Guidance on the Berne Financial Services Agreement for Swiss Financial Institutions Considering the Provision of Financial Services into the UK

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Key takeaways

- **The publication of guidance on the implementation of the BFSA by FINMA and the PRA/FCA respectively marks another milestone towards the BFSA's entry into force and provides market participants with specific conditions that must be met in order to benefit from the opportunities created by the BFSA.**
- **These conditions may include registration, disclosure, and periodical reporting obligations, depending on the specific circumstances and the services to be provided under the BFSA.**
- **Given the BFSA's expected entry into force of the BFSA force on 1 January 2026, interested entities in Switzerland should verify whether they meet these conditions and, if applicable, begin the registration process early.**

Introduction

The Berne Financial Services Agreement between Switzerland and the United Kingdom (the "Berne Financial Services Agreement" or "BFSA") was signed between the two countries in December 2023 and will create a range of new opportunities for financial institutions established in Switzerland and in the United Kingdom (the "UK"). For a general overview of the content of the BFSA and the opportunities it presents, see our Legal Update of 18 June 2025.

On 3 November 2025, both the Swiss Financial Market Supervisory Authority ("FINMA") as well as the UK Financial Conduct Authority ("FCA"), jointly with the UK Prudential Regulation Authority ("PRA"), each published guidance on the implementation of the Berne Financial Services Agreement – in preparation of the BFSA's entry into force on 1 January 2026.

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In particular, the guidance contains further practical information for financial services providers with respect to the sectoral annexes of the BFSA relating to insurance and investment services respectively. This Legal Update focuses on practical information and conditions applicable to financial institutions in Switzerland considering the provision of financial services into the UK – for UK financial institutions considering the provision of financial services into Switzerland, we refer to our separate Legal Update.

Requirements for the provision of insurance services

The provision of insurance services from Switzerland into the UK on a cross-border-basis was already possible under applicable national law prior to the BFSA. The BFSA maintains this status quo, allowing Swiss insurers to continue their provision of cross-border services into the UK on such basis.

Requirements for the provision of investment services

Scope of covered investment services

Covered investment services under the BFSA comprise investment services and activities, as well as ancillary services as defined under UK law. Investment services and activities include the execution of orders on behalf of clients, portfolio management and investment advice. Ancillary services are generally connected to the principal activities, yet the BFSA stipulates that such ancillary services may also be provided on a standalone basis.

Further, communications made to or directed at natural persons resident in the UK and their representatives, as well as private investment structures established in the UK, to ascertain whether such a person qualifies as a covered high-net-worth client are also considered to be covered services for the purposes of the BFSA – which is of particular importance if business relationships with new clients are to be established, whose status is unclear.

Eligible Swiss financial institutions

Banks, securities firms, fund management companies, managers of collective assets, and portfolio managers incorporated in Switzerland (“Swiss Financial Service Providers”) – thus excluding any branches or representation offices of foreign financial institutions in Switzerland – that plan to conduct business in the UK under the BFSA should ensure that they are authorised, in accordance with applicable regulations and their organisational documents, to exercise the activities in Switzerland (or from Switzerland) whose provision in the UK is under consideration.

Swiss financial service providers with a branch in the UK

For Swiss Financial Service Providers already operating branches in the UK that are authorised under Part 4A of the UK Financial Services and Markets Act 2000 (the "FSMA"), it should be noted that covered services may not be provided under the BFSA if such services are already provided by the UK branch. Therefore, such Swiss Financial Service Providers must choose whether they wish to provide a specific covered service under the BFSA or through the UK branch.

In order for a Swiss Financial Service Provider to provide covered investment services into the UK, the following conditions must be met.

Registration requirements

Swiss Financial Service Providers must register with the FCA's BFSA register. To this end, Swiss Financial Service Providers must notify FINMA (via the EHP platform) and provide the following information:

- name and contact information;
- authorised status (as a bank, securities firm, fund management company, manager of collective assets or portfolio manager);
- the services whose provision under the BFSA is under consideration;
- confirmation that the institution is authorised for such services and already offers them outside the BFSA; and
- confirmation that the institution will meet all the conditions of the BFSA.

FINMA shall review the notification and inform the FCA on the outcome of such review within 60 days. Within a further 30 days of the positive confirmation, the FCA shall enter the Swiss Financial Service Provider in its public BFSA register – at which point, the Swiss Financial Service Provider may begin providing covered services under the BFSA into the UK. In cases of any subsequent amendments to the initial notification, the entity is required to notify FINMA – the mechanism and the deadlines outlined above apply equally in such cases.

Disclosure requirements

Further, Swiss Financial Service Providers are required to disclose the following information to a client in the UK, prior to entering into a contract with such client:

- that the firm is an entity incorporated in or formed under the domestic law of Switzerland;
- that the firm is authorised and supervised in Switzerland;
- that the firm is not authorised or regulated in the UK, or if authorised under Part 4A of the FSMA, is not authorised in the UK to supply the covered service(s) notified under the BFSA;

- the place of jurisdiction and applicable law of the contract to be entered into;
- that the UK financial services compensation scheme is not available; and
- that the UK financial services out-of-court dispute resolution scheme (the Financial Ombudsman Service) is not available.

Reporting requirements

Swiss Financial Service Providers that provide covered services under the BFSA into the UK must periodically report the following information to the FSA:

- firm name (and trading name if different);
- firm registration number with FINMA and BFSA register number with the FCA;
- number of covered clients supplied in the reporting period, arranged by category of service and client type;
- total turnover attributable to the supply of covered services to covered clients in the reporting period;
- if total turnover exceeds GBP 50,000,000 in each of two consecutive reporting periods, firms must provide a breakdown of turnover in the reporting period (a) per category of covered service and (b) for the following categories of covered service, reporting must include turnover by covered financial instruments: dealing on own account, executing orders on behalf of covered clients, and reception and transmission of orders;
- anonymised information on complaints of a material nature made by covered clients against the firm concerning the supply of covered services; and
- whether the firm has entered into title transfer collateral arrangements with covered clients in the UK in the reporting period.

Such periodical reporting must be submitted to FINMA via the EHP platform on an annual basis by 30 April of any year following the Swiss Financial Service Provider's entry in the FCA's BFSA register. FINMA shall forward such annual report to the FCA and retain a copy thereof.

Outlook

The publication of guidance by FINMA and the PRA/FCA respectively marks another milestone on the path to the BFSA's entry into force. The guidance sets forth the specified conditions that insurers and financial service providers in Switzerland must meet in order to benefit from simplified and/or enhanced market access to the UK under the BFSA.

Interested market participants who wish to make use of such new avenues with respect to market access are well-advised to initiate the registration process and/or the preparatory work relating to disclosure requirements early, given that Swiss Financial Service Providers may

provide their services only after their entry in the BFSA register.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this legal update.

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