



## Switzerland to adopt OECD standard on exchange of information

This Homburger Bulletin shall give an overview over the exchange of information in fiscal affairs (administrative assistance) under the recently concluded double taxation treaties by Switzerland.

### Background

Until recently, Switzerland exchanged information only to the extent it was necessary in order to carry out the provisions of a tax treaty. Special rules were agreed to with only a few countries (inter alia the United States, Germany, Austria, Spain and the United Kingdom), which also provided for the exchange of information in regards to the implementation of domestic laws in cases of "tax fraud and the like".

The Swiss Federal Council was not, however, able to withstand international pressure. On March 13, 2009 Switzerland withdrew its reservation to Art. 26 of the OECD Model Tax Convention (OECD Model). Subsequently, it negotiated and signed protocols amending the tax treaties with several countries (12 to date), which provide for the exchange of information (administrative assistance) for the purpose of implementing domestic laws. This allowed Switzerland to be deleted, on September 25, 2009, from the OECD's "gray list" of countries failing to substantially implement the OECD's information exchange policies.

Switzerland has signed protocols to its tax treaties with Denmark, Luxembourg, France, Norway, Austria,

the United Kingdom, Mexico, Finland, the United States and Qatar amending the exchange of information clause to conform to Art. 26 of the OECD Model. Due to the most favoured nation clause in the tax treaty with Spain, the revised clauses in the tax treaties with the Member States indirectly also apply to Spain. By signing the Protocols amending these tax treaties, the Swiss Federal Council is declaring that the agreements are binding under international law, subject to approval by the Swiss Federal parliament and ratification. Ratification will presumably only be possible once at least one of the new tax treaties has been approved in a referendum.

### Scope of application of the exchange of information clauses

**In general.** Under the exchange of information clauses in the amended tax treaties, information is exchanged even for the purpose of implementing domestic laws. It is no longer a requirement that the information concern tax fraud or similar crimes or a holding company.

Unlike situations concerning tax fraud, the exchange of information under the amended tax treaties does not require that the requesting state have a "reasonable suspicion" (*Anfangsverdacht*) that the conduct would constitute a criminal offense. It is sufficient if the information is "foreseeably relevant" to ensure the correct application of the treaty provisions or of the domestic laws of the requesting state.

**Principle: "taxes covered by the Convention".** Art. 26 of the 2000 OECD Model extends the exchange of information to "taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, in so far as the taxation thereunder is not contrary to the Convention". The amended treaties that Switzerland concluded with Denmark, Luxembourg, the United States, Norway, Austria, the United Kingdom, Mexico, Finland and Qatar, however, limit the scope of application to "taxes covered by the Convention". Such a limitation of the scope of application of the exchange of information clause is expressly accepted as an alternative in the Commentary on the OECD Model and is, therefore, in line with the OECD standard.

Under the revised Swiss tax treaties with Finland, Austria, Norway, Singapore, Luxembourg and Denmark, the exchange of information is, therefore, granted in regards to income and wealth taxes. The exchange of information with respect to the United Kingdom, Mexico, the United States and Qatar is limited to taxes on income. No exchange of information is granted with regard to other taxes (in particular, gift and inheritance and indirect taxes).

**Switzerland-France and Switzerland-United Kingdom tax treaties: "Taxes of every kind and description".** The scope of application of the exchange of information clause in the Switzerland-France tax treaty is wider. It is not limited to taxes covered by the treaty (income and wealth taxes) but covers – in line with the wording of Art. 26 (1) of the OECD Model – "taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions". Therefore, the scope of application of the exchange of information provisions extends beyond income and

wealth taxes to gift and inheritance taxes, as well as indirect taxes. Since the term "taxes" is not defined in the tax treaty, it has to be interpreted according to Art. 3 (2) of the treaty by the contracting state on the basis of domestic laws. Custom duties are, however, expressly excluded from the scope of application are.

**Switzerland-Spain tax treaty.** The protocol June 29, 2006 to the Switzerland-Spain tax treaty contains a most-favored nation clause in Art. IV (11), according to which any exchange of information clause in a treaty that Switzerland has concluded with a Member State will also be applicable to Spain. Since, however, the most-favored nation clause is limited to taxes covered by the Switzerland-Spain tax treaty (income and wealth taxes) the scope of application with regard to Spain does not extend to other taxes as a result of the treaties concluded with France and the United Kingdom. Switzerland only has to exchange information with Spain in regards to income and wealth taxes and not taxes of every kind.

**Taxpayer.** According to Art. 26 (1) of the OECD Model, the scope of application of the exchange of information clauses is not limited by Art. 1 of the respective tax treaty. The exchange of information clause does not apply only to taxpayers resident in one of the contracting states. Exchange of information is also provided in regards to non-resident persons, for example, persons only subject to limited tax liability in the contracting state.

**Information foreseeably relevant.** Exchange of information is only granted with respect to information that is foreseeably relevant for the tax assessment in the requesting state. The tax treaties with the United States and Qatar use the phrase "may be relevant". Since the text in the protocols to these two treaties is in line with the text in the protocols to the treaties with the United Kingdom and France, it can be assumed that the slightly different wording has no practical impact. The Commentary on Art. 26 of the OECD Model does not give any indication that the slightly different wording implies a different scope of application.

The protocols amending the tax treaties with the United States, the United Kingdom and France expressly state that the wording of the clause is intended to provide for the widest possible exchange of information in tax matters. But, at the same time, it clarifies that the contracting states are not at liberty to engage in "fishing expeditions" or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. This statement mirrors Para. 5 of the Commentary on Art. 26 of the OECD Model and does not, therefore, add any new aspects.

**No violation of the tax treaty.** No exchange of information shall be granted if, although the information is foreseeably relevant to a taxation in the requesting state, such taxation under the domestic tax laws concerned is contrary to the treaty. It should be noted that the right to tax is not only limited by the distributive rules (classification and assignment rules) but also by the non-discrimination provisions in Art. 24 of the OECD Model.

## Limitations

**Principle.** According to Art. 26 (3) lit. a of the OECD Model, the requested state is not bound to go beyond its own internal laws and administrative practices in putting information at the disposal of the other contracting state. Further, the requested state is not obliged to supply information that is not obtainable under the laws or in the normal course of the administration of the contracting state (Art. 26 (3) lit. b of the OECD Model). With respect to Switzerland, this means, in particular, that the taxpayer needs to be notified that a request for an exchange of information has been made and that the taxpayer has the right to appeal.

**Application of secrecy rules.** The requested state is not obliged to exchange information that would disclose any trade, business, industrial, commercial or professional secret or trade process (Art. 26 (3) lit. c of the OECD Model, which has been adopted in all the amended Swiss exchange of information clauses). According to the Commentary on Art. 26 of the OECD Model, secrets should not be interpreted broadly be-

cause too wide an interpretation would, in many circumstances, render ineffective the exchange of information provided for in the treaty.

**Public policy (*ordre public*).** Under the amended tax treaties concluded by Switzerland, the requested state does not have to exchange information where the disclosure would be contrary to public policy (*ordre public*; see Art. 26 (3) lit. c of the OECD Model). According to Para. 19.5 of the Commentary on Art. 26 of the OECD Model, this limitation will only be relevant in extreme cases, such as requests that are motivated by political, racial or religious persecutions, or where the information constitutes a state secret. This limitation should also be invoked, however, where the requesting state does not meet its confidentiality obligations under Para. 2.

**Reciprocity.** The requested state can decline the request for information if the requested administrative measures are not permitted under the laws or practice of the requesting state or if the requested information itself is not obtainable under the laws or in the normal course of administration in the requesting state.

## Procedural aspects

**No fishing expeditions.** Para. 5 of the Commentary on Art. 26 of the OECD Model expressly clarifies that the requesting state is not at liberty to engage in "fishing expeditions". Switzerland has explicitly included this principle in all protocols amending tax treaties (in the protocols amending the treaties with the United States, France and the United Kingdom the wording is based on the Commentary on the OECD Model; in the other treaties somewhat different language is used).

**Subsidiarity.** The requesting state can only request information from the other contracting state only once it has exhausted its usual measures to obtain information under the domestic tax procedure. It is, therefore, required that administrative assistance by the other state be necessary for the implementation of the domestic laws of the requesting state.

**Content of the request for information.** Under the amended treaties with Denmark, Luxembourg, Norway, Austria, the United Kingdom, Mexico, Finland and Qatar the tax authorities of the requesting state shall provide the following information to the tax authorities of the requested state when making a request for information under the treaty:

- the name and address of the person(s) under examination or investigation and, if available, other particulars facilitating that person's identification, such as date of birth, marital status and tax identification number;
- the period of time for which the information is requested;
- a statement of the information sought including its nature and the form in which the requesting state wishes to receive the information from the requested state;
- the tax purpose for which the information is sought; and
- the name and address of any person believed to be in possession of the requested information.

These procedural requirements are intended to ensure that the exchange of information is limited to specific individual cases and that fishing expeditions are prevented. Based on the details in the request, the requested state needs to be in a position to examine whether or not the requested information is foreseeably relevant. In addition, the requested state should be in a position to provide the information based on its information gathering measures without any further investigation. This requires, in principle, that the name of the person believed to be in possession of the requested information is stated in the request.

**Switzerland-United States tax treaty.** Requests for information that will be based on the amended Switzer-

land-United States tax treaty will also have to meet the requirements stated above subject to two amendments:

- with regard to information on the identity of the taxpayer it is only required that "information sufficient to identify the person under examination or investigation" be provided. Such information is "typically, name and, to extent known, address, account number or similar identifying information".

This amendment, however, does not mean that exchange of information is granted in general cases other than specific requests in individual cases. The taxpayer has to be clearly identifiable in the request for information. Further, "fishing expeditions" remain excluded. The protocol states expressly that these procedural requirements are intended to ensure that fishing expeditions do not occur. But they are, nevertheless, to be interpreted in a manner that does not frustrate the effective exchange of information.

- further the name of any person believed to be in possession of the requested information has to be stated in the request for information (typically the name of the bank). The address of the bank, however, has to be stated only "to the extent known". This is a deviation from the other treaty texts.

**Switzerland-France tax treaty.** The Switzerland-France tax treaty contains an interesting variation in comparison to the other treaties that Switzerland has concluded. Under Art. 10 of the protocol amending the Switzerland-France tax treaty, the name and address of the person believed to be in possession of the requested information (i.e., normally the name and address of the bank) has to be stated only to the extent known (*dans la mesure où ils sont connus*). The bank in question has to be clearly identifiable. The name of the bank has not necessarily to be mentioned in the request, as long as other specifications such as the international bank account number (IBAN) permit a

clear identification of the bank in question. Switzerland will not grant information exchange as long as the request does not contain such information.

**Exchange of information on request.** The Commentary on Art. 26 of the OECD Model allows information to be exchanged in three different ways: (a) on request, (b) automatically, and (c) spontaneously. The protocols that have been signed by Switzerland regarding the revised tax treaties make clear that information is only exchanged upon request of the other contracting state. It is expressly stated that there is no automatic or spontaneous exchange of information.

In light of Para. 7 of the Commentary on Art. 26 of the 1963 OECD Model, it seems that a Member State has the right to spontaneously exchange information, but is not obliged to. Since there is no obligation to automatically or spontaneously exchange information, even aside from the said protocols, it is unclear whether or not these statements are only of a declaratory nature or whether they necessarily restrict the contracting states' right to grant an automatic or spontaneous exchange of information.

Even if it can be concluded that Switzerland is also entitled to grant a spontaneous exchange of information, the formal rights of taxpayers would have to be carefully observed. In addition, it is uncertain whether or not the banking secrecy of Art. 74 of the Banking Act can be ignored in circumstances where the other contracting state has not filed a request for information.

**Manner of effecting the exchange of information.** Except for the tax treaty with the United States, the question of how the exchange of information is to be carried out is not set out in the amended exchange of information clauses and the protocols thereto. In principle, the requested state could simply supply the information orally, notwithstanding the fact that the requesting state can only use the information in qualified form. According to the Commentary on Art. 26 of the OECD Model, contracting states should endeavor, as far as possible, to accommodate a request to re-

ceive information in a particular form, but they are not obliged to do so.

According to the protocol amending the Switzerland-United States tax treaty, the competent authority of the requested state shall provide the information in the form of authenticated copies of unedited original documents (including books, papers, statements, records, accounts, and writings) if specifically requested by the other state. This means that the majority of the content of Art. 26 (6) of the US Model Tax Convention is - although not reflected in the treaty itself - found in the protocol. But unlike this provision, the protocol does not impose an obligation on the requested state to supply depositions of witnesses. Art. 26 (1) of the Switzerland-United States tax treaty (in the form applicable since 1996) already provides (probably as a consequence of Supreme Court Decision 101 Ib 160) that the information shall be provided in the form of authenticated copies of unedited original records or documents.

## Taxpayer rights and remedies

**Equal treatment (right to be heard).** As a consequence of Art. 26 (3) of the OECD Model, the guaranteed procedural rights of taxpayers under the domestic laws of the requested state are to be observed. The protocols amending the treaties expressly state that the administrative procedural rules regarding the taxpayers rights (such as the right to be notified or the right to appeal) provided in the requested state remain applicable before the information is exchanged with the requesting state. According to Para. 10 of the protocol to the Switzerland-United States tax treaty it shall further be understood that "these rules are intended to provide the taxpayer a fair procedure and not to prevent or unduly delay the exchange of information process".

**Right to appeal.** If the requested state is Switzerland, the equal treatment (right to be heard) stipulated in Art. 29 of the Federal Constitution has to be observed. Further the (foreign resident) taxpayer in question has the right to appeal an order issued by the Federal Tax Administration within 30 days to the

Swiss Federal Administrative Court. The taxpayer has no right to a further appeal to the Federal Supreme Court from a decision of the Swiss Federal Administrative Court. There is, therefore, no ordinary legal remedy against the decision.

In practice, requests for information should be dealt with within a period of not more than half a year from the time the request is made. Swiss domestic laws, however, do not provide for a statutory maximum duration for exchange of information proceedings.

### Information gathering measures

According to the exchange of information clauses concluded by Switzerland, in line with Art. 26 (4) of the OECD Model, the requested state shall use its information gathering measures to obtain the requested information even though the requested state may not need such information for its own tax purposes and has no domestic interest in such information. This obligation to obtain the requested information is subject to the limitations of Para. 3 and thus of the laws and practice of the requested and the requesting state.

Such a clause was not included prior to the 2005 OECD Model. Therefore, the existing exchange of information clauses in the Swiss tax treaties with the United States, Germany, Norway, Finland, Austria and South Africa also lack such a clause. Since Art. 26 (4) of the OECD Model is, however, solely of a declaratory nature pursuant to international law, its content also applies to these treaties.

The requested state has to obtain the requested information even if it does not need it for its own tax purposes. This does not, however, apply to the exchange of information regarding holding companies under the current treaties with Spain, Austria, Finland and the United Kingdom since this type of administrative assistance is limited to information that is in the possession of the tax authorities and for which no information gathering measures are necessary.

### Bank information

**Banking secrecy does not restrict the obligation to exchange information.** Art. 26 (5) of the 2005 OECD Model narrows the limitation regarding the exchange of information contained in Art. 26 (3) of the OECD Model. This concept was included in all the amended exchange of information clauses in the Swiss treaties.

The requested state is not permitted to refuse to supply information solely because the information is held by a bank. Swiss banking secrecy, which is protected by criminal law under Art. 74 of the Banking Act, is, therefore, not a professional secret that justifies a refusal to supply information. Thus, Swiss banking secrecy does not hinder the gathering of documentary evidence from banks or forwarding the information to the requesting state.

Further, the supply of information cannot be refused solely because the information is held by a nominee or person acting in an agency or a fiduciary capacity. Finally, the supply of information cannot be refused solely because the information relates to ownership interests in a company or foundation. Attorney-client-privilege, on the other hand, is not mentioned in Art. 26 (5) of the OECD Model. The requested state shall thus refuse to supply information that is protected by attorney-client-privilege under domestic law.

Para. 5 does not preclude the requested state from invoking Para. 3 to refuse to supply information held by a bank. Such a refusal must, however, be based on reasons unrelated to the person's status as a bank (or financial institution, agent, fiduciary or nominee). A legal representative acting for a client, for example, may be acting in an agency capacity, however, Art. 26 (3) of the OECD Model continues to provide a possible basis for refusing to supply information protected as a confidential attorney-client communication. This is expressly stated in the exchange of notes between the United States and Switzerland. Based on the Commentary on the OECD Model, this interpretation is also true for the other exchange of information clauses in Swiss tax treaties.

**Legal basis for obtaining bank information.** In addition to the wording of Art. 26 (5) of the OECD Model, the exchange of information clauses concluded by Switzerland contain, in Para. 5, a sentence such as: "in order to obtain such information, the tax authorities of the requested Contracting State shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding Para. 3 or any contrary provisions in its domestic laws". This sentence is supposed to provide an explicit legal basis for breaking the banking secrecy protected by domestic laws. This is particularly important for Switzerland because Switzerland has not had, until now, a legal basis under domestic law that would permit banking secrecy to be broken in regards to tax evasion that does not meet the criteria for being considered tax fraud.

The Switzerland-United States tax treaty includes a limitation in Art. 26 (5), 2<sup>nd</sup> sentence according to which banking secrecy shall only be violated if such violation is necessary for the contracting state to comply with its obligations under this paragraph.

## Treatment of the exchanged information in the requesting state

**Treatment as secret.** Any information received by way of an exchange of information by a contracting state shall be treated as secret in the same manner as information obtained under the domestic laws of that state. The exchange of information clauses, therefore, only protect secrecy based on the domestic laws of the requesting state. These rules are in line with Art. 26 of the 1977 OECD Model and the existing rules in the Swiss tax treaties with Spain, the United Kingdom and the United States. This means that if the requesting state violates the domestic tax secrecy, it automatically also violates its obligation under the tax treaty. Such a treaty violation could be sanctioned based on international law.

Most existing Swiss exchange of information clauses regarding the implementation of domestic laws in cases of tax fraud, however, contain strict wording such as that of Art. 26 (1) of the 1963 OECD Model,

that expressly states that the information exchange by the requesting state has to be treated as secret.

**Disclosing information.** The information obtained from the requested state shall be disclosed only to persons or authorities concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the relevant taxes. And these persons or authorities shall use the information only for such purposes. This means also that the information may (but not necessarily have to) be disclosed to the taxpayer himself, his representative or any witnesses. In contrast to Art. 26 (2) of the OECD Model, under the tax treaties with Denmark, Luxembourg, Norway, Austria, Mexico, Finland and Qatar information may not be disclosed to oversight bodies. It is important to note that under all tax treaties the information received by the contracting state may not be disclosed to a third country.

**Oversight bodies.** Under the tax treaties with France, the United Kingdom, Norway and the United States information can also be disclosed to oversight bodies. Such oversight bodies include authorities that supervise the tax administration and enforcement authorities as part of the general administration of the government of a contracting state.

**Use for other purposes.** In principle, the information exchanged may only be used for the above mentioned tax purposes. However, the information received may be used for other purposes when such information may be used for such other purposes under the laws of both states and the competent authority of the supplying state authorizes such use. The competent authority in Switzerland is the Federal Tax Administration. All clauses in the amended Swiss tax treaties provide for this right to extend the exchange of information to other purposes. This extension of the exchange of information is not contained in the standard wording of Art. 26 (2) of the OECD Model but in the alternative wording contained in the Commentary (2005 version). According to the Commentary on the OECD Model, this wording allows the sharing of tax information by tax authorities with other law en-

forcement agencies and judicial authorities on certain high priority matters (for example, to combat money laundering, corruption, terrorism financing, etc.).

**Court proceedings.** Under all exchange of information clauses negotiated by Switzerland the information obtained can be disclosed in court sessions held in public or in decisions that reveal the name of the taxpayer. The Commentary on the OECD Model allows contracting states to object to the information being made public by courts. None of the treaties concluded by Switzerland contain such an express objection.

Consequently, as soon as the information obtained is used in public court proceedings or in court decisions, and thus is public, such information can be extracted from the court files or decisions for other purposes, even as possible evidence.

**Assurance.** If there is no assurance that the information will be treated as confidential in the requesting state the requested state may object to the exchange of information. This is a consequence of the *ordre public* limitation and general principles of international law.

## Transitional questions

**Application of the exchange of information clause modeled after Art. 26 of the OECD Model.** The new Swiss exchange of information clauses according to Swiss practice regarding international treaties, are not effective or applicable retroactively. This means, on the one hand, that only requests for information that are submitted after the date of entry into force of the revised exchange of information clause will fall under the revised rules. On the other hand, requests for information filed after the entry into force of the new rules can only relate to information regarding tax periods after the date of entry into force of the revised treaty text. This is, however, not the conclusion based on general principles of international law. It is, therefore, necessary to state this explicitly in the protocols to the amended treaties.

The protocols amending the treaties with Denmark, Luxembourg, Norway, Austria, the United Kingdom, Mexico and Finland, as well as the treaty with Qatar, state that exchange of information under the new rules is only granted for tax periods (with respect to the tax treaty with Luxembourg "calendar years") that start on or after 1 January following the entry into force of the revised treaty provision. This means that the new exchange of information rules are valid only for income generated by the taxpayer on or after this date. Since the amended provisions will enter into force during the year 2010 at the earliest, exchange of information under the new rules will not be granted for tax periods starting before January 1, 2011. This should also apply for Spain because of the most-favored nation clause of Art. IV (11) of the protocol of June 29, 2006 to the Switzerland-Spain tax treaty.

**Special rule in the Switzerland-United States tax treaty.** The principle described above is not contained in the Switzerland-United States tax treaty. The exchange of information provisions shall have effect, regarding requests made on or after the date of entry into force of the protocol with respect to information that relates to any date beginning on or after the date of signature of the protocol (September 23, 2009) provided that the request regards information described in Art. 26 (5) of the treaty (i.e. bank information and information regarding ownership interests). In all other situations (i.e. information not relating to information held by a bank or relating to ownership interests), the protocol specifies that requests for information must relate to taxable periods beginning on or after January 1, 2010. It is important to note that in both situations the revised exchange of information clauses only apply to requests that are made after the entry into force of the protocol.

**Comparison: Retroactive effect in regards to legal assistance.** The Swiss Federal Council announced on March 29, 2009 that it will amend legal assistance laws to conform to the new principles for international co-operation in fiscal matters by amending the respective international treaties. At a later stage, the Swiss Federal Legal Assistance Act will be amended.

Therefore, with respect to countries that have an extended exchange of information clause in the tax treaty but with which legal assistance in fiscal cases is not restricted to tax fraud and the like any more, there may be differences with regard to retroactive effect.

The difference is that with regard to legal assistance a request for information may be made after the entry into force of the revised legal assistance treaty for periods before the entry into force as long as the prosecution of the respective crime in the requesting state is not statute barred. Consequently legal assistance in fiscal cases may be granted for tax periods starting before the entry into force of a revised legal assistance provision in an international treaty and, therefore, before the entry into force of the revised tax treaty. In order to avoid a situation where the limitation on retroactivity that Switzerland has negotiated in amending the revised exchange of information provisions in the tax treaties can be circumvented by amendments to legal assistance treaties, Switzerland should include the same limitations when amending the international legal assistance treaties.

## Summary

1. "Fishing expeditions" are explicitly excluded under all exchange of information clauses. A request for information such as the one in the UBS case would thus have to be declined. The request for information has to state the name of the person under examination or investigation. Only with respect to the United States is it "sufficient to identify the person under examination or investigation (typically name)".
2. The request for information has to state the name of the bank or other person believed to be in possession of the requested information. Only with respect to France, can requests be made without stating the name of the bank. In such situations, however, the Swiss tax authorities will usually not have measures available to provide for exchange of information.

3. Exchange of information is only granted for taxes falling within the scope of the treaty. No exchange of information is, therefore, granted with respect to indirect taxes or gift and inheritance taxes. These limitations are not applicable with respect to France and the United Kingdom.
4. As soon as the extended exchange of information clause under a revised tax treaty with a Member State enters into force, Switzerland has to grant exchange of information to the same extent to Spain under the most-favored nation clause of the current treaty. Exchange of information with respect to Spain is, however, limited to income and wealth taxes.
5. The amended exchange of information clauses will be applicable to information regarding tax periods beginning January 1, 2011 at the earliest. Under the tax treaty with the United States, however, information regarding tax periods beginning September 23, 2009 may be requested as soon as the new treaty enters into force. Under the treaty with France, information for tax periods beginning January 1, 2010 can be requested provided that the revised treaty enters into force.

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