



Financial Services Transfer Pricing

Our services for banking and capital markets industry

The challenges

The banking and capital markets sector has been facing various challenges over the last years ranging from increasing regulations and focus on risk management, a rapidly transforming banking landscape, increased cost pressure and the rise of technology.

In addition, the OECD Base Erosion and Profit Shifting (BEPS) initiative has fundamentally changed the international tax landscape since 2015. Many jurisdictions are now in the process of revising their domestic tax regulations and treaty framework that will affect the Financial Services (FS) sector.

Luxembourg also started formalizing its transfer pricing (TP) regime by transposing the latest OECD guidance and principles outlined by the OECD TP Guidelines (including an increased focus on TP documentation).

"For 2018 and beyond, banks must contend with multiple challenges tied to regulations, legacy systems, disruptive models, etc."

**2018 Banking Industry Outlook,
Deloitte**

Current challenges for the banking and capital markets sector from a tax perspective include:

- Tax impact of regulatory developments (Basel III) on the banking and capital markets sector ranging from i) funding or capital increases to meet liquidity/capital requirements and interaction with determination of free capital for banking branches and ii) funds transfer pricing (FTP) requirements under Basel III as a new framework for pricing the provision of liquidity;
- The overlap of the discussion on organizational and economic substance in context of the tax and regulatory dimension;
- Attribution of financial assets, profits and branch capital in the context of permanent establishment specific to the banking sector based on the Authorized OECD Approach (AOA);
- BEPS impact on the TP treatment of core banking transactions covering global trading with different booking models, capital markets and underwriting, investment banking, loan origination and syndication, securities lending, custody banking and sales credits;
- Intercompany services and management activities with respect to determination of beneficial activities, cost base and allocation;
- Tax treatment of intangibles covering trademarks and technology or guarantees specific to the FS sector;
- Increased focus on the tax as part of corporate governance function.

How Deloitte can support

Deloitte has supported many of the key players in the banking sector on complex TP engagements including:

- Transfer pricing planning and policy setting (also in the context of establishing new operations in Luxembourg);
- Benchmarking and economic analysis to determine profit splits and allocation factors, remuneration for sales/distributions or sales credits/referral fees, license fees/royalties and service fees;
- Transfer pricing risk reviews and BEPS assessments;
- Restructurings and transfer of activities (e.g. related to Brexit);
- Operationalization of new policies including legal structuring;
- Transfer pricing documentation; and
- Defense of transfer pricing policies towards tax authorities in tax audits and negotiation of (bilateral or multilateral) Advance Pricing Agreements (APA).

Your advantage

We are distinct in our multi-disciplinary and collaborative model and the value that model brings to our clients. We take time to understand the needs and expectations of our clients and develop a pragmatic solution that considers the strategic, operational, regulatory and tax imperatives of your business.

By adding the necessary industry expertise and our experienced people focusing on the FS sector, we understand our clients' most challenging business issues and how to solve them.

We supported many of the leading banking and capital markets institutions on planning, implementing, documenting and defending their transfer pricing arrangements. Luxembourg is one of Deloitte's global competence centres for transfer pricing in the FS sector and works closely with the industry and tax experts from the advisory side and global Deloitte network.

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