

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

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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 on 1 January 2026, interested entities in the UK 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.

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 the UK considering the provision of financial services into Switzerland – for Swiss financial institutions considering the provision of financial services into the UK, we refer to our [separate Legal Update](#).

Requirements for the provision of insurance services

The BFSA allows insurers established in the UK to undertake certain insurance activities in Switzerland without having a branch in Switzerland. In order to undertake such activities, UK insurers must satisfy the following conditions.

Registration requirements

UK insurers must enter FINMA's BFSA register. To this end, UK insurers must notify the competent UK supervisory authorities using the FCA Connect system and provide the following information:

- firm name (and trading name if different);
- firm reference number (FRN) on the FCA's financial services register;
- firm contact information;
- the covered services, including the classes of insurance, which the firm is considering providing into Switzerland;
- self-declaration that the firm meets the eligibility criteria in Annex 4 Section IV.B of the BFSA; and
- declaration that the firm will comply with the conditions set out in the BFSA (as set forth in Annex 4 Section VII of the BFSA).

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

Disclosure requirements

The UK insurer is required to disclose in a format that can be evidenced in text form (i.e. physically or electronically) the following information to a client in Switzerland, prior to entering into a contract with such client:

- company name and address;

- that the UK insurer is authorised and supervised under UK domestic law for the insurance segments listed in the FINMA register and is not authorised and supervised by FINMA;
- that the policyholder is personally responsible for the payment of compulsory taxes levied on insurance premiums in Switzerland (stamp duties) to the competent tax authority;
- contact details of the UK insurer for:
 1. obtaining information on the required knowledge and capabilities of its staff responsible for the distribution of insurance contracts;
 2. addressing complaints regarding professional negligence;
 3. addressing errors or inaccurate information relating to the UK insurer's distribution activities; and
- place of jurisdiction and applicable law of the contract to be entered into.

Additionally, the policyholder may request a complete copy of the documents created by the UK insurer in the course of their business relationship at any time. It must be noted that the above-mentioned disclosure obligations under the BFSa complement (but do not replace) any other disclosure requirements, notably such requirements under the Swiss Insurance Contract Act (the "ICA") – to the extent that such requirements apply to the contractual relationship in question.

Reporting requirements

UK insurers providing covered services under the BFSa into Switzerland must periodically report the following information to FINMA:

- firm name (and trading name if different);
- the firm's reference number on the FCA's financial services register and its BFSa register number with FINMA;
- the types of covered services, including class of insurance, supplied to covered clients; and
- where the UK insurer has generated over CHF 5,000,000 in gross premiums from its activities under the BFSa, the total gross premiums for the activities carried out in the reporting period broken down by class of insurance.

Such periodical reporting must be submitted to FINMA via the EHP platform on an annual basis by 30 April of any year following the UK insurer's entry in FINMA's BFSa register. FINMA shall forward a copy of such report to the competent UK authorities.

Requirements for untied insurance intermediaries

With respect to untied insurance intermediaries that are based, authorised and supervised in the UK, the BFSA provides for an exemption from the localisation requirement under the Swiss Insurance Supervision Act (the “ISA”) (i.e. no local presence in Switzerland is required) – whilst any other requirements under Swiss law remain unaffected. UK-based untied insurance intermediaries that wish to provide covered services under the BFSA into Switzerland must register with FINMA using the EHP platform and are subject to annual reporting requirements (also to be submitted via EHP) by 31 May of each year.

Further, UK untied insurance intermediaries are subject to the disclosure requirements set forth in the ISA with regards to insurance clients. In addition to such obligations under the ISA, they must disclose the following information to a client in Switzerland in a format that can be evidenced in text form (i.e. physically or electronically) before the conclusion of the contract:

- that the policyholder is personally responsible for the payment of compulsory taxes levied on insurance premiums in Switzerland (stamp duties) to the competent tax authority; and
- place of jurisdiction and applicable law of the contract to be entered into.

Requirements for the provision of investment services

Financial service providers based in the UK already benefit from relatively open market access under applicable law prior to the BFSA. The BFSA generally maintains this status quo and, additionally, allows for client advisors of UK financial service providers to temporarily serve Swiss high-net-worth individuals directly in Switzerland without having to register in Switzerland under the following conditions.

Notification requirements

Prior to commencing the provision of covered investment services through client advisors in Switzerland on a temporary basis, UK financial service providers must notify the FCA.

Disclosure requirements

The UK financial service provider is required to disclose, prior to providing the covered investment services, to each high-net-worth client in Switzerland in a format that can be evidenced in text form (i.e. physically or electronically), at a minimum, the following information:

- that the covered financial service provider is established in the UK and is authorised and supervised in its country of origin;
- that the duty to register as a client advisor as defined in the Swiss Financial Services Act (the “FinSA”) does not apply to its client advisors; and
- if applicable, the Swiss ombudsman with whom the covered financial service provider is affiliated in accordance with Article 77 FinSA.

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, untied insurance intermediaries, and financial service providers in the UK must meet in order to benefit from simplified and/or enhanced market access to Switzerland 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 UK insurers, untied insurance intermediaries, and financial service providers may provide their services only after their entry in the BFSA register or after having notified the FCA.

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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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