

Switzerland and the European Union: the 1989 Agreement

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The relationship between Swiss insurance law and European law rests on a treaty concluded more than three decades ago. The Agreement between the Swiss Confederation and the European Economic Community on direct insurance other than life assurance was signed on 10 October 1989 and entered into force on 1 January 1993.¹ It grants insurers of each party the freedom of establishment in the territory of the other for non-life business, which means the right to open agencies and branches under equivalent conditions. Life insurance, reinsurance and the cross-border provision of services without an establishment lie outside its scope.

The agreement was concluded at a time when the European Community was creating its internal market for insurance. Switzerland's insurers, which had substantial branch networks in Germany, France and Italy, wished to secure their position. After the rejection of the European Economic Area in December 1992, the agreement remained one of the few treaties governing access to the European financial services market for Swiss firms.² In practice, the large Swiss insurers serve the European market today mainly through subsidiaries licensed in EU member states, which benefit from the European passport. The combined Helvetia Baloise group is a typical example, with its German, Belgian, Luxembourg and other European insurance companies.

For life insurance and cross-border services, Swiss law applies its own rules. Foreign insurers may not carry on insurance business in Switzerland without a licence, although the VAG exempts certain cross-border business, notably reinsurance and the insurance of risks that are located abroad.³ Swiss residents may, under certain conditions, conclude insurance contracts with foreign insurers on their own initiative. These rules are important for the private client business discussed in chapter III, because

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Liechtenstein and Luxembourg insurers frequently serve Swiss residents while Swiss insurers serve clients resident in the European Union.

1 Notes

1. Agreement of 10 October 1989 between the Swiss Confederation and the European Economic Community on direct insurance other than life assurance (SR 0.961.1), in force since 1 January 1993. To be verified. ↩
2. On the rejection of the EEA Agreement in the popular vote of 6 December 1992 and its consequences for Swiss financial services, see Part F of this book. Cross-reference. ↩
3. Art. 2 VAG (scope; exemptions for foreign insurers carrying on only reinsurance in Switzerland or insuring risks abroad) and Art. 1a ff. AVO on cross-border insurance business. To be verified. ↩

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