Establishing a Bank in the Principality of Liechtenstein

Requirements under the newly revised Banking Act

With a comparative study of Switzerland

Overview of Contents

Tał	ble of Contents	9
Ch	arts	14
Ab	breviations	15
Bib	pliography	17
Leg	gal Sources	21
Foi	reword	25
I	INTRODUCTION	27
1	Aims and Goals	27
2	Scope and Limits of this Study	28
II	THE PRINCIPALITY OF LIECHTENSTEIN	31
V	History	31
2	Liechtenstein, a Constitutional Hereditary Monarchy	. 33
3	Foreign Affairs	35

4	Jurisdiction)
III	BANKING CENTER LIECHTENSTEIN39)
1	Development 39	9
2	Legal Basis and Definitions	2
3	Implementation of the Banking Act and Banking Oversight)
4	Relationship of Banks in the Principality of Liechtenstein to the Swiss National Bank62	1
IV	LOCATION-SPECIFIC FACTORS OF ESTABLISHING A BANK IN THE PRINCIPALITY OF LIECHTENSTEIN: A COMPARATIVE STUDY OF SWITZERLAND	
1	General 69	9
2	Taxes and Fees 70)
3	Banking Secrecy and International Legal Assistance8	7
4	Protection of Depositors and Investors	3
V	ESTABLISHING A BANK IN THE PRINCIPALITY OF LIECHTENSTEIN	3
1	Legal Form, Name and Headquarters10	3
2	Share Capital 105	5
3	Bank Shareholders 10°	7
4	Client Base 110	0

5	Board	111	
6	Bank Management and Organization	116	
7	Auditor	118	
8	Granting a License	122	
VI	CONCLUSION AND OUTLOOK	127	
1	Conclusion	127	
2	Outlook	129	
3	Summary	133	
Ind	Index13		
Ab	About the Author141		
Wh	What the Press Says about the Book143		

Table of Contents

Tał	ble of Contents	. 9
Ch	arts	14
Ab	breviations	.15
Bił	oliography	17
Leg	gal Sources	.21
Fo	reword	25
I	INTRODUCTION	.27
1	Aims and Goals	27
2	Scope and Limits of this Study	.28
II	THE PRINCIPALITY OF LIECHTENSTEIN	31
*	History	.31
2	Liechtenstein, a Constitutional Hereditary Monarchy	.33
3	Foreign Affairs	35

4	Jur	isdiction	.36
III	BAI	NKING CENTER LIECHTENSTEIN	.39
1	Dev	velopment	.39
	1.1	Beginnings	.39
	1.2	Establishing the First Bank in 1861	.39
	1.3	Establishing the Second Bank in 1920	41
	1.4	Establishing the Third Bank in 1956 with a Partial	
		Concession.	
	15	Start-ups since 1992	
	1.6	The Liechtenstein Bankers' Association	.51
2	Leg	al Basis and Definitions	.52
	2.1	The term "Bank"	.52
	2.2	Persons and Company Law (PCL)	.53
	2.3	Banking Act	.53
	2.4	The Landesbank Act	.55
	2.5	Due Diligence Act (DDA) - Due Diligence Unit (DDU)	57
	2.6	Financial Intelligence Unit (FIU)	.58
3	Imj	plementation of the Banking Act and Banking	
	Ove	ersight	.59
	3.1	Government	.59
	3.2	Financial Services Authority (FSA)	. 59
	3.3	Liechtenstein Banking Commission	61
	3.4	External Auditor	.62
	3.5	Court of Justice	.63
4	^Re	lationship of Banks in the Principality of Liechtenstei	in
	to t	he Swiss National Bank	.64
	4.1	Historical Perspective	.64
	4.2	Notification to the Swiss National Bank	67

IV	LOCAT	ΓΙΟΝ-SPECIFIC FACTORS OF ESTABLISHIN	G A
	BANK	IN THE PRINCIPALITY OF LIECHTENSTEIN	N:
	A CON	MPARATIVE STUDY OF SWITZERLAND	69
1	Genera	al	69
	1.1	Motives	
2	Taxes a	and Fees	
	2.1	Taxes and Fees in Liechtenstein	70
	2.1.1	Tax System	70
	2.1.2	Issuance Duty and Establishment Fees	72
	2.1.3	Capital Tax	73
	2.1.4	Tax on Earnings	74
	2.1.5	Distribution Surcharge	75
	2.1.6	Coupon Tax	75
	2.1.7	TourismLevy	76
	2.2	Taxes and Fees in Switzerland (Canton St. Gall).	. 78
	2.2.1	Tax System	78
	2.2.2	Issuance Duty and Establishment Fees	79
	2.2.3	Capital Tax (Canton)	80
	2.2.4	State Tax on Earnings (Canton and Municipalities	es)81
	2.2.5	Federal Tax on Earnings (Direct Federal Tax)	82
	2.2.6	Federal Withholding Tax	82
	2.2.7	Conclusion	82
	2.2.7.1	Taxes from the Bank Shareholders' Perspective	82
	2.2.7.2	Taxes from Bank Customers' Perspective	84
3	Bankir	ng Secrecy and International Legal Assistance	87
	3.1	General	87
	*. 3.1.1	Introduction	87
	3.2	Banking Secrecy and Legal Assistance in	
		Liechtenstein	88
	3.2.1	Banking Secrecy	88
	3.2.2	Legal Assistance in Fiscal Matters	91

	3.2.3	Legal Assistance in Criminal Matters	92
	3.3	Banking Secrecy and Legal Assistance in	
		Switzerland	94
	3.3.1	Banking Secrecy	94
	3.3.2	Legal Assistance in Fiscal Matters	96
	3.3.3	Legal Assistance in Criminal Matters	97
	3.3.4	Conclusion	
4	Protec	ction of Depositors and Investors	98
	4.1	Protection of Depositors and Investors in	
		Liechtenstein	98
	4.2	Protection of Depositors and Investors in	
		Switzerland	100
	4.3	Conclusion	101
V	ESTA	BLISHING A BANK IN THE PRINCIPALITY	
	OF LI	ECHTENSTEIN	103
1	Legal	Form, Name and Headquarters	103
	1.1	Legal Form.	
	1.2	Name	
	1.3	Domicile	104
2	Share	Capital	105
	2.1	Minimum Capital	105
	2.2	Bearer or Registered Shares	
	2.3	Conclusion	106
3	Bank	Shareholders	107
*	3.1	General	
	3.2	Individuais and Legal Entities as Shareholders	
	3.3	Key Problems and Interpretation	
		•	
	3.4	Conclusion	110

4	Client	Base	110	
	4.1	Geographical Reach and Business Activities	.110	
5	Board		.111	
	5.1	Mission of the Board	111	
	5.2	Members of the Board Domiciled in Liechtenstein	112	
	5.3	Board Members Domiciled Abroad	.113	
	5.4	Swiss Regulation	113	
	5.5	Incompatibility, Close Relations	.113	
	5.6	Conclusion	114	
6	Bank N	Management and Organization	116	
	6.1	Guarantee of Flawless Management	.116	
	6.2	Organization	.116	
	6.3	Personnel Compensation	117	
7	Auditor		118	
	7.1	General	118	
	7.2	Internal Audit	118	
	7.3	External Auditor	.120	
8	Granting a License1			
	8.1	Documentation for the License Application	122	
	8.2	Government License	.124	
VI	CONC	LUSION AND OUTLOOK	127	
1	Conclu	usion	127	
2	Outloo	ok	.129	
3	Summary1			
Ab	out the	Author	141	
Wł	nat the F	Press Says about the Book	.143	