LOCAL INSIGHTS
SWITZERLAND

Attachment of assets and bank accounts under Swiss debt enforcement law

Marcel Frey and Urs Feller of Prager Dreifuss explain how Swiss debt enforcement attachments enable creditors to freeze assets and bank accounts swiftly, even before litigation, under the Debt Enforcement and Bankruptcy Act



When creditors have a valid claim against a defaulting Swiss debtor and even know of assets in Switzerland, the following considerations could be helpful in an assessment. Similarly, creditors might have legitimate claims against a debtor who avers not to have funds in their jurisdiction while assets in Switzerland would be available to satisfy the claim.

A debtor's foreign domicile and the fact that Switzerland does not form part of the EU might put off a creditor from pursuing their claim in Switzerland. Attachment applications can address these fears: the instrument is relatively straightforward and allows for the securing of assets even prior to litigation in Switzerland, though a creditor's position may be even more favourable where they are in possession of a Swiss or foreign judgment or award.

The following provides a summary of the powerful instrument available to creditors in the form of a so-called attachment (Arrest) under **the Swiss Debt Enforcement and Bankruptcy Act** (DEBA).

Swiss residents and international creditors alike can implement attachments to secure funds held by debtors in Swiss banks or any other fungible assets located in Switzerland of which the creditor may be aware. This mechanism's ex parte nature and relatively modest evidentiary threshold make it efficient in a jurisdiction



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that is otherwise known for its banking confidentiality.

Switzerland as an important international centre for global assets

SwissBanking, the association of Swiss banks, notes in its 2026 overview: "Built on political stability, legal certainty and competitiveness, Switzerland's financial centre is one of the most respected worldwide. Home to over 230 banks and managing more than CHF 9 trillion in assets, it unites security with innovation, international reach and sustainable growth."

In view of this, it is not surprising that in international transactions, non-Swiss creditors seeking to obtain provisional relief by means of securing property or bank accounts will turn their attention to Switzerland. They may have discovered that an overdue debtor has funds located in Switzerland. Such intelligence may come by way of transaction records during the commercial relationship or by other means of investigation. For the greater part, bank accounts, which were disclosed during the commercial exchange, regularly form the legitimate entry point for safeguarding measures initiated by a creditor.

Tracing Swiss assets

In order to be successful, it is vital for a creditor to have clear knowledge about assets located in Switzerland. A creditor cannot request a general attachment (*Sucharrest*) to search for assets. Moreover, the creditor must clearly specify the asset.

Swiss law does not offer general civil remedies to creditors to obtain information about a debtor's assets from banks or other third parties for that matter and will curtail 'fishing expeditions' in a court of law. Only in limited areas of law, statutory entitlements may trump these restrictions, though these are not commonly encountered in commercial relationships and pertain primarily to areas of family and matrimonial law or inheritance matters.

Statutory grounds for attachment

In order to safeguard monetary claims, creditors can request the attachment of a debtor's assets across all of Switzerland, prior to a trial or debt enforcement, in a single application. They must only prove to the court, to a degree of plausibility, that the following three conditions are met:

- The creditor must demonstrate that they are owed a debt that is due and not secured by a pledge;
- The creditor must demonstrate that there exists a valid legal basis for attachment in the form of one of the six statutory grounds for attachment; and
- The creditor must be able to identify assets and their location in Switzerland.

The six grounds that allow for asset attachment are the following, with grounds 4 and 6 being the most pertinent for foreign creditors (**Article 271, paragraph 1, DEBA**):

1. The claim is against a person without permanent residence in Switzerland;
2. The debtor is attempting to conceal assets or is about to flee Switzerland to avoid obligations;
3. The debtor is passing through Switzerland, attending trade fairs, and the claim requires immediate payment;
4. The debtor lives outside Switzerland, none of the other grounds apply, but the claim has sufficient ties to Switzerland or stems from a debt acknowledgment;
5. The creditor possesses a provisional or final certificate of shortfall against the debtor (from earlier debt enforcement proceedings); or
6. The creditor holds a final enforceable title that overrides debtor objections (*definitiver Rechtsöffnungstitel*), such as a domestic/foreign judgment or arbitral award eligible for enforcement.

Location of assets in Switzerland

Though an applying creditor may request attachment of all assets in Switzerland in

a single application, the request is limited to assets located in Switzerland. Equally, Swiss courts do not know the instrument of worldwide freezing orders. Furthermore, only assets of which the debtor is the legal owner may be subject to attachment. There are certain exceptions to this principle; for instance, where assets are held by someone fronting for the debtor.

Equally, where a shell company is the legal owner, but the debtor fully controls said company (economically identical to the debtor), a creditor may request the court to pierce the corporate veil. The threshold, though, is high, since a creditor must be in a position to prove that the debtor is making use of the legal entity in an abusive manner not warranting legal protection.

Moveable assets or immoveable tangible assets can regularly be identified and their locations demonstrated quite easily. Where monetary claims or contractual entitlements owed to the debtor are at stake, identifying their location may prove to be more difficult. Such claims are generally located at the Swiss domicile of the debtor. Where a debtor lives abroad, Swiss courts have ruled that it is nevertheless possible to request attachment of such claims, since in such instances, the claim is deemed to be located at the Swiss domicile of the third-party debtor and must be attached and enforced there.

Therefore, where a debtor resides abroad but has a Swiss bank account, the claim against the bank for the balance is considered to be located at the bank's domicile as the third party-debtor. This rule aims to avoid negative jurisdictional conflicts due to multiple locations of claims arising from differing state regulations.

Application proceedings

The appeal of commencing attachment proceedings may be found in the speed and the surprise element such applications entail: creditors can act unilaterally, preventing asset flight to other jurisdictions. The application process is ex parte, with the creditor only being advised about the attachment once it has been executed. Only thereafter is the debtor offered the opportunity to dispute the prerequisites for the attachment before the attachment court.

Creditors must file a reasoned application to the court at the place of debt enforcement or at the place where the assets to be attached are located. The application must be supported by evidence to the existence of the claim (contracts, invoices) and to the presence of the assets for which attachment is being sought (commonly, bank statements, real estate register excerpts, motor vehicle registration excerpts). Finally, the applicant must demonstrate the facts entitling the attachment application (e.g., a foreign registry extract).

Proceedings are summary in nature, with limits to the evidence that may be adduced (usually only documentary evidence at hand). In most instances, the attachment order is granted (or refused) within a day. Where the creditor is domiciled abroad, the creditor will be requested to designate a place of service in Switzerland. Alternatively, the place of service shall be the debt enforcement office.

If the attachment court is convinced that the statutory requirements have been satisfied, it instructs the debt enforcement officer to execute the attachment. Where a creditor is not able to overcome the plausibility hurdle for the attachment conditions, the negative attachment order does not have res judicata effect. Therefore, a creditor may reapply; i.e., once more information as to the assets or when the necessary documentation is available.

Attachment of funds of a foreign debtor

Creditors will frequently consider an attachment application based on the fact that the claim has a sufficient connection to Switzerland or based on an acknowledgement of debt within the meaning of **Article 82 of the DEBA**, which requires that the claim is evidenced by a public deed or confirmed by signature.

While written instruments evidencing claims regularly exist in commercial dealings, the other option of applying to the Swiss court solely based on a 'Swiss connection' of the claim is clearly more complex. It should be noted that the mere Swiss location of debtor assets does not on its own constitute a sufficient connection to Switzerland.

Courts have accepted that such sufficient connection may take the form of a choice of Swiss law to govern the contract giving rise to the claim, or where a payment goes through Swiss banks, or even where a debtor's marketing activities are conducted in Switzerland. Also, Swiss doctrine has accepted a sufficiently close link where:

- The creditor has its domicile in Switzerland, the underlying claim stems from a delict, and the place of the tortious act or the place of the outcome was in Switzerland; or
- The debtor conducts business in Switzerland and the debtor's assets were permanently or at least for a certain period held in Switzerland.

The second relevant ground for attachment is usually the availability to the creditor of a pre-existing court judgment or equivalent pursuant to **Article 80 of the DEBA**. These would constitute court settlements and/or debts recognised in court or (to a lesser degree) an enforceable public deed (pursuant to **articles 347–352 of the Swiss Civil Procedure Code**). Such instruments elevate any type of performance to the level of a judicial decision where:

- The obligee expressly declares in the deed that they accept direct enforcement;
- The legal ground for the performance due is mentioned in the record; and
- The performance is due.

Contrary to Swiss judgments, for which attachment will be granted without further formalities, foreign judgments must first be recognised. For Lugano Convention member state judgments, **Article 271, paragraph 3 of the DEBA** explicitly states that the applicant may request the attachment court to also decide on the enforceability of the foreign judgment.

Under settled jurisprudence, an applicant benefiting from judgments from non-Lugano Convention member states or from an arbitral award may also request the attachment court to recognise the underlying judgment as a preliminary issue during the attachment proceedings.

Cost of the application proceedings

The costs of the application proceedings are determined according to the value in dispute, which corresponds to the debtor's assets located in Switzerland. If the amount of these assets is unknown, the creditor's claim serves as the basis for calculating the cost of the application proceedings. An advance payment may be requested from the attaching creditor, although courts often refrain from doing so.

One component of these costs consists of the court fee determined by the court based on a federal tariff, which ranges from CHF 40 to CHF 4,000. Further advance

payments may be required in order to execute the attachment order. The court will instruct the debt enforcement officer to execute and serve the attachment order on the debtor. In practice, the debt enforcement office will add the aforementioned costs to secure them duly, thereby covering the advanced payments and leaving the creditor with a security margin of 20% on its claim.

In light of this, it is favourable for the creditor that the costs of the application proceedings can be estimated in advance and the associated risk involved can be indicated and calculated.

Reaction by the bank

Upon approval and enforcement of the attachment order, the bank, as a third-party debtor, is notified that the attachment order applies exclusively to assets listed in the notice of attachment issued by the debt enforcement office. The debtor's assets are frozen up to the amount stated in the application that the court confirms and on the basis of which the debt enforcement office issues the attachment order (*Arrestbefehl*).

The bank is under a direct legal obligation to disclose relevant information and to secure the attached assets. The moment of the attachment notification determines the limit to which the debtor's assets are frozen. Assets that exceed the limit, as well as funds acquired after the attachment has been enforced – i.e., deposits into an account that has already been attached – are usually not subject to the attachment. Banks that pay out the frozen funds to the debtor despite the attachment order risk making a double payment, and may be held liable.

In Swiss law, even during an attachment proceeding, banking secrecy must be upheld and taken into account (Article 47 et seq., Federal Law on Banks and Savings Banks). In this context, the question arises as to when the bank must provide the information about whether and to what extent the debtor's assets could be attached.

The Federal Supreme Court has held that the bank is not authorised to provide the debt enforcement office with information about the attached assets without the debtor's consent until the attachment order becomes final. It is deemed final when the 10-day deadline for filing an opposition to the attachment has lapsed or when the court finally decides on the recourse application by the debtor to the attachment.

In practice, banks inform the debt enforcement office that the information requested in the attachment order will not be provided until the aforementioned requirements have been met. The amount secured may thus remain uncertain during the appeal's duration.

Pursuing attachment by means of debt enforcement or trial

Once the attachment order is executed, creditors must actively pursue the claim through regular debt enforcement proceedings (*Betreibung*) under **Article 38 et seqq. of the DEBA** or, if contested, escalate to trial, to avoid automatic lapse of the attachment (**Article 279 et seq., DEBA**).

Within 10 days of the attachment decision, the creditor must apply for the issuing of a payment summons (*Zahlungsbefehl*) with the debt enforcement office at the debtor's Swiss domicile or – where abroad – at the location of the asset, converting the provisional measure into a merits-based process. If the debtor fails to protest within 10 days, the provisional certificate becomes final and enforceable, allowing the realisation of attached assets via public auction or private sale (**Article 125 et seqq. and Article 138 et seqq., DEBA**).

If the debtor files an objection to the summons for payment, the creditor must, within ten days of receiving the creditor's copy of the summons, apply to have the objection set aside or file an action for the recognition of their claim. If their application to have the objection set aside is granted, the creditor must file the action on the substance within ten days of receiving notice of the decision.

Risks and liabilities

The creditor is liable both to the debtor and to third parties for any loss or damage arising from an unjustified attachment. The court may require the creditor to provide security, which is mostly ordered if there are still more or less reasonable doubts about the creditor's statements (which is not the case if the creditor can rely on enforceable court judgments) regarding the claim and the reason for the attachment. The action for damages may also be filed in the court at the place of attachment.

Recent developments

A question that is still a moving target is the question of the attachability of cryptoassets in Switzerland. In 2023, the Zurich High Court concluded in a related matter (recognition of a foreign bankruptcy decree) on the existence of cryptoassets at a Swiss location of payment tokens whenever there is de facto access to them at the Swiss forum – whether through an instruction from the private key holder or the admin key holder residing there, or by other means.

Though not rendered in attachment proceedings per se, the findings of the court may well be applied to the issue of location of cryptoassets in such proceedings, a duty that befalls the applicant creditor.

Conclusion: a strategic tool for global creditors

The DEBA attachment constitutes an effective asset-freezing tool in an era of cross-border debt and distributed wealth. For non-Swiss creditors aware of Swiss bank funds of the debtor, whether via invoices or own intelligence, **Article 271 et seqq. of the DEBA** offer swift, low-risk security that transforms awareness into leverage. Its ex parte efficiency, creditor-friendly nexus tests, and seamless merits transition may likely outpace alternatives in other jurisdictions, such as English freezing orders.

In practice, attachments not only freeze debtor assets but may also prompt settlements by recalcitrant debtors. Securing an attachment may force them to consider unnecessary exposure and costs, often convincing them to pay up post-freeze.

The risks involved in attachment proceedings are regularly limited and usually manageable where an adequate amount of research has gone into assessing the title, location, and actual amount of assets.