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Institutional agreement Switzerland – EU

SBA position paper



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Since the Federal Council launched consultations on the institutional agreement between Switzerland and the EU (the agreement), the Swiss Bankers Association (SBA) has conducted an in-depth analysis of the current outcome of the negotiations. We welcome the fact that the discussions have now become more objective and that there are growing signs of solution-oriented approaches.

Securing and further developing the bilateral approach to the relationships with the EU is essential for the Swiss banking sector. We consider the agreement to be a fundamental prerequisite for shaping future access to the EU market – access which is largely lacking at present for the Swiss banks.

The SBA's position

- Many elements of the current negotiation outcome are positive and advantageous for Switzerland. The agreement will strengthen the bilateral relationships with the EU over the long term. It not only consolidates **legal certainty** thanks to reliable and clearly defined processes, but also lays the **foundation** for **maintaining and improving market access**.
- The SBA therefore supports **the conclusion of a framework agreement** on the basis of the draft text. To boost acceptance of the agreement domestically, a few **clarifications** will still be needed upon signing.
- In the event that negotiations are broken off, Switzerland risks entering into an extended period of stagnation in its relationships with the EU. This stalemate and the associated uncertainty would result in an ongoing erosion of market access for the economy as a whole. There are currently no recognisable equivalent models for relationships with the EU. **Without an agreement, jobs, value creation and tax revenues** for the Swiss economy are **at stake**.
- At present, active market access for cross-border banking, securities and investment services is largely lacking in the EU. For the Swiss banks, an institutional arrangement with the EU is a decisive step that will enable the necessary and **practicable market access solutions** for the sector to become concrete – both with regard to important partner states and at EU level. The focus is on (1) the conclusion of specific equivalence processes for finance, (2) meaningful and practicable market access solutions that stop short of a financial services agreement, and (3) a fundamental improvement in the current equivalence regime (in the sense of enhanced equivalence).

An institutional arrangement is important both for the economy as a whole and for the banking sector in particular

- We welcome the fact that the discussions relating to the agreement have become more objective since the Federal Council launched consultations.

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- We agree with the Federal Council that the bilateral approach, which is undeniably important for the economy as a whole, must be further developed in order to remain viable in the future. The proposed agreement is a prerequisite for this and not only marks significant progress (particularly in terms of legal certainty) but also offers advantages for Switzerland.
- Following detailed analysis of the draft agreement, the SBA concludes that the agreement is advantageous for Switzerland and the financial centre and will strengthen bilateral relationships with the EU in the long term. It not only strengthens legal certainty thanks to reliable and clearly defined processes, but also lays the foundation for maintaining and improving market access.
- The SBA therefore supports the conclusion of a framework agreement on the basis of the draft text. To boost acceptance of the agreement domestically, a few clarifications will still be needed upon signature. These mainly involve clarifications concerning the scope of the obligation to adopt legislation, particularly in relation to the Citizens' Rights Directive, the impact of the agreed principles on state aid and the role of social partners under the EU's Posting of Workers Directive.
- We agree with the Federal Council's assessment that a suspension or postponement of the negotiations, combined with the risk of the negotiations being broken off, could result in a dangerous stalemate or even an erosion of the bilateral approach. It is uncertain whether negotiations could be resumed at a later date and produce equivalent or better results in a timely manner.
- A stalemate and the associated uncertainty would be a backward step and would ultimately have a negative impact on the Swiss financial centre, on jobs in the export industry and on tax revenues. There are currently no recognisable equivalent models for relationships with the EU.
- Not least with regard to the extension of the recognition of equivalence of Swiss stock exchange regulation, it is important to us that Switzerland communicates to the EU before the summer break and in an appropriate manner its intention to conclude the agreement.

Market access is essential for banks

- For the banking sector, unlike other sectors of the economy, what is involved is not "further developing" bilateralism, since market access to the EU is currently largely lacking for the Swiss banks. As such, it is very important for the banks that opportunities are created aimed at formalising the necessary and practicable market access solutions both with regard to important partner states and at EU level. An institutional arrangement with the EU, as in the agreement under discussion, is a decisive step towards paving the way for this.
- The agreement currently has no corresponding elements covering financial services. It is important for the banking sector to clarify with the EU how the agreement can improve market access. To achieve this, an actual **roadmap** is to be defined as part of the discussions on the agreement with the EU. For the SBA, the key concerns from a **bank-specific perspective** are as follows:
 - We expect the framework agreement to create a more stable basis for **equivalence processes** in the financial sector. This relates not only to stock exchange equivalence but also to other ongoing equivalence processes (such as MiFIR 46/47 and AIFMD 67, EMIR 13.2). In respect of these, the industry expects the conclusion of the agreement to permanently unblock these processes and establish legal certainty.

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- Steps must also be taken to ensure that the agreement allows options for sensible and **practicable market access solutions** that account for the realities of the banking sector and stop short of a sectoral agreement within the meaning of the agreement.
- Finally, efforts should be made to bring about a **fundamental improvement** in the current equivalence regime (in the sense of enhanced equivalence).

Ensuring that value created remains in Switzerland

- The key aim for the banking sector is to keep the value created by this important sector here in Switzerland. Switzerland is the global leader in cross-border wealth management, a fact that should not be disregarded. A substantial proportion of the cross-border assets managed in Switzerland originates from customers domiciled in the EU. Approximately CHF 1,000 billion of assets are managed out of Switzerland for customers in the EU. Around 20,000 bank employees are directly involved in this area of business, which generates an estimated CHF 1.5 billion in taxes annually in Switzerland.
- Aside from the domestic market, the Swiss asset management industry mainly manages assets of institutional EU customers, in the order of CHF 100 billion. The importance of market access is growing as the domestic market is becoming increasingly saturated, while demand for institutional asset management in the EU is set to increase.
- Without an institutional agreement, there is therefore a risk that this significant business will shrink. This would result in a further loss of jobs and tax revenues in Switzerland.

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