

Legacy and outlook

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The history of cross-border cooperation from Zurich is one of gradual opening under external pressure. The Mutual Assistance Act of 1981 created a judicial procedure that reconciled banking secrecy with cooperation in criminal matters, but kept tax matters outside its scope. The American treaty of 1973 had already shown that the reconciliation was possible. The end of banking secrecy for foreign taxpayers after 2009 brought tax matters within the scope of cooperation, first on request and then automatically. The Foreign Illicit Assets Act of 2015 codified a restitution practice that had begun with the Marcos case. Each of these steps was criticised at the time as a threat to the financial centre. Each has since become part of its self-description as a centre that accepts only declared and lawfully acquired assets.

Several developments will shape the coming years. The European Union's rules on electronic evidence and the growing importance of data held by Swiss technology providers will force Switzerland to decide how far it allows foreign authorities direct access. The revision of the Financial Market Supervision Act will limit the client procedure in market abuse cases. In asset recovery, the Ukrainian forfeiture proceedings and the new freezes concerning Syria and Venezuela will test whether the Foreign Illicit Assets Act functions in contested cases. The criticism of the Federal Audit Office and of civil society concerning transparency will keep pressure on the authorities to publish consistent data. The findings of the Federal Audit Office on the length of procedures and the use of appeals for delay will remain the benchmark against which any reform of mutual assistance is measured.

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For Zurich, the balance between cooperation and legal protection remains a competitive factor. A financial centre that cooperates too slowly risks being seen as a haven for illicit money. A centre that abandons procedural safeguards loses the confidence of legitimate clients, who expect their data to be disclosed only in a lawful procedure. The Swiss system, with its judicial review, its speciality principle and its restrictive access to the Federal Supreme Court, tries to achieve both. Its credibility depends on the consistent application of these rules by the Zurich prosecutors, the federal authorities and the courts.

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