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Latest Developments on the Berne Financial Services Agreement between Switzerland and the United Kingdom

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Key takeaways

- **The signing of a MoU between FINMA, the FCA, and the Bank of England in its capacity as PRA marks another milestone in the implementation of the Berne Financial Services Agreement.**
- **Upon the envisaged entry into force of the BFSA in early 2026, Swiss and UK financial institutions will benefit from further opportunities in accessing the UK and Swiss markets, respectively.**
- **However, open questions regarding the BFSA still remain and it is expected that the planned publication of operational guidance by the respective supervisory authorities in November 2025 will provide further insight and clarification.**

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 provide a range of new opportunities for financial institutions established in Switzerland and in the United Kingdom (the "UK"). For a general overview of the BFSA's content and the opportunities it presents, see our Legal Update of 18 June 2025.

Whilst the BFSA is yet to enter into force, Switzerland and the UK remain committed to ensuring that the BFSA is fully implemented by the end of 2025 and there have been several developments in the BFSA implementation process.

Memorandum of understanding between the supervisory authorities

On 22 September 2025, the Swiss Financial Market Supervisory Authority ("FINMA"), the UK Financial Conduct Authority ("FCA") and the Bank of England ("BoE"), including in its capacity as Prudential Regulation Authority ("PRA"), entered into a memorandum of understanding relating to the BFSA (the "MoU").

The purpose of the MoU is to set out the arrangements for supervisory coordination and information sharing between FINMA, the FSA and the BoE/PRA once the BFSA has entered into force.

It should be noted that the MoU does not establish any legally binding obligations for the supervisory authorities and does not supersede any provisions of the respective national legal frameworks. Further, the MoU does not confer any rights or obligations upon any third party (e.g. financial institutions).

Nevertheless, the MoU marks another milestone in the implementation of the Berne Financial Services Agreement and underlines the commitment of the two countries to the full implementation of the BFSA by the end of 2025.

Open questions remain on the interpretation of the BFSA

Under the Berne Financial Services Agreement, several open questions remain on the interpretation of the scope of certain provisions.

Notably, in the field of wealth management, the BFSA allows for client advisors of Swiss financial institutions to provide their services to certain client groups in the UK (and vice versa) as part of temporary local operations – in addition to the provision of traditional cross-border financial services.

However, the BFSA does not define or specify the term "temporary" – leaving interested financial institutions with uncertainty on how to design and plan such temporary local operations in the other country.

With respect to temporary local operations by employees of Swiss financial institutions in the UK, the BFSA sets forth that (i) such temporary operations shall not amount to a permanent establishment of the Swiss financial institution in the UK, and that (ii) the BFSA shall not prejudice the relevant visa and entry requirements of the UK with respect to the temporary movement of businesspeople and the applicable bilateral arrangements in this regard between the two countries (cf. clause VIII(A)(1)(d) of Annex 5 to the BFSA).

Similarly, as regards temporary local operations by employees of UK financial institutions in Switzerland, the BFSA sets forth that the provisions of the BFSA shall not prejudice the relevant visa and entry requirements of Switzerland with respect to the temporary movement of businesspeople and the applicable bilateral arrangements in this regard between the two countries (cf. clause VIII(A)(2)(d) of Annex 5 to the BFSA).

Therefore, the exact duration and extent of temporary local operations under the BFSA remain somewhat unclear and it remains to be seen whether the competent Swiss and UK supervisory authorities will provide further guidance on the definition and the further practical prerequisites of this provision.

Outlook

While the signing of the MoU marks another important step towards the implementation of the Berne Financial Services Agreement, notable practical considerations on the possibilities afforded by the BFSA still require clarification.

It is expected that the competent supervisory authorities will publish operational guidance on the BFSA in November 2025 to facilitate the BFSA's entry into force in early 2026. This will provide interested financial institutions with further insight into how to organise and structure their potential operations in accordance with the Berne Financial Services Agreement.

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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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