Eidgenössische Finanzmarktaufsicht FINMA
Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
Swiss Financial Market Supervisory Authority FINMA

Guidelines

for notifications relating to

- the sectoral annex on insurance in the Berne Financial Services Agreement (annex 4 of the agreement)
- the sectoral annex on investment services in the Berne Financial Services Agreement (annex 5 of the agreement)

Version of 3 November 2025

Purpose

Under the agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on mutual recognition in financial services of 21 December 2023[1] (Berne Financial Services Agreement, BFSA), Switzerland and the United Kingdom have agreed to mutually recognise the equivalence in outcome of their domestic authorisation and prudential measures in certain segments of the financial sector. This agreement permits or facilitates cross-border commercial activities between the two parties in banking, investment services, insurance (including intermediation), asset management and financial market infrastructures for professional clients. The BFSA also reinforces cooperation in regulation and supervision, ensuring the stability and integrity of both financial markets and guaranteeing the protection of clients.

In parallel with the expanded cross-border access permitted by the sectoral annexes on insurance and investment services, the cooperation between the supervisory authorities of Switzerland and the United Kingdom is being strengthened, using the instruments described below.

These guidelines are intended to facilitate the use of the agreement. They are not legally binding. The guidelines set out the information and documents required by the agreement. However, they do not exclude the possibility that the applicant may submit additional information or that FINMA or the competent supervisory

[1] Federal Gazette **2024** 2387.

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authorities of the United Kingdom may request additional information and documentation.

I. Provision of covered services based on deference

To the extent defined by the sectoral annexes on insurance and investment services in the agreement, Switzerland and the United Kingdom have agreed to defer to the respective domestic licensing and supervision requirements of the other party with the effect that the host state will exempt financial services suppliers covered by the agreement from certain licensing and supervision obligations.

Where supply is based on deference in the investment services sector, FINMA remains responsible for the supervision of covered Swiss financial services suppliers in line with Swiss legislation. Where UK supervisory authorities are host supervisory authority, they enjoy a right of intervention under section X.A.4 of annex 5 of the agreement and remain responsible for supervision in the areas that are not subject to deference.

Where supply is based on deference in the insurance sector, the supervisory authorities of the United Kingdom remain responsible for the supervision of covered UK insurance companies in line with UK domestic law. Where FINMA is the host supervisory authority, it enjoys a right of intervention in accordance with section VIII.A.4 of annex 4 of the agreement and remains responsible for supervision in the areas not subject to deference.

II. Sectoral annex on insurance

The agreement allows UK insurers to conduct cross-border business in Switzerland in clearly defined lines of non-life insurance for certain commercial clients. However, the BFSA does not cover accident and health insurance, motor third-party liability and any type of insurance enjoying a monopoly provided to professional insurance customers.

Untied UK insurance intermediaries are in turn exempt from the registration requirement set out in Article 41 para. 2 let. a of the Insurance Supervision Act of 17 Dezember 2004 (ISA; SR *961.01*). Moreover, they remain subject to the provisions of Swiss law.

II.1 Provision of covered services from the United Kingdom into Switzerland

II.1.1 Insurance companies established in the UK

II.1.1.1 Who does the BFSA apply to?

The BFSA permits insurance companies established in the UK to conduct certain insurance activities in Switzerland without having a branch in the country. In order to offer such insurance services to companies incorporated in Switzerland, they must be authorised for this business and supervised in the UK.[2] The covered clients[3] and the covered insurance services[4] are defined in the BFSA.

Before a UK insurer takes up business under the BFSA, it must be placed on FINMA's register (section II.1.1.2 below).[5] Moreover, when the insurer comes into contact with a client, it must make pre-contractual disclosures to the client (section II.1.1.3 below). UK insurers are also required to report to FINMA on a yearly basis under the BFSA (section II.1.1.4 below).

II.1.1.2 Entry in the FINMA register for insurance companies established in the UK

UK insurers wishing to be placed on the FINMA register for insurance companies established in the UK (FINMA register) must first notify the UK supervisory authorities, who will in turn inform FINMA that this notification has been received. Based on this notification, the competent UK supervisory authority reviews whether the UK insurer meets the BFSA requirements to conduct business in Switzerland.[6] The UK supervisory authorities will provide guidance for this purpose on their website.

The competent UK authority will inform FINMA of the outcome of their review within 30 days of receipt of the notification.[7] If the requirements of the BFSA to conduct business in Switzerland are met, FINMA will place the UK insurer on the register of UK insurers within 30 days.[8] The register of UK insurers is public and available on FINMA's website. It lists the name of the UK insurer and the insurance classes in which the UK insurer can offer its insurance services under the BFSA. The register

[2] Section IV.B.a.i of annex 4 of the agreement.
[3] Section V.B of annex 4 of the agreement.
[4] Section III.B of annex 4 of the agreement.
[5] Section IV.B.f of annex 4 of the agreement.
[6] Section VIII.A.2.a of annex 4 of the agreement.
[7] Section VIII.A.2.b of annex 4 of the agreement.
[8] Section VIII.A.2.b of annex 4 of the agreement.

will state clearly if a UK insurer is only permitted to offer certain services within the BFSA insurance classes.[9]

The UK insurer is required to notify the competent UK supervisory authority of any amendments to the original notification.[10] The same deadlines apply and additional services cannot be performed until they have been published in the FINMA register. As with the initial registration, the UK authority will inform FINMA of the results of its review of additional insurance segments within 30 days of receiving the notification.[11] If the requirements are met, FINMA will place the UK insurer on its register within 30 days.[12]

II.1.1.3 Required disclosures to clients

UK insurers are required to disclose the following information to a client within a reasonable time before the conclusion of a contract:[13]

- 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[14]) to the competent tax authority;
- contact details of the UK insurer for:
    - obtaining information on the required knowledge and capabilities of its staff responsible for the distribution of insurance contracts;
    - addressing complaints regarding professional negligence;
    - addressing errors or inaccurate information relating to the UK insurer’s distribution activities;
- place of jurisdiction and applicable law of the contract to be entered into.

This information must be stated clearly and prominently and must be given to the client in a format that can be evidenced in text form, whether in hard copy on paper

[9] For more information on the BFSA insurance classes please refer to the Guidelines for firms drafted by the FCA.

[10] Section IV.B.g of annex 4 of the agreement.

[11] Section VIII.A.2.c of annex 4 of the agreement.

[12] Section VIII.A.2.c of annex 4 of the agreement.

[13] Section VII.1.a of annex 4 of the agreement. This disclosure requirement replaces the disclosure requirements under Art. 45 ISA (cf. Federal Council dispatch on the approval of an agreement between Switzerland and the United Kingdom on mutual recognition in financial services, Federal Gazette **2024** 2385 p. 2427) (not available in English).

[14] cf. Federal Council dispatch on the approval of an agreement between Switzerland and the United Kingdom on mutual recognition in financial services, Federal Gazette **2024** 2385 p. 2427 (not available in English).

or electronically. The information must be transmitted in such a manner that the policyholder is aware of it when they propose or accept the insurance contract.[15]

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.[16]

The disclosure obligations of the BFSA complement but do not replace any other disclosure requirements in place for the UK insurers, e.g. under the Insurance Contract Act (ICA), if these provisions are applicable to the contractual relationship.[17]

II.1.1.4 Periodic reporting to FINMA

UK insurers listed in the FINMA register must provide FINMA with the following information on the previous calendar year annually by 30 April:[18]

- company name
- the insurance services supplied in Switzerland
- where the UK insurer has generated over 5 million francs 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

The company is required to report for the first time by 30 April of the year following its entry in the BFSA register.

FINMA will provide a form on its survey and application platform (EHP) for the UK insurers on the FINMA register. A copy of the report will be forwarded by FINMA to the relevant UK supervisory authorities.

FINMA will provide registered insurers with a guide to using the survey and application platform (EHP).

II.2 UK untied insurance intermediaries

II.2.1 Who does the BFSA apply to?

Under the BFSA untied insurance intermediaries established in the UK (UK intermediaries) are permitted to conduct insurance business in Switzerland without

[15] Cf. Art. 3 paras. 1 and 2 Insurance Contract Act of 2 April 1908 (ICA; SR **221.229.1**), Art. 45 paras. 1 and 2 ISA.

[16] Section VII.2 of annex 4 of the agreement.

[17] Art. 3 ICA.

[18] Section VII.3 of annex 4 of the agreement; BFSA MoU Insurance annex para. 6.1.

having a Swiss branch. Furthermore, they remain subject to the provisions of Swiss law (section II.2.2 below).

In order to offer certain insurance services to enterprises incorporated in Switzerland, UK intermediaries must be authorised and supervised in the UK.[19] Additionally they must be registered with FINMA in accordance to Swiss domestic law before they can take up business under the BFSA (section II.2.2 below).[20]

The enterprises covered as policyholders[21] and the covered insurance services[22] are defined in the BFSA.

When the UK intermediaries come into contact with a potential client, certain disclosure requirements must also be met (section II.2.3 below).

II.2.2 Entry in the FINMA register for insurance intermediaries

UK intermediaries will be placed on the register of insurance intermediaries by FINMA.[23] UK intermediaries are exempt from having a registered office in Switzerland under the BFSA[24] but are subject to the provisions of Swiss supervisory law both with regard to registration and supervision.

FINMA will provide registration documents for insurance intermediaries on the EHP.[25] Instructions and user guides for registration and using the EHP are available on FINMA's website.[26] These documents and processes also contain the main information for UK intermediaries.

II.2.3 Disclosure requirements for UK intermediaries

UK intermediaries are covered by the disclosure requirements of Swiss supervisory law vis-à-vis insurance clients.[27]

[19] Section IV.B.a.i of annex 4 of the agreement.

[20] Section IV.B.f of annex 4 of the agreement.

[21] Section V.B of annex 4 of the agreement.

[22] Section III.B of annex 4 of the agreement.

[23] Available at www.finma.ch > Authorisation > Insurance intermediaries, or https://www.finma.ch/en/authorisation/insurance-intermediaries/.

[24] Section VI.A.ii of annex 4 of the agreement, Art. 41 para. 5 ISA, Art. 186 para. 3 let. b and 216*c* para. 6 Insurance Supervision Ordinance of 9 November 2005 (ISO; SR **961.011**).

[25] Available at www.finma.ch > FINMA > Digital exchange > Access to the EHP for insurance intermediaries, or https://www.finma.ch/en/finma/digital-exchange/ehp-zugang-fuer-versicherungsvermittler/.

[26] www.finma.ch > Authorisation > Insurance intermediaries, or https://www.finma.ch/en/authorisation/insurance-intermediaries/.

[27] Art. 45, 45*a* and 45*b* ISA, Federal Council dispatch on the approval of an agreement between Switzerland and the United Kingdom on mutual recognition in financial services, Federal Gazette **2024** 2385 p. 2428 (not available in English).

In addition they must disclose the following information to a client within a reasonable time before the conclusion of the contract: [28]

- Guidance that the policyholder is personally responsible for the payment of compulsory taxes levied on insurance premiums in Switzerland (stamp duties[29]) to the competent tax authority.
- Place of jurisdiction and applicable law of the contract to be entered into.

This information must be stated clearly and prominently and must be given to the client in a format that can be evidenced in text form, whether in hard copy on paper or electronically. The information must be transmitted in such a manner that the policyholder is aware of it when they propose or accept the insurance contract.[30]

The policyholder may request a complete copy of the documents created by the UK intermediary in the course of their business relationship at any time.[31]

II.2.4 Periodic reporting to FINMA

UK intermediaries are subject to the annual reporting requirement in accordance with Swiss supervisory law.[32] The information must be submitted via the EHP by 31 May of the following calendar year.[33]

II.3 Insurance companies and insurance intermediaries established in Switzerland

For the provision of insurance services from Switzerland into the UK, the BFSA maintains the current status quo for insurance companies and insurance intermediaries established in Switzerland. They may continue to provide cross-border services into the UK under existing law, as is already permitted today.[34]

[28] Section VII.1.b of annex 4 of the agreement.

[29] cf. Federal Council dispatch on the approval of an agreement between Switzerland and the United Kingdom on mutual recognition in financial services, Federal Gazette **2024** 2385 p. 2428 (not available in English).

[30] cf. Art. 3 ICA, Art. 45 ISA.

[31] Re Art. 80 ISA, cf. the Federal Council dispatch on the approval of an agreement between Switzerland and the United Kingdom on mutual recognition in financial services, Federal Gazette **2024** 2385 p. 2428 (not available in English).

[32] Art. 190*b* ISO.

[33] Available at www.finma.ch > Supervision > Insurance intermediaries > Reporting to FINMA, or https://www.finma.ch/en/supervision/versicherungsvermittler/berichterstattung-an-die-finma/.

[34] Section VI.B of annex 4 of the agreement.

III. Sectoral annex on investment services

The sectoral annex on investment services of the BFSA allows covered Swiss financial services suppliers to directly conduct cross-border commercial activities in the United Kingdom. They are exempt from the requirement to comply with the licensing and supervision regulations of the United Kingdom that apply exclusively to financial service suppliers. Hence, the deference provided for under section VIII.A.1. of annex 5 of the agreement does not apply to horizontal provisions, such as anti-money laundering regulations.

As regards UK client advisers covered by the agreement, they may under certain conditions provide their services to high net worth private clients in Switzerland by means of a temporary presence in the country without having to register in Switzerland.

III.1 Provision of covered services from Switzerland into the United Kingdom

III.1.1 Details of eligibility conditions

Annex 5 of the agreement on investment services details the basis on which cross-border investment services may be provided to institutional, professional or high net worth private clients from Switzerland into the United Kingdom. In addition to the provision of services purely on a cross-border basis, the annex also sets out the possibility for investment services to be provided temporarily by employees of covered financial services suppliers in the other jurisdiction.

III.1.1.1 Covered financial services

The covered services comprise investment services and activities as well as ancillary services as defined under the domestic law of the United Kingdom provided by a financial services supplier in relation to covered financial instruments.

Investment services and activities include, for example, the execution of orders on behalf of clients, portfolio management and investment advice[35]. Section III.A.a.viii of annex 5 of the agreement explicitly states that 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[36] are also considered to be covered services and therefore fall under the scope of the sectoral annex. This is an important point for Swiss financial services suppliers if they wish to establish a

[35] For the full list of investment services cf. section III.A.a.i. to viii of annex 5 of the agreement.

[36] Cf. section V.A.1 of annex 5 of the agreement.

business relationship with potential clients and the status of these clients cannot be evaluated definitively due to a lack of information[37].

Ancillary services[38] are usually connected to the principal activities, i.e. the provision of investment services (e.g. foreign exchange services during the execution of orders on behalf of clients). However the agreement explicitly stipulates[39] that ancillary services may be supplied under the agreement on a standalone basis, in other words covered ancillary services are deemed to be covered services whether an investment service is being provided or not.

It is important that Swiss financial services suppliers who wish to conduct business in the United Kingdom under annex 5 of the agreement verify, based on the regulations in force and the activities specified in their organisational documents (statutes, articles or memorandum of association etc.), that they are authorised to exercise the activities they are intending to supply into the United Kingdom in Switzerland or from Switzerland.

In particular, if the provider is not authorised to deal on its own account, to underwrite covered financial instruments and/or place financial instruments on a firm commitment basis, or place covered financial instruments without a firm commitment basis[40], these activities may not be ticked in the EHP application form.

III.1.1.2 Branches of covered Swiss financial services suppliers in the United Kingdom

With regard to branches[41], a covered Swiss financial services supplier that holds an authorisation under part 4A of the Financial Services and Markets Act 2000 (FSMA) for a branch established in the UK cannot provide these covered services notified under section IV.A.e of annex 5 of the agreement, nor carry out the related activities covered by section VIII.A.1.d from this branch. Nor can it provide these services or conduct these activities under the supervision or control of the UK branch. A covered services supplier may choose to supply services under the BFSA, where they are not already provided under part 4A FSMA.

III.1.1.3 Covered financial services suppliers

Covered Swiss financial services suppliers who satisfy all the requirements listed in section IV.A.a to h of annex 5 of the agreement fall under the scope of annex 5 of the agreement.

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[37] Cf. section IX.A of annex 5 of the agreement.

[38] Cf. section III.A.b of annex 5 of the agreement.

[39] Cf. section III.A.b of annex 5 of the agreement.

[40] Cf. III.A.a.iii, vi and vii of annex 5 of the agreement.

[41] Cf. section III.A.c of annex 5 of the agreement.

In particular, only financial services suppliers who are authorised or supervised as a bank within the meaning of the Banking Act of 8 November 1934 (BA; SR *952.0*) or as a securities firm, fund management company, manager of collective assets or a portfolio manager in accordance with the Financial Institutions Act of 15 June 2018 (FinIA; SR *954.1*) are eligible as covered financial services suppliers and may provide covered financial services to covered clients. In particular, persons or entities authorised on the basis of Article 1*b* BA or as a trustee under Article 17 para. 2 FinIA, taking account of the scope of application of these two laws, are not eligible. Financial intermediaries within the meaning of Article 2 para. 3 of the Anti-Money Laundering Act of 10 October 1997 (AMLA; RS *955.0*) affiliated with a self-regulatory organisation or Swiss financial services supplier not subject to supervision by virtue of Article 3 of the Financial Market Supervision Act of 22 June 2007 (FINMASA; SR *956.1*)[42] are also ineligible.

Financial services suppliers must be incorporated in or formed under the domestic law of Switzerland. Financial services suppliers structured as sole proprietors are therefore excluded[43]. Furthermore, branches or representative offices of foreign financial services suppliers based in Switzerland which are incorporated or were established outside Switzerland are also excluded from the scope of annex 5.

Financial services suppliers must also be authorised to provide the covered services in Switzerland and be actually providing them in Switzerland.

Finally, covered financial services suppliers must notify the FCA via FINMA and the EHP platform and be registered in the FCA's public register. They are also required to report any relevant changes to their register entry[44]. The same deadlines apply as for the initial notification and additional services cannot be provided until the entry in the FCA register has been updated. As with the initial registration, FINMA informs the UK authority of the results of its review of additional services the firm wants to provide within 60 days of receiving the notification.[45] If the requirements are met, FCA will amend its register accordingly within 30 days.

III.1.1.4 Covered clients

Clients covered by annex 5 of the agreement are professional, institutional and high net worth clients. The financial services provider may be required to comply with specific obligations depending on the category of client[46]. Retail clients who do not satisfy the high net worth test do not constitute covered clients within the meaning of annex 5.

[42] Cf. Art. 28 para. 1 FinSA.
[43] Cf. e.g. Art. 18 para. 1 let. a FinIA for portfolio managers.
[44] Cf. section IV.A.e to h of annex 5 of the agreement.
[45] Section X.A.2.c of annex 5 of the agreement.
[46] Cf. section IX of annex 5 of the agreement.

The sectoral annex distinguishes between high net worth clients as defined by annex 5 of the agreement[47] and per se professional clients and eligible counterparties as defined under the domestic law of the United Kingdom. Only clients who are resident or established in the UK are deemed to be covered clients under annex 5 of the agreement.

III.1.1.5 Covered financial instruments

With regard to the supply of covered services into the United Kingdom, including ancillary activities, annex 5 section VI of the agreement covers the following financial instruments within the meaning of the domestic law of the United Kingdom[48]:

- transferable securities;
- money market instruments;
- collective investment schemes (CIS) or alternative investment funds (AIFs), including money market funds (MMFs); or
- options, futures, swaps, forward rate agreements and any other derivative contracts which are financial instruments.

III.1.2 Onboarding process / notifications

The BFSA stipulates certain requirements for the provision of covered services from Switzerland into the United Kingdom, including notifying the supervisory authorities of the covered services the provider intends to supply in the United Kingdom, the categories of covered clients etc.[49] The notification is made via FINMA's EHP platform through which it is forwarded to the FCA. The purpose of this notification is to register the covered Swiss financial services provider in the register maintained by the FCA for firms conducting business under the BFSA.[50] In the reverse case, i.e. where services are being supplied from the UK into Switzerland, the BFSA does not provide for FINMA to be notified.

Any changes or additions relating to covered Swiss financial services suppliers who have already notified and been registered in the FCA register at a later date (e.g. with regard to services performed in the UK under the BFSA) must be reported again in accordance with the notification process.

In order for the Swiss financial institution to be published in the FCA register for institutions active under the BFSA, FINMA carries out a "properness" review of the

[47] For detailed definitions of high net worth individuals and net assets cf. section V.A.1 of annex 5 of the agreement and the Federal Council dispatch on the approval of an agreement between Switzerland and the United Kingdom on mutual recognition in financial services, Federal Gazette **2024** 2385 p. 52ff. and 55f. (not available in English).

[48] Section VI.A.a-d of annex 5 of the agreement.

[49] Section IV.A.e of annex 5 of the agreement.

[50] Section IV.A.g of annex 5 of the agreement.

information in the Swiss financial institution's notification and confirms the accuracy of the information and properness to the FCA by means of a "good standing letter". It is important for the financial institutions to provide precise and correct information in the EHP form from the outset to facilitate a rapid and efficient process.

Financial institutions must provide the following information in the form notifying FINMA and the FCA of their intended business activities under the BFSA:

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

FINMA will review within 60 days whether the requirements for conducting business under the BFSA are met and inform the FCA, which will in turn place the institution on its register within 30 days if applicable. The institution will be informed of the status of the notification by FINMA. The institution may supply the relevant services under the BFSA from the date of publication in the register.

The details on the direct transmission of information within the meaning of section X.A.3.f of annex 5 of the agreement are brought directly to the attention of covered Swiss financial services suppliers on the EHP platform during the notification process.

III.1.3 Annual reporting process

In a similar way to notifications (III.1.2 above), section IX.A.2 of annex 5 of the agreement provides for an annual reporting requirement for Swiss financial institutions for certain information relating to the supply of covered services from Switzerland into the United Kingdom under the BFSA. FINMA receives a copy of this report.

Unlike in the notification process, FINMA does not review the information submitted by the Swiss institution in their annual report on behalf of the FCA. The annual report is submitted via an EHP form.

Institutions registered in the FCA register are required to submit the information on the previous calendar year to the FCA annually by 30 April. The company is required to report for the first time by 30 April of the year following its entry in the BFSA register.

III.2 Host intervention power

In the event that the competent UK supervisory authority has reasonable grounds to suspect that a Swiss financial institution listed in the FCA's BFSA register is not in compliance with the requirements of the agreement or that its conduct is causing or is likely to cause material harm to the stability of the UK financial system, the agreement provides for a dialogue between FINMA and the competent UK supervisory authority and the exchange of information[51]. If the situation cannot be resolved by dialogue, the UK supervisory authority is empowered under section X.A.4 of annex 5 of the agreement to invoke its host intervention power to impose certain restrictions on the financial services supplier concerned. When doing so it may also submit a request for information directly to the institution in accordance with section X.A.3.d.

III.3 Disclosures to clients by UK client advisers

Covered UK financial services suppliers who use client advisers within the meaning of section IV.B.2 of annex 5 of the agreement must provide each high net worth client within the meaning of Article 5 para. 2 let. B of the Financial Services Act of 15 June 2018 (FinSA: SR *950.1*) (section V.B.3 of annex 5 of the agreement) with a disclosure document.

The document must at a minimum state the following information clearly and prominently:

- that the covered financial services supplier is established in the United Kingdom and is authorised and supervised in its country of origin,
- that the duty to register as a client adviser as defined in Article 28 para. 1 FinSA does not apply to its client advisers, and
- if applicable, the Swiss ombudsman which the covered financial services supplier is affiliated to in accordance with Article 77 FinSA.

The document must be in writing or another format which can be evidenced in text form. It must be provided before supply of the covered services commences (cf. section IX.B.2 of annex 5 of the agreement).

Covered UK financial services suppliers must be able to demonstrate to their competent supervisory authority in the United Kingdom (cf. section IX.B of annex 5 of the agreement) that the above requirements have been met.

[51] Section X.A.3 of annex 5 of the agreement.