Company & Commercial - Switzerland

Preparing for the new accounting law

Contributed by **Birgelen Wehrli Rechtsanwälte & Badertscher Rechtsanwälte AG**

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Introduction

On January 1 2013 a new accounting and auditing law will enter into force in Switzerland. The new law establishes uniform requirements for all kinds of business, irrespective of their form of incorporation, by introducing the 'same size, same rules' principle. Unlike under the International Financial Reporting Standards (IFRS) or the US Generally Accepted Accounting Principles (GAAP), consolidated financial statements will usually be required only if the size of a business exceeds certain thresholds. Swiss law will not automatically pierce the corporate veil when dealing with groups of companies. Instead, the new law has two aims:

- easing the accounting and auditing burden of small and medium-sized enterprises (SMEs); and
- requiring larger companies to accommodate more stringent requirements.

Scope of application and general provisions

The new law applies to sole proprietorships, partnerships and legal entities alike to the extent that they have an annual turnover of at least Sfr500,000 – its application is triggered solely by the financial size of a business. Associations and foundations are exempt, provided that they do not have a gainful business which would require registration in the Swiss Commercial Registry.

Unlike other accounting standards which require a "true and fair view", the new law merely stipulates a minimum standard of "reliable judgment". A third party looking at accounts need only be able to gain a reliable impression of a business's economic situation. The principle of prudence, which is inadmissible under many foreign standards, remains an important guideline in Switzerland. As a consequence, for example, so-called 'hidden reserves' (created by intentional undervaluations) are still permitted.

Accounts need not be kept in the Swiss franc or in any of the three Swiss official languages (German, French or Italian); rather, they may be kept in any other currency of significance to the company's business activities, and in English. If they are kept in a foreign currency, the values must also be indicated in Swiss francs.

Key modifications and accounting for large companies

Under the new law, only large companies must undergo an ordinary (ie, full annual) audit. 'Large companies' are defined as those whose business exceeds two of the following three (higher) thresholds in two consecutive financial years:

- aggregate revenues of Sfr40 million (formerly Sfr20 million);
- total assets of Sfr20 million (formerly Sfr10 million); and
- 250 full-time employees (formerly 50).

In addition, such large companies must provide not only a balance sheet and an income statement, but also cash-flow statements, a status report and further relevant information in the notes to the accounts.

Balance sheet, income statement and notes to accounts

In general, more detailed classification and disclosure provisions apply to both the balance sheet and the income statements. The most noticeable modifications apply to the notes to the accounts. Under the new law, full-time positions and contingent liabilities must be reported. These contingent liabilities must be distinguished from the liabilities reported in the balance sheet as well as from expenses reported in the income statement. However, the issue of exactly how the notes to the accounts must be made still leaves room for interpretation and many of their features are yet to be determined. In this respect, companies may rely on GAAP, in particular Swiss GAAP FER,(1) IFRS or US GAAP.

Risk assessment

The risk assessment is now part of a separate status report in the notes to the accounts. Therein business developments regarding research and development, extraordinary events and future prospects must be outlined. This status report will not be examined by the external auditors. Only large companies must provide such a status report. Although introduced only in 2008, the respective status report obligation for SMEs has already been abandoned. However, a minority shareholder (representing at least 10% of the share capital of a company) may demand the adoption of such a status report.

Valuation provisions

As under the IFRS, the principle of impairment also now applies in Switzerland – that is, if assets are being overvalued or if the provisions are revealed to be insufficient, the valuations must be reviewed. However, In line with the principle of prudence, it remains possible to create hidden reserves, additional depreciation, valuation adjustments or additional provisions.

A distinction is also made between initial and subsequent valuations of assets. The initial valuation must be based on acquisition or production costs. Any subsequent valuation may not exceed the initial valuation, unless a publicly available market price exists in an active market for any particular asset.

Consolidated group financial statements

For large companies, the control principle replaces the effective management principle – that is, if a legal entity subject to an ordinary audit controls one or several other entities, consolidated annual financial statements must be prepared regardless of whether control is effectively exercised. However, statutorily exempted groups may still be forced by a minority shareholder (representing at least 20% of the share capital) to prepare consolidated financial statements.

Transitional provisions

In general, businesses will have two years after the entry into force of the new law to adapt their bookkeeping and financial reporting. Thus, assuming that the law comes into force on January 1 2013 as planned, the new law will have to be applied as of 2015. However, the provisions on group financial statements provide for a three-year transitional period.

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Endnotes

(1) Recommendations for auditing and accounting.