

Implications for banks, pharma, frontier workers and advisers

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For the banks of Basel, the most important conclusion is that none of the four scenarios brings comprehensive access to the Union market by 2035. Their strategy must therefore assume the continuation of the third-country regime under all scenarios. This means reviewing cross-border lending to Union residents before Article 21c CRD applies, documenting the client's initiative carefully where reverse solicitation is invoked, and considering whether a Union branch or subsidiary is needed for certain clients. The cantonal bank, the private banks and the branches of the large banks will reach different answers depending on their client mix.¹

For the pharmaceutical groups and the medical technology companies, the decisive variable is the Mutual Recognition Agreement. In Scenarios 1 and 4 its update restores legal certainty, while in Scenarios 2 and 3 companies would have to duplicate quality testing and regulatory representation in the Union. Contingency planning, which several companies undertook after 2021, should be maintained until the agreements are in force. For research institutions, programme participation is equally decisive, so that planning for recruitment should take account of the political calendar.²

For frontier workers and their employers, the differences between the scenarios are stark. Under Scenarios 1 and 4, the status quo continues, with the adaptations in wage protection and the notification period. Under Scenario 2 it continues initially, although the political climate would deteriorate. Under Scenario 3 it would be called into question. Employers should keep the records on telework and social security described in Part H, Chapter II, since these will remain necessary under all scenarios.

For advisers, the relationship with the Union generates a constant demand for cross-border expertise in tax, social security, financial regulation, AML and migration. Lawyers, tax advisers and trustees in Basel have long worked across the three jurisdictions of the Dreiland, as Part H, Chapter II

has described. The coming decade will add to this the task of monitoring a relationship that is changing in its legal foundations. Advisers will need to understand the new institutional mechanisms, follow the joint committee decisions that incorporate Union law, and explain to clients how Article 21c CRD and the national rules of the member states affect their banking relationships.³

1 Notes

1. On the strategic options of Swiss banks under the EU third-country regime (branch, subsidiary, cooperation with EU banks, restriction to reverse solicitation), see the publications of the Swiss Bankers Association and the practitioner literature. To be verified. ↩
2. On the contingency measures taken by Swiss medical technology and pharmaceutical companies after 2021 (EU authorised representatives, relabelling, duplicate batch testing), see the publications of Swiss Medtech and Interpharma. To be verified. ↩
3. General assessment of the author on the advisory implications; on the cross-border advisory market in the Dreiland, see Part H, Chapter II. Cross-reference. ↩

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