

## 2009: the adoption of the OECD standard

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The financial crisis of 2008 increased the international pressure on financial centres that sheltered undeclared assets. Governments, faced with considerable deficits, sought to recover tax revenue. When the G20 took up the question, the OECD published a list of the jurisdictions that did not apply its standard on the exchange of information.<sup>1</sup>

Under this pressure, Switzerland changed its position. According to *Le Temps*, the President of the Confederation, Hans-Rudolf Merz, who until then had described banking secrecy as non-negotiable, announced that Switzerland would henceforth apply the OECD standards on administrative assistance in tax matters.<sup>2</sup> This decision, taken in March 2009, marked the end of the distinction between tax evasion and tax fraud in relations with other states.<sup>3</sup>

Switzerland then renegotiated its double taxation agreements in order to include an exchange-of-information clause in line with the OECD standard. Foreign authorities could henceforth obtain, on request, banking information concerning their taxpayers, including in cases of simple evasion, provided that their request was sufficiently precise. Group requests, aimed at categories of taxpayers identified by behavioural criteria, were gradually admitted.

A study published in 2010 noted that Switzerland might obtain concessions in return for the exchange of information in its negotiations, and wondered whether Swiss offshore wealth managers had perhaps already begun to canvass, as a priority, the wealthy clientele of emerging or developing countries.<sup>4</sup> This observation foreshadowed the geographical shift of the client base, which the following chapters will examine, and the particular risks that flow from it, especially in the fight against corruption and money laundering.

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The transition to the OECD standard did not put an end to the difficulties. Requests for administrative assistance multiplied, the procedures gave rise to numerous appeals before the Swiss courts, and the institutions had to manage complex situations with clients whose assets had never been declared. American pressure, in particular, remained intense, as the second part of this chapter shows.

### 1 Notes

1. Communiqué of the G20 London summit of 2 April 2009 announcing measures against non-cooperative jurisdictions, and OECD lists published the same day; Saint-Amans, Pascal, *La Vie économique*, June 2009, cited above. ↩
2. “Dès 2008, les événements qui conduiront à la mort du secret bancaire se succèdent”, *Le Temps*, 15 December 2013. ↩
3. Decision of the Federal Council of 13 March 2009 to adopt the OECD standard on administrative assistance, and withdrawal, on 20 March 2009, of the Swiss reservation to Art. 26 of the Model Convention; Saint-Amans, Pascal, “Le standard de l’OCDE : origine, mise en œuvre et signification pour la Suisse”, *La Vie économique*, June 2009. ↩
4. “La reconfiguration du secret bancaire suisse”, cited above. ↩

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