.

The single currency (the EURO) need not be introduced. The Swiss franc remains in place as Liechtenstein's national currency.

Banking secrecy and tax advantages for investors are unaffected by Liechtenstein's EEA membership.

These conflicting referendum results were to have repercussions. The EEA states postponed their agreement (which was originally to have come into effect on 1 January 1994) by one year, during which Switzerland and Liechtenstein discussed how to structure their bilateral relations in such a way as to allow Liechtenstein to join the EEA despite Switzerland's «no» vote. For a time this appeared impossible. However, in the summer of 1994 the two countries reached an agreement that received the assent not only of the EEA states but also of the Swiss parliament and the people of Liechtenstein. Accordingly, on 1 May 1995 Liechtenstein became a member of the EEA.

Special features in the EEA

Because of Liechtenstein's unique situation, one or two special features apply as regards practical application of the Agreement.

Movement of goods has been reorganised because Switzerland and Liechtenstein continue to form a single customs territory. Goods from both economic areas can now be traded in Liechtenstein. Only goods in respect of which different regulations apply in Switzerland and in the EEA are subject to government control.

Because Liechtenstein is a small country and already has a sizeable alien population, special arrangements apply there with regard to «free movement of persons». What form those arrangements will take in future is currently the subject of negotiations.

Liechtenstein as a financial centre and the EEA

Liechtenstein's reputation as a financial centre has gained added enhancement from the country's membership of the EEA. Investor confidence is based on the fact that this official link with 17 European countries is tantamount to international recognition of Liechtenstein's status quo and offers exceptional conditions in the financial services sector.

Crucially, however, the whole field of taxation is excluded from the EEA Agreement. So even future EU resolutions regarding withholding tax, tax harmonisation, and international cooperation in fiscal matters will not apply to Liechtenstein. From this angle, the situation for international investors in Liechtenstein is very much more advantageous than, say, in Luxembourg, that, because of its membership of the EU, is bound by such resolutions.

Nevertheless, Liechtenstein has complied with its undertakings under the EEA Agreement. Money-laundering and insider-dealing are criminal offences. The professional diligence in connection with acceptance of funds has been redefined and covers not only banks but also (unlike in Switzerland) finance companies, lawyers, and trustees. However, foreign investors remain anonymous so far as banks are concerned if the professional diligence is exercised by a lawyer or trustee.

Liechtenstein's banks also benefit from the EEA in that they are now able to offer services and open branches in every other EEA country.

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Liechtenstein's unusually liberal company and tax laws will remain in place.

The «home country control principle» of EEA law lays down that such branches are subject to Liechtenstein banking supervision, while supervision of branches set up in Liechtenstein by EEA member-state banks is the responsibility of the particular state concerned. Consequently, Liechtenstein's extremely rigorous banking secrecy, as enshrined in the 1993 Banks Act, remains unimpaired. It is defined as the secrecy of the customer that the bank has a duty to protect. Not only bank staff but also outside auditors and the supervisory authorities are subject to a duty of silence in this regard.

Another important thing in this connection is that the reform of company law required by the EEA is applicable only to certain corporate forms. The most advantageous corporate forms so far as foreign investors in Liechtenstein are concerned – namely the establishment, the trust, and the foundation – are not affected by harmonisation.

Liechtenstein – a successful financial centre

Liechtenstein's success as a financial centre rests on advantageous basic conditions that are set to continue into the next millennium. In economic terms, being a member of the EEA has integrated the country into the European Single Market. At the same time, Liechtenstein remains part of Switzerland as a financial centre and benefits from the stability of the Swiss franc. The great advantage of this situation is that Liechtenstein's unusually liberal company and tax laws will remain in place – to the benefit of foreign investors.

F.L.BULLETIN

Liechtenstein's banks had another growth year in 1998, pushing up their balance-sheet totals by 4.5 per cent to a total of 30.4 billion Swiss francs. Net profit rose by 17.6 per cent to 365 million Swiss francs. Altogether the country's banks looked after customer assets (as affecting balance-sheets) of 24.8 billion Swiss francs as well as customer deposits and trust investments amounting to 64.7 billion Swiss francs. 1,432 persons were employed in the banking sector at the end of 1998.

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In the wake of the liberalisation of European telecommunications, Liechtenstein's communications services (provided by Switzerland since 1921) are also being privatised. Since 1 January 1999, domestic communications have been the responsibility of the Swisscom subsidiary Telecom FL AG; international communications and mobile services have been licensed by the government to a number of private bidders.

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Since 5 April 1999 Liechtenstein has had its own international telephone code: +423. From Switzerland and all other countries, our office can now be reached on +423 - 232 08 08.