

**GENERAL AGREEMENT  
ON TRADE IN SERVICES**

RESTRICTED  
S/IGFS/W/2  
30 November 1994

(94-2612)

---

**Interim Group on Financial Services**

Original: French

COMMUNICATION FROM SWITZERLAND

The attached communication is circulated by the delegation of Switzerland concerning a recent modification in legislation in the area of financial services.

## SWITZERLAND: RECENT CHANGES TO BANKING AND FINANCE LEGISLATION

### A. Revision of the banking law

1. The revision of the banking law brings Swiss banking legislation into line with international standards as regards in particular enhanced supervision and international cooperation. Liberalization measures include in particular the repeal of prior notification to the Swiss National Bank for capital exports (see point 4 below).
2. Foreign banks wishing to establish a commercial presence in Switzerland (or provide cross-border services) must obtain authorization from the Federal Banking Commission. Under the amended law, the Federal Council may conclude bilateral treaties with other countries to authorize the establishment of branch offices, agencies or representative offices and the provision of cross-border services just on the basis of approval of the country of origin. The prerequisite for concluding an agreement of this kind is mutual recognition of equivalent standards of control and regulation.
3. In the interests of strengthened international supervision of banks, a new paragraph on the transmission of information has been added. Foreign banks are authorized to transmit to their parent company any information required to ensure proper surveillance. The information may be used only for the purposes of supervision, and the parent company and its supervisory authority are bound by banking secrecy. In addition, under the approval procedure the supervisory authorities of the country of origin of foreign banks must guarantee that proper strengthened supervision will be exercised.
4. As regards capital movements, banks no longer need to inform the Swiss National Bank in advance of capital outflows in excess of Sw F 10 million. Only in exceptional situations (safeguards clause) may the Government require banks to obtain authorization from the Swiss National Bank before concluding such transactions (placement or purchase of bonds issued by a borrower whose domicile or principal place of business is abroad, money market book claims (payment rights) of any kind on a borrower whose domicile or principal place of business is abroad).
5. These amendments are scheduled to enter into force on 1 January 1995.

### B. Law on the stock exchange and trade in negotiable instruments

6. The new law on the stock exchange should be adopted by Parliament in December 1994, and will replace the existing cantonal regulations. It is a framework law which only lays down principles while providing for self-regulation by the financial sector.
7. The purpose of the law is to ensure transparency and equitable treatment for investors as well as the efficient functioning of the market.
8. In the interests of greater transparency, large holdings of the stock of companies quoted on the stock exchange will have to be declared. The obligation to provide information depends on the level of the holding in relation to the thresholds of 5, 10, 20, 33 1/3 or 66 2/3 per cent of voting rights.
9. Protection of investors will be strengthened by the regulation of takeover bids. The aim of the regulation is to ensure that shareholders are treated fairly.

10. Apart from the banking law and the law on mutual funds (collective investments), a legal framework has been established to facilitate international cooperation among supervisory bodies. In the case of stock markets, this is particularly important in order to combat insider trading, market manipulation and money laundering.

11. In principle the law should enter into force in mid-1995.

C. Revision of the law on investment funds

12. This law has been drawn up as a framework law which governs only the contractual forms of collective investment. Foreign mutual funds are covered by the law whatever their structure, provided their purpose is collective investment and that investors may withdraw from the fund at any time.

13. The sole stated objective of the law is to protect investors. Whereas the current law sought to protect investors by restricting the range of possible investments, the revised law allows the use of modern investment methods and financial instruments for hedging and maximizing profits. Investors will be protected by greater transparency, i.e. provisions on compulsory disclosure and publication of information. Advertising concerning high-risk investment funds, for example, must mention the fact that they are high-risk. The separation between fund management and the activities of deposit banks has become mandatory.

14. The regulation of foreign mutual funds has been included in the revised law. Foreign funds or agents wishing to market securities in Switzerland may obtain approval if the regulatory and supervisory standards in their country of origin are equivalent to those in Switzerland.

15. Along with the banking law and the stock exchange law, the Federal Government has been authorized to conclude bilateral treaties on free access to the mutual fund market in Switzerland and free access to foreign markets for Swiss mutual funds on the basis of reciprocal recognition of equivalent standards of supervision and regulation.

16. In order to promote international cooperation in the supervision of capital markets, the law contains provisions on the exchange of information between the Federal Banking Commission and foreign supervisory authorities.

17. The revision is scheduled to enter into force on 1 January 1995.

D. Legislation on non-life insurance

18. Following the deregulation of damage insurance which entered into force on 1 October 1993 (eliminating in particular the obligation to obtain approval for general insurance conditions and rates), the Government recently approved draft legislation to be sent to Parliament which provides for similar deregulation of civil liability insurance for motor vehicles.