FOCUS ON

SWITZERLAND

As a natural draw for hedge funds seeking a receptive, tax-efficient domicile, Switzerland has an important part to play in the future of the hedge fund industry. Dominique Lecocq of Lecocqassociate and Niklas Doebler of UBS provide *HFMWeek* with an overview of how Switzerland plans to compete with other European domiciles in 2011

Dominique Lecocq
is a partner with the law firm lecocqassociate, which has offices in both Malta and Switzerland. He specialises in regulatory banking and finance including investment funds, banking law and structured finance. He has assisted clients in the launch of funds in Switzerland, Malta, Luxembourg and the Cayman Islands, and with structuring operations and re-domiciling funds.

Niklas Doebler
is a business developer at UBS Global Asset Management - Fund Services in Switzerland, specialising in advising clients on tailored fund solutions. Fund Services is a global fund administration business delivering an extensive range of professional solutions and services to traditional and alternative funds.

Q HFMWEEK (HFM): WHAT ARE SWITZERLAND'S MAIN STRENGTHS AS A CENTRE FOR THE HEDGE FUND INDUSTRY?

A NIKLAS DOEBLER (ND): Switzerland is important as an investor base, allowing hedge funds to be close to their main client segments, which is a vital advantage, especially in times of crisis when demand for accessibility of managers increases. In addition to being home to a variety of funds of hedge funds (FoHF), Switzerland also offers managers broad exposure to institutional clients, such as sizeable pension funds, family offices and an abundance of independent asset managers. Besides this proximity to clients, Switzerland beats many of its European counterparts in regards to political stability and an excellent quality of life which is often cited by managers as a central reason for relocation.

A DOMINIQUE LECOCQ (DL): With a lighter regulatory framework and less onerous compliance obligations, Switzerland emerges as an attractive alternative to the tighter regulated EU member states in the context of asset management. Managers of foreign collective investment schemes are not required to obtain a regulatory licence to act as managers and a licence is only required for managers of Swiss-based funds. The Swiss regulator has delegated a number of monitoring duties to the industry itself which has set out industry standards by way of self-regulation. Setting up management operations in Switzerland is fairly straightforward. In relation to Swiss-based funds, the Swiss regulatory framework permits the structuring of hedge funds for retail investors and/or accredited investors without minimum investment threshold restrictions. This is a strong asset for marketing purposes. The fact that no minimum investment is required (even for hedge fund strategies) permits managers to easily list the fund on an exchange and create actively managed ETFs traded on secondary markets. If liquidity in secondary market trading is sought therefore, this lack of minimum investment thresholds renders Switzerland an extremely attractive alternative to other jurisdictions.

Q HFM: HAVE YOU SEEN A GROWING MOVEMENT OF FUNDS LOOKING TO REDOMICILE TO SWITZERLAND?

A ND: The expected exodus of hedge funds from London to Switzerland and the relocation of whole organisations has not arrived so far; however, we anticipate managers to continue opening offices in Switzerland. While profitable functions, such as trading, will be moved to Switzerland, many hedge funds have, and are likely to continue to retain, at least parts of their staff at their original locations. Interest in Swiss-domiciled fund structures may increase since Switzerland is not directly within the jurisdiction of the AIFM Directive. The Swiss Collective Investment Schemes Act also offers interesting opportunities with its relatively flexible investment restrictions for alternative funds. For example, the 'other fund for alternative investments' allows for short-selling, leverage of up to 600% and employment of a foreign prime broker.

A DL: Not many funds have redomiciled to Switzerland. Managers do redomicile, however, particularly from the UK and some very reputable managers have opted to shift their base of operations to Geneva. Some of these redomiciliations have required a relocation of over a hundred traders. This in itself is very exciting for the industry, which is booming with top new talent.

Q HFM: WHAT IS THE CURRENT CLIMATE LIKE FOR NEW LAUNCHES – BOTH HEDGE FUNDS AND FOHFS?

A ND: Hedge funds will need to further analyse the impact of the change in global regulation on their operations and strategy, and align their business model accordingly, which should lead to more launches of new fund structures and further relocations. We also believe we will see more growth in single hedge funds as opposed to FoHFs, as sophisticated investors are increasingly investing directly in single funds and want to avoid the extra layer of fees.

A DL: Swiss managers have launched a significant number of funds in 2010. Many have launched Ucits funds, SIF structures in Luxembourg and more and more PIF structures in Malta. A growing number of managers are interested in new products, including actively managed ETFs or ETCs. This trend is expected to escalate further in 2011.

Q HFM: HOW CAN SWITZERLAND HELP BOTH EUROPEAN AND US HEDGE FUNDS WITH THE IMPACT OF THE AIFM DIRECTIVE?

A ND: Swiss-based fund managers who are not targeting the EU market with non-EU domiciled funds are out of the scope of the Directive. Consequently, if a European hedge fund manager decides to relocate to Switzerland and does not actively market his non-EU fund within the European Union, meaning his investors decide to invest of their own accord, he is not obligated to adhere to the AIFMD. Current private placement rules are scheduled to remain in effect until 2018, allowing hedge fund managers in Switzerland to market their non-EU funds, in theory, on a country-by-country basis without having to fully comply with the Directive. However, certain aspects of the Directive – in regards to transparency – must still be adhered to, and co-operation agreements between the targeted EU country, the Swiss authorities and the fund domicile's local authorities must be in place.

A DL: The level of monitoring and the cost of organisation required from managers under the AIFM Directives are high. The Directive will only apply to managers in Switzerland to the extent of targeting EU investors. We see a growing number of managers targeting Bric investors. In this respect, Switzerland will offer a flexible hub within Europe. In targeting EU investors, Swiss managers will need to comply with the AIFM Directive. This would be a very welcome development and could possibly be the precursor to enabling Switzerland to benefit from the Ucits passport regime if this regulatory trend continues.

Q HFM: HOW CAN YOUR FIRM HELP MANAGEMENT FIRMS, OPTING TO LEAVE LESS TAX-FRIENDLY JURISDICTIONS, CREATE A STABLE BASE AND INFRASTRUCTURE IN THE REGION?

A ND: UBS has positioned itself to support hedge fund clients throughout the entire lifecycle. On a personal level, we provide managers who consider a move to Switzerland with personal wealth planning and private relocation services. The bank's prime services team offers comprehensive and tailored strategic and operational support to funds at all stages of development, while the fund services team delivers a range of professional administration services, from fund set-up to international registration and full reporting. So far, hedge funds have mostly moved only parts of their staff to Switzerland, specifically client-facing and investment management personnel, and still have divisions operating in their original domiciles. This trend is likely to continue in the future, as moving entire headquarters may prove difficult for larger hedge funds without losing parts of their teams.

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NIKLAS DOEBLER, UBS GLOBAL ASSET MANAGEMENT

A DL: We have advised increasing numbers of foreign managers willing to re-domicile in Switzerland, including asset managers, fund managers and broker dealers. We assist them in matters relating to corporate structures, regulatory compliance, product launch, employment and work permits. Each case is different: some managers have moved their entire team, others only financial analysts, or marketing teams. Most of the time, part of the team remains abroad.

Q HFM: HAVE ANY NEW PROCEDURES BEEN BROUGHT IN TO IMPROVE SWITZERLAND AS A CENTRE FOR HEDGE FUNDS?

A ND: The Swiss Fund Association's specialist board, the SFA Alternative Investments Committee, is focused on positioning and enhancing alternative investment activities in Switzerland. It continuously lobbies with regulators and tax authorities in Switzerland and the European Union to ensure reasonable frameworks for production, management and marketing of hedge funds and private equity vehicles. The committee also speaks for hedge funds in the 'Financial Centre Dialogue / Masterplan Switzerland' which aims at strengthening and developing the international competitiveness of the Swiss financial sector.

A DL: Except for the AIFM Directive, Switzerland is a very stable country. Its regulatory and tax system rarely changes. However, we do see development in industry practice.