

BULLETIN JULY 2025

The Berne Financial Services Agreement: A New Framework for Cross-Border Financial Services between Switzerland and the United Kingdom

I. INTRODUCTION

On December 21, 2023, Switzerland and the United Kingdom signed the Berne Financial Services Agreement (BFSA), a landmark post-Brexit treaty establishing a comprehensive legal framework for cross-border financial services between two of Europe's most globally connected financial centers. The BFSA governs market access and supervisory cooperation in five key sectors: asset management, banking, financial market infrastructures, insurance and investment services. It does not entail deregulation; through its sectoral annexes, it enables financial service suppliers to provide services to clients in the other jurisdiction within defined parameters, either under domestic law or based on structured regulatory deference, supported by supervisory cooperation.

The BFSA responds to the substantial interdependence between the Swiss and UK financial markets. The United Kingdom remains the world's leading net exporter of financial services, recording a trade surplus of GBP 78.9 billion in 2023.¹ Switzerland is a key trading partner, accounting for 3.8% of total UK services exports, with bilateral services trade reaching GBP 27 billion in the twelve

months to June 2024, of which approximately GBP 2.7 billion related to financial and insurance services.² On the Swiss side, the financial sector is similarly global in scope. As of end-2023, asset managers in Switzerland oversaw CHF 3,117 billion in assets under management, positioning Switzerland as the third-largest asset management market in Europe³. In addition, 66 Swiss banks managed a combined CHF 7.8 trillion in cross-border wealth management assets.⁴

Subject to completion of the relevant parliamentary procedures in both jurisdictions, the BFSA is expected to enter into force in the second half of 2025. This bulletin provides a structured analysis of its sectoral annexes, covering asset management (*infra*, II), banking (*infra*, III), financial market infrastructures (*infra*, IV), insurance (*infra*, V) and investment services (*infra*, VI).

II. ASSET MANAGEMENT

A. Purpose and Scope

Annex 1 of the BFSA governs the cross-border provision of asset management services between Switzerland and the United Kingdom, covering both the marketing of collective

¹ TheCityUK, UK leads world in financial services trade surplus, 2025.

² UK Government, UK-Switzerland Financial Services Agreement: press release, 2025; British Chambers of Commerce, BCC welcomes UK-Switzerland financial services deal, 2023.

³ AMAS, Swiss Asset Management Study, 2024 (asset management being defined narrowly to include only the production and management of investment solutions through collective investment schemes or

institutional mandates, thereby excluding private banking activities and wealth managers without a dedicated asset management function).

⁴ ZHAW School of Management and Law, Wealth Management in Switzerland, 2024 (wealth management being defined as tailored advisory and financial planning services for high-net-worth clients, typically delivered by banks, family offices and other intermediaries).

investment schemes and the delegation of portfolio and risk management services. In both directions, market access is granted based on conditions that are already available under each jurisdiction's domestic frameworks. The BFSA thus codifies the *status quo*, and establishes a bilateral regulatory coordination mechanism to preserve it: whenever either jurisdiction proposes legislative or regulatory changes that may restrict or render more burdensome the cross-border supply of the covered services, Art. 17 and 18 BFSA require prior notification and consultation (the **Regulatory Coordination Mechanism**).

B. From Switzerland into the United Kingdom

Swiss financial service suppliers may market alternative investment funds (AIFs), excluding funds authorized for distribution to retail investors (recognized schemes), to clients classified under the UK National Private Placement Regime (NPPR) as *per se* professional clients, eligible counterparties or elective professional clients. Such marketing is subject to notification to the Financial Conduct Authority (FCA) and compliance with UK domestic law. Only Swiss institutions authorized and supervised under the Swiss Financial Institutions Act (**FinIA**), Collective Investment Schemes Act (**CISA**), Banking Act (**BankA**) or Insurance Supervision Act (**ISA**) are eligible to supply these services, and only insofar as they are authorized to perform equivalent activities in Switzerland.

Swiss financial service suppliers may also provide portfolio management and risk management services on behalf of UK clients through delegation arrangements. Eligible clients include (i) UK-based managers of one or more AIFs or UCITS who comply with the UK's delegation requirements applicable to investment funds, (ii) occupational pension schemes acting through trustees who adhere to domestic legal standards governing the delegation of discretionary investment powers and (iii) insurance companies if they have complied with their written outsourcing policy and the specific UK regulatory obligations for outsourcing critical or important operational functions or activities. Swiss delegates must be authorized and supervised under FinIA or BankA and authorized to provide the delegated services domestically.

C. From the United Kingdom into Switzerland

UK financial service suppliers may advertise and offer collective investment schemes to clients classified as

qualified investors under the Swiss Collective Investment Schemes Act (**CISA**), provided that the schemes are exclusively open to such clients and meet all applicable Swiss regulatory requirements. UK suppliers must be entitled to market under Swiss domestic law and ensure that the collective investment schemes they market in Switzerland meet all applicable Swiss regulatory requirements. In particular, UK suppliers intending to advertise or offer collective investment schemes to opted-out retail clients shall ensure that both a Swiss representative and a Swiss paying agent have been appointed; it being specified that such requirement does not apply should the collective investment scheme be advertised or offered exclusively to qualified investors other than opted-out retail clients.⁵

UK financial service suppliers may also act as delegates for portfolio and risk management functions relating to assets of Swiss collective investment schemes, occupational pension schemes and insurance companies. The delegation arrangement must comply with all applicable Swiss regulatory requirements. Swiss delegating entities must be authorized and supervised under CISA, FinIA, BankA, ISA or the Swiss Occupational Pension Schemes Act (**OPSA**) and must regularly provide such services in or from Switzerland. On the receiving end, UK suppliers must be authorized and supervised by the FCA, Prudential Regulation Authority or Bank of England, and must comply with the provisions of FinIA, ISA or OPSA, as applicable.

III. BANKING

A. Purpose and Scope

Annex 2 of the BFSA governs the cross-border provision of core banking services – namely, deposit-taking and lending – between Switzerland and the United Kingdom. In both directions, market access is maintained under conditions already provided for in each jurisdiction's domestic legal framework, without recourse to deference or mutual recognition mechanisms. The annex consolidates prevailing regulatory conditions and reinforces legal certainty through the Regulatory Coordination Mechanism. In parallel, the Swiss Financial Market Supervisory Authority (**FINMA**) and the Bank of England have issued a joint statement of intent to strengthen supervisory cooperation.

⁵ For a detailed analysis of the Swiss regulatory requirements applicable to the advertising and offering of collective investment schemes to clients in Switzerland, see our bulletin entitled "Distribution of Collective Investment Schemes in Switzerland to Qualified Investors" available here:

<https://www.jacquemoudstanislas.ch/en/news-publications/bulletins/2023/april/distribution-of-collective-investment-schemes-in-switzerland-to-qualified-investors/>.

B. From Switzerland into the United Kingdom

Swiss financial service suppliers may continue to provide cross-border deposit-taking and lending services to UK-based clients, subject to compliance with UK domestic law. The scope and conditions applicable to these services are defined by reference to the UK's regulatory framework. For deposit-taking, this entails the acceptance of deposits on condition that they are accepted in Switzerland. For lending, the regime permits the extension of credit to eligible UK counterparties. In each case, individuals classified as 'relevant recipients of credit' under UK consumer credit legislation are excluded from the scope. Eligibility of Swiss providers is determined functionally: deposit-taking may only be carried out by institutions authorized and supervised in Switzerland either as banks under the BankA or as securities firms under the FinIA, while lending services may be supplied by any Swiss-incorporated legal entity.

C. From the United Kingdom into Switzerland

Conversely, UK financial service suppliers may continue to offer deposit-taking and lending services to Swiss-based counterparties under Swiss domestic law. Deposit-taking is defined as the acceptance of deposits from the public on a commercial basis, while lending services encompass any cross-border credit activity supplied to Swiss clients. The regime applies to entities incorporated under UK law. Deposit-taking requires that the institution hold the appropriate authorization in its home jurisdiction. Lending services, however, may be provided by any UK-incorporated entity, irrespective of regulatory status, provided that the activity complies with Swiss legal requirements. Eligible clients in Switzerland include all legal persons constituted under Swiss law. Natural persons qualifying as 'consumers' under the Swiss Consumer Credit Act are excluded: cross-border lending by UK institutions to Swiss retail clients therefore falls outside the scope of the BFSa.

IV. FINANCIAL MARKET INFRASTRUCTURES

A. Purpose and Scope

Annex 3 of the BFSa governs the cross-border provision of services by financial market infrastructures (FMIs). It defines the conditions under which Swiss and UK-based FMIs may supply clearing services, operate trading venues, and engage in non-centrally cleared over-the-counter (OTC) derivatives transactions with counterparties located in the other jurisdiction. The regulatory treatment of these activities depends on their nature: clearing services are subject to a mutual deference regime, OTC derivatives

benefit from reciprocal recognition of risk mitigation standards, and access for trading venues is governed by the host state's domestic recognition requirements.

B. From Switzerland into the United Kingdom

Swiss central counterparties (CCPs) may provide clearing services into the United Kingdom in relation to financial instruments defined under UK domestic law. Eligible providers must be authorized and supervised by FINMA under the Swiss Financial Market Infrastructure Act (FinMIA) and incorporated in Switzerland. Covered clients are limited to UK-based clearing members and trading venues, as recognized under UK domestic rules. Market access operates on the basis of deference: the United Kingdom commits to rely on Swiss authorization and supervisory regime, exempting Swiss CCPs from duplicative UK requirements relating to organizational, conduct, prudential and supervisory standards. This deference is subject to safeguards: a Swiss CCP must be recognized by the Bank of England under UK law, which entails an assessment of whether the CCP is, or is likely to become, systemically important to UK financial stability. If such a determination is made, the Bank of England may require compliance with specified UK prudential rules or the establishment of a UK legal presence. In addition, effective supervisory cooperation arrangements must be in place between FINMA and the Bank of England.

For non-centrally cleared OTC derivatives, the BFSa establishes mutual recognition of risk mitigation standards: OTC derivatives contracts entered into between Swiss and UK counterparties are deemed to comply with the host state's risk mitigation rules, provided that the counterparty complies with the rules applicable in its home jurisdiction. Accordingly, Swiss counterparties complying with UK obligations (*e.g.*, relating to timely confirmation, portfolio reconciliation or dispute resolution) are deemed to meet the requirements of Art. 107 to 110 FinMIA. The same applies in reverse. An exception applies to initial and variation margin requirements for physically settled foreign exchange derivatives, for which deference is not granted.

Swiss trading venues may also operate in the UK under domestic recognition procedures. The BFSa allows Swiss trading venues – either as recognized overseas investment exchanges or multilateral trading facilities (MTFs) – to provide services to UK clients under UK domestic law. Covered clients include issuers of securities and parties to securities trades executed on such venues. While this access does not rely on deference, the BFSa ensures legal certainty through the Regulatory Coordination Mechanism.

C. From the United Kingdom into Switzerland

The reciprocal regime allows UK CCPs to offer clearing services into Switzerland in relation to financial instruments defined under FinMIA. Eligible providers must be incorporated under UK law and authorized by the Bank of England. Covered clients are limited to Swiss supervised direct participants and FMIs within the meaning of Art. 60(1)(a) and (b) FinMIA. Market access is likewise based on deference: Switzerland recognizes UK authorization and supervision of UK CCPs and exempts them from the requirement to demonstrate equivalence under Article 60(2)(a) FinMIA. However, if the CCP is assessed as systemically important, FINMA may require compliance with specific Swiss prudential standards. Additionally, FINMA may evaluate whether the Bank of England satisfies the cooperation requirements under Art. 60(2)(b) FinMIA, including the existence of effective institutional arrangements.

OTC derivatives transactions are treated symmetrically. UK counterparties complying with Swiss risk mitigation rules are deemed to satisfy their obligations under UK law. Conversely, Swiss entities adhering to UK requirements are deemed compliant with FinMIA. This regime reduces the regulatory burden for cross-border derivatives transactions while preserving supervisory oversight over critical elements such as margin requirements in foreign exchange derivatives.

UK trading venues – whether stock exchanges or MTFs – may offer services into Switzerland subject to recognition by FINMA under Art. 41 FinMIA. The trading venue must be incorporated under UK law and meet applicable Swiss recognition conditions. Eligible clients include Swiss issuers and market participants engaged in the listing or trading of securities on such platforms. While access is granted under Swiss domestic law rather than deference, the BFSa provides that any Swiss legal reform that would significantly affect such access must be addressed in accordance with the Regulatory Coordination Mechanism.

V. INSURANCE

A. Purpose and Scope

Annex 4 of the BFSa governs the cross-border provision of insurance and insurance-related services between Switzerland and the United Kingdom. It defines the conditions under which insurers, reinsurers and intermediaries may offer specified classes of coverage and ancillary services to eligible professional clients in the other jurisdiction. Access into the United Kingdom is governed by

UK domestic law, with continuity ensured through the Regulatory Coordination Mechanism, whereas access into Switzerland is facilitated through a regime combining recognition and regulatory deference.

B. From Switzerland into the United Kingdom

Swiss insurance undertakings and intermediaries authorized and supervised under the ISA may provide insurance, reinsurance and related distribution or auxiliary services in the United Kingdom, provided that these services concern risk classes recognized under UK law and are directed at eligible professional clients. Covered classes include, *inter alia*, insurance for maritime shipping, commercial aviation and space, international goods transit, credit and suretyship, land vehicles, fire and natural forces, other property damage, motor liability, general liability, miscellaneous financial loss, and coverage under master policies for difference in conditions or limits. Reinsurance is permitted for all classes of underlying risk. Insurance distribution and auxiliary services such as consultancy, actuarial and claim settlement services, are likewise permitted.

No prior notification or authorization is required under UK law for the provision of these services. However, Swiss providers must hold authorization as direct insurers, reinsurers or intermediaries under Art. 2(1)(a) and 2(1)(c) ISA. Market access is restricted to UK clients that qualify as enterprises meeting at least two of the following three criteria: annual turnover exceeding GBP 36 million, balance sheet total exceeding GBP 18 million, or more than 250 employees at the time of contract conclusion, renewal or amendment.

C. From the United Kingdom into Switzerland

UK insurance undertakings and intermediaries may offer specified classes of insurance and related distribution services into Switzerland under a regime combining domestic recognition and regulatory deference.

The permitted insurance classes include cover for land and railway vehicles, inland waterway vessels, domestic goods in transit, theft or vandalism (excluding fire and natural hazards), nuclear risks, legal protection, miscellaneous financial loss, and certain types of credit and suretyship. The annex also encompasses specialized products such as D&O liability, transactional risk cover for M&A and financial transactions, and cyber risk insurance, provided these are supplied to professional clients. Additionally, access extends to insurance linked to renewable energy projects, including cover for property damage, business interruption and financial loss arising from system failures or delayed

implementation. However, access is excluded for insurance subject to Swiss statutory monopolies or compulsory pool participation under public law. Distribution services are permitted only where the underlying insurance contract falls within the covered classes and is offered either by a qualifying UK insurer or a Swiss-authorized insurance undertaking. Policies may also cover the risks of subsidiaries established in Switzerland or in the United Kingdom, provided that these are specifically identified in the contract and the relevant risks are located in either jurisdiction.

Access to the Swiss market is based on a deference mechanism under which Switzerland exempts eligible UK insurers from a broad range of supervisory and prudential requirements under the ISA. These include provisions on licensing, capitalization, business conduct, solvency, technical reserves, reporting and recovery planning. This deference is conditional upon the UK insurer either being incorporated in the UK or operating as a UK branch of a Swiss parent, satisfying minimum prudential requirements (including solvency calculated without capital relief) and demonstrating limited exposure to life insurance liabilities. To benefit from this regime, the UK provider must notify FINMA of its intention to offer covered services, identify the applicable insurance classes and be listed in a dedicated FINMA register.

Additional obligations apply to UK providers distributing insurance contracts in Switzerland. These include pre-contractual disclosures regarding supervisory status, information on the policyholder's tax obligations, and the designation of complaint and contact points. On request, the client must receive a full copy of their insurance file. If the insurer's total gross written premium exceeds CHF 5 million over a 12-month period, it must submit an annual report to FINMA, with a copy provided to the relevant UK authority.

Covered clients are limited to Swiss enterprises that meet at least two of the following criteria at the time of contract conclusion, renewal or amendment: net turnover exceeding CHF 40 million, a balance sheet total above CHF 20 million, or more than 250 employees.

VI. INVESTMENT SERVICES

A. Purpose and Scope

Annex 5 of the BFSa establishes a bilateral regime for the cross-border provision of investment and ancillary services based on mutual deference. It enables Swiss and UK financial institutions to serve eligible clients in the other jurisdiction while reaffirming the primacy of each

jurisdiction's domestic legal framework. Departing from the pre-existing regime, the annex introduces expanded access for Swiss institutions to UK private clients and provides a comprehensive framework for registration, oversight and conduct obligations. Conversely, the United Kingdom gains a formalized pathway for UK client advisers to operate temporarily in Switzerland, under defined exemptions from the Swiss Financial Services Act (FinSA) regime. The annex is underpinned by the Regulatory Coordination Mechanism.

B. From Switzerland into the United Kingdom

Swiss financial service providers may supply a broad range of investment and ancillary services into the United Kingdom without requiring authorization under Part 4A of the UK Financial Services and Markets Act 2000, provided that they comply with registration, disclosure and reporting requirements.

Covered investment services encompass the reception and transmission of orders in relation to financial instruments, execution of orders on behalf of clients, dealing on own account, portfolio management, investment advice, underwriting of financial instruments, and the placing of financial instruments with or without a firm commitment basis, as well as communications made to, or directed at, natural persons resident in the United Kingdom, their agents and private investment structures established in the United Kingdom for the purpose of determining whether such persons qualify as 'High Net Worth Covered Clients'. Ancillary services refer to supplementary activities that may be offered alongside, or independently of, core investment services and include custody and administration of financial instruments (excluding top-tier securities account services and certain fund depositary functions), margin lending connected to investment transactions, advisory services on capital structure and industrial strategy (including M&A-related advice), foreign exchange services linked to investments, investment research and analysis, and services related to underwriting.

Only Swiss entities incorporated under Swiss law and authorized by FINMA as banks, securities firms, fund management companies, managers of collective assets or portfolio managers are eligible. The services must be rendered from Switzerland, and the supplier must appear on a register maintained by the FCA, following formal notification. Importantly, Swiss institutions already authorized under UK law for the same services are excluded from this regime.

The client base is limited to *per se* professional clients, eligible counterparties (such as investment firms, credit

institutions, insurance companies, authorized collective investment schemes and their management companies), and a defined category of ‘High Net Worth Covered Clients’. For the latter – comprising individuals or private investment structures with net assets exceeding GBP 2 million – the regime mandates standalone documentation attesting to the client’s awareness of the legal and investor protection implications, including a suitability assessment and a risk declaration.

The United Kingdom grants deference to Swiss prudential and organizational regulation. Accordingly, Swiss suppliers are exempt from numerous UK conduct and prudential rules, including those governing capital adequacy, operational resilience, governance, remuneration and client money. However, obligations relating to trading on UK venues and associated transaction reporting remain fully applicable. The regime does not permit the use of UK branches or agents of Swiss suppliers: physical presence is restricted to temporary activity by Swiss employees, provided that it does not amount to a permanent establishment.

Swiss providers must also comply with extensive conduct and transparency obligations. These include pre-contractual disclosures identifying the supplier’s regulatory status, applicable law and jurisdiction and the inapplicability of UK investor protection and compensation schemes. Annual reporting to the FCA (with copy to FINMA) must cover the number and type of clients served, turnover, material complaints, and information on collateral arrangements. If turnover exceeds GBP 50 million for two consecutive years, further detailed disclosures are required. Consent for regulatory disclosures must be obtained from clients, and due diligence must be conducted on any sub-custodians established in third countries.

C. From the United Kingdom into Switzerland

The BFSA grants UK financial service providers access to Swiss professional and institutional clients, as well as high-net-worth individuals who have opted for professional status under Art. 5 FinSA.

UK suppliers may offer services such as acquisition or disposal of financial instruments, receipt and transmission of orders in relation to financial instruments, administration of financial instruments (portfolio management), provision of personal recommendations on transactions with financial instruments (investment advice) and granting of loans to finance transactions with financial instruments, including through temporary cross-border presence in Switzerland through client advisers. Covered services also include

trading in securities for clients or on own account (including as a market maker), underwriting and offering securities to the public on the primary market, and creating and distributing derivatives. Additional activities include the operation of securities settlement accounts and custodianship of client securities, whether directly or via third parties. The scope of covered services also expressly encompasses investment research and portfolio analysis, foreign exchange services, and M&A advisory services.

UK suppliers must be incorporated in the UK, authorized by the relevant UK supervisory authority and actively conducting the services in their home jurisdiction. Access may be granted under either Swiss domestic law or the deference-based regime, depending on the nature of the service and the presence of client advisers in Switzerland. Where services are delivered by client advisers temporarily present in Switzerland, the BFSA provides a deference-based exemption from the registration requirement under Art. 28(1) FinSA. To benefit from this exemption, the UK provider must notify the FCA, and its client advisers must meet a series of minimum conditions: familiarity with the FinSA code of conduct, adequate professional competence, valid professional indemnity insurance (or comparable financial coverage), and, where required, affiliation with a Swiss ombudsman. Articles 6, 29 and 77 FinSA remain applicable and form part of the residual regulatory oversight. For UK suppliers not relying on temporarily present client advisers, access remains governed by Swiss domestic law. In both cases, FINMA retains discretion to intervene in cases involving systemic risk, investor protection, or supervisory enforcement. Any amendments to Swiss domestic law that may restrict such access are subject to the Regulatory Coordination Mechanism.

VII. CONCLUSION

Subject to ratification by the respective legislative bodies, the BFSA will establish a durable and coherent legal framework for the cross-border provision of financial services between Switzerland and the United Kingdom. By embedding outcomes-based equivalence and structured regulatory deference at its core, it will promote legal certainty and facilitate reciprocal market access across key financial sectors, including asset management, banking, financial market infrastructures, insurance and investment services.

We remain available to our readers for any further questions or clarification regarding the BFSA and its implementation.

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