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**Mission of Switzerland to the European Union**

## Swiss Approach to the EU Financial Market

### Third Country Regimes in EU Financial Market Regulation

#### Equivalence Procedures

#### Influence of Brexit

Esther Widmer, Mission of Switzerland to the European Union  
EIAS, 6 March 2008: "Collateral Damage: How Brexit Affects Japanese Financial Services in Europe"


# Swiss Approach to the EU Financial Market

- No general financial services agreement but selective bilateral arrangements
  - Agreement of October 1989 between the European Economic Community and the Swiss Confederation concerning direct insurance other than the life insurance
  - Discussions on a Financial Services Agreement CH-EU in the past
- Influence of **third country regimes** in EU regulations
  - Equivalence assessments
- Ongoing cooperation between Swiss authorities and EU Institutions/authorities
  - Macro-prudential supervision
  - Micro-prudential supervision
  - Negotiations in international standard setting bodies
  - Market access issues

# Third Country Regimes in EU Financial Market Regulation

- Many EU financial market regulations include a third-country regime governing relations with non-EU countries.
- Greater harmonisation of third country rules at EU level since the financial crisis, i.e. less room for national rules in Member States.
- Rules regularly stipulate requirements for the **equivalence of regulation**, supervisory cooperation (MoU) and effective anti-money laundering and tax cooperation.
- Different effects of third country regimes/rules (combinable):
  - Harmonisation of access to the EU internal market for supervised entities (EU-passport);
  - Strengthening the work of supervisory authorities (information exchange and on-site-visits);
  - Avoidance of supervisory conflicts (recognition of third-country supervision and at the same time no separate EU supervision);
  - Regulatory easements/advantages for supervised entities (waiver of certain hedging instruments such as margin requirements or capital surcharges).

# Equivalence Procedures

- Third country regimes regularly stipulate requirements for the equivalence of regulation  equivalence procedures
- Equivalence requirements
  - Tailor-made requirements for every regulation; no clear definition of the equivalence scale (comparable protective effect or literally identical regulation?)
  - Different scope of the equivalence check (punctual duties or entire regulatory areas?)
- Equivalence assessment method
  - Responsibility lies with EU Commission (in cooperation with ESAs); occasionally Member States involved.
  - Depending on the design, sometimes considerable time and high demands on resources (both sides).
- Challenges and risks of equivalence procedures
  - EU Commission has evidently made links between technical equivalence recognition and political negotiations in the past.
  - Due to their potential political link and assessment method equivalence procedures are difficult to predict/not very transparent.

# Influence of Brexit

- Further development of third country regimes
  - With Brexit the City of London is becoming a third country financial center to which the relevant market access provisions apply. These third country regimes have so far been tailored to relations with the USA/ASIA/CH but in the context of Brexit they have been deemed inappropriate.
  - Therefore a tightening up/stricter third country rules in various current regulatory proposals: EMIR-review, ESA-review; revision of third country market access provision in MiFIR and MiFID II (through Investment Firm Review), ESA-Opinions.
- Potentially enhanced politicisation of equivalence procedures.
- Equivalence/market access procedures not taken up/on hold (due to regulatory revisions/developments of third country rules in context of Brexit).