

Commission.⁵¹ The legal framework (Gas Market Act⁵²) is based on EEA legislation, especially EC Directive 2003/55 on common rules for the internal market in natural gas. Liechtenstein is in the process of implementing EC Directive 2009/73 (third energy package for gas).

4.3 Services

4.3.1 Financial services

4.3.1.1 Switzerland

4.87. Financial services is a major activity in Switzerland as it accounts for nearly 10% of the country's GDP and over 5% of its total employment.

4.88. Box 4.1 below provides the main economic and statistical indicators of the sector and of its main subsectors (banking, insurance, pension funds and stock exchanges and securities).

Box 4.1 Financial services: statistical overview, 2006-15

General

Share of financial services in GDP

2006: 11.7% (of which insurance 3.59%)

2011: 10.3% (of which insurance 4.37%)

2015: 9.5% (of which insurance 4.29%)

Share of financial services in total employment

2006: 6.1% (of which insurance 1.56%)

2011: 6.2% (of which insurance 1.39%)

2015: 5.6% (of which insurance 1.15%)

Net financial services exports

2009: SwF 19.8 billion (42.0% of Switzerland's current account surplus), insurance: SwF 5.5 billion

2011: SwF 16.9 billion (35.8% of Switzerland's current account surplus), insurance: SwF 4.2 billion

2015: SwF 16.3 billion (22.3% of Switzerland's current account surplus), insurance: SwF 4.9 billion

Capital stock of Swiss financial services providers abroad

2008: SwF 177 billion (23% of Swiss capital stock abroad) of which insurance: SwF 97 billion

2010: SwF 195 billion (22.2% of Swiss capital stock abroad) of which insurance: SwF 120 billion

2014: SwF 156 billion (15.0% of Swiss capital stock abroad) of which insurance: SwF 72 billion

Significance of the financial services arm of Swiss Post (2015)

3,500 employees, 2,951 million customers, 4,835 million accounts, SwF 114,866 billion of funds under management, SwF 430 million of net profit

Banking services

Number of banks and recent consolidation

2006: 331 banks (of which, cantonal banks: 24; "big" banks: 2; regional and savings banks: 78; Raiffeisen – i.e. cooperative banks: 1; stock-exchange banks: 52; foreign controlled banks: 120; branches of foreign banks: 29; private banks: 14; other banking institutions: 11)

2011: 312 banks (of which cantonal banks: 24; "big" banks: 2; regional and savings banks: 66; Raiffeisen – i.e. cooperative banks: 1; stock-exchange banks: 46; foreign controlled banks: 116; branches of foreign banks: 32; private banks: 13; other banking institutions: 12)

2015: 266 banks (of which cantonal banks: 24; "big" banks: 3; regional and savings banks: 62; Raiffeisen – i.e. cooperative banks: 1; stock-exchange banks: 44; foreign controlled banks: 85; branches of foreign banks: 26; private banks: 7; other banking institutions: 14)

⁵¹ Ordinance on the Energy Market Commission, LLG 2009, No. 29, available at:

https://www.gesetze.li/lilexprod/lgsystpage2.jsp?menu=1&tablesel=0&formname=showlaw&lglid=2009024000&version=1&lrstart=73&observe_date=30.11.2016.

⁵² Gas Market Act, LLG 2003, No. 218, available at:

https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=2003218000&version=2&search_text=qasmart&search_loc=titel&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=30.11.2016. See also Gas market Ordinance, LLG 2009, No. 22, available at: https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=2009022000&version=1&search_text=qasmart&search_loc=titel&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=30.11.2016.

Concentration/share of the various types of banks in the total balance sheet for banks in Switzerland (2011)

Total balance sheet: SwF 2,793 billion

(of which cantonal banks: 16.1%; "big" banks: 52.5%; regional and savings banks: 3.6%; Raiffeisen – i.e. cooperative banks: 5.6%; stock-exchange banks: 4.9%; foreign controlled banks: 10.9%; branches of foreign banks: 2.0%; private banks: 1.9%; other banking institutions: 2.4%)

Concentration/share of the various types of banks in the total balance sheet for banks in Switzerland (2015)

Total balance sheet: SwF 3,026 billion

(of which cantonal banks: 17.8%; "big" banks: 47.1%; regional and savings banks: 3.7%; Raiffeisen – i.e. cooperative banks: 6.7%; stock-exchange banks: 6.9%; foreign controlled banks: 8.6%; branches of foreign banks: 2.4%; private banks: 0.2%; other banking institutions: 6.6%)

Lending activities (Comprehensive year-end statistics (including "amounts due from securities financing transactions"), 2012): SwF 1,407 billion (domestic lending: 71.0%, of which mortgage claims: 83.4%; foreign lending: 29.0%)

Lending activities (Comprehensive year-end statistics (excluding "amounts due from securities financing transactions"), 2015): SwF 1,537 billion (domestic lending: 70.0%, of which mortgage claims: 82.1%; foreign lending: 30.0%)

Securities activities (securities holding in bank accounts, 2015)

Total: SwF 5,587 billion; Swiss custody account holders: SwF 2,640 billion (i.e. 47.3% of total); foreign custody account holders: SwF 2,947 billion (i.e. 52.7% of total), of which private customers: SwF 534 billion; commercial customers: SwF 89 billion; and institutional investors: SwF 2,323 billion

Insurance**Number of insurance companies and recent consolidation**

2009: 258 companies, of which life: 25; non-life: 125; reinsurance: 26; captives: 42; supplementary health insurers: 40

2014: 224 companies, of which life: 21 (of which 3 Swiss branches of foreign insurance companies); non-life: (without health insurers^a): 104 (of which 49 Swiss branches of foreign insurance companies), reinsurance: 29; captives: 33; supplementary health insurers (without health insurers): 26; base health insurers with supplementary health insurance products: 14

2015: 214 companies, of which life 20 (of which 3 Swiss branches of foreign insurance companies); non-life (without health insurers): 99 (of which 45 Swiss branches of foreign insurance companies); reinsurers: 30; reinsurance captives 29; supplementary health insurers 23; base health insurers with supplementary health insurance products: 13

Total balance sheet of the insurance sector

2014: SwF 649.4 billion, of which life insurance: SwF 337.7 billion (52.0%); non-life (w/o health insurers): SwF 150.8 billion (23.2%); supplementary health insurers: SwF 16.0 billion (2.5%); and reinsurance SwF 144.9 billion (22.3%)

2015: SwF 654.3 billion, of which of which life insurance: SwF 343.3 billion (52.5%); non-life (w/o health insurers): SwF 146.9 billion (22.5%); supplementary health insurers: SwF 16.1 billion (2.5%); and reinsurance SwF 148.1 billion (22.6%)

Concentration: (cumulative market share of the top five companies)

2014: life insurance: 83.9%; non-life: 48.5%; health insurance: 64.7%; reinsurance: 75.1%

2015: life insurers: 86.2 %; non-life: 52.4 %; health insurance: 65.2 %

Pensions funds

Number of pension funds: 2009: 2351; 2014: 1866

Total assets: 2009: SwF 599 billion (of which collective assets SwF 241 billion), 2014: SwF 777 billion (of which collective assets: SwF 424 billion)

Stock exchange and securities

Capitalization of the companies listed in the Swiss performance index (SPI): 2010: SwF 964 billion; 2011: SwF 863 billion (i.e. 143.7% of the GDP the same year); 2012 (June): SwF 915 billion; 2014: SwF 1,278 billion; 2015: SwF 1,287 billion (i.e. 201% of the GDP the same year)

Gross value of publicly issued bonds in Swiss francs: 2011: SwF 73 billion (Swiss borrowers: SwF 40 billion, foreign borrowers: SwF 33 billion); 2015: SwF 62.03 billion (Swiss borrowers: SwF 44.15 billion, foreign borrowers: SwF 17.88 billion)

(Securities turnover on the SIX Swiss Exchange (secondary market, 2015): securities: SwF 1,372 billion (of which Swiss shares: SwF 1,042 billion; foreign shares: SwF 11 billion; Swiss bonds: SwF 91 billion; foreign bonds: SwF 97 billion; structured products and options: SwF 27 billion; investment funds: SwF 104 billion)

a Defined as the addition of (a) providers of base health insurance that do not provide supplementary health insurance, (b) providers of base health insurance that provide supplementary health insurance, and (c) providers of only supplementary health insurance.

Source: Information provided by the authorities.

4.3.1.1.1 Banking services

4.89. A key development regarding the regulatory environment for banking services in Switzerland was the adoption through various legal instruments of the principle of automatic exchange of information (AEOI) regarding tax matters.

4.90. The first such instrument was the signature by Switzerland of the Council of Europe Multilateral Convention on Administrative Assistance in Tax Matters (MAC) on 15 October 2013.

4.91. It was followed by the entry into force of the FATCA 2⁵³ agreement with the United States on 2 June 2014 together with the FATCA Implementation Law approved by the Swiss Parliament. In addition, the Federal Council adopted a negotiation mandate on 8 October 2014 in order to start negotiations with the United States on a FATCA agreement based on Model 1, i.e. with fully automatic exchange of information.

4.92. The Swiss Parliament approved the AEOI principle, i.e. the OECD Multilateral Competent Authority Agreement (MCAA) and the corresponding Swiss Implementation Law, on 18 December 2015. The approval was followed by a 100-day referendum period. No referendum was launched during this time.

4.93. With the European Union, the adoption of the AEOI principle took the form of the signature of an agreement on 27 May 2015 amending the agreement on the taxation of savings which had been in force since 2005. This agreement includes the OECD's global AEOI standard in full. Both chambers of the Swiss Parliament have approved the agreement, which has entered into force. Data will start to be collected in 2017 and Switzerland and the EU will then exchange information as of 2018.

4.94. In addition, so far Switzerland has signed joint declarations for the introduction of AEOI based on the Multilateral Competent Authority Agreement (MCAA) with nine other States and jurisdictions: Australia, Iceland, Norway, Guernsey, Jersey, Isle of Man, Japan, Canada and South Korea. Other countries and jurisdictions will follow. Switzerland intends to sign similar joint declarations with other States and jurisdictions that have committed to the OECD Standard on AEOI. The Swiss Parliament decides exclusively on the AEOI joint declarations. They will not be subject to referendums. Switzerland has committed to implementing the OECD standard on AEOI by the year 2017, with the first exchange taking place in 2018.

4.95. Switzerland exchanges information in tax matters on request on the basis of double taxation treaties (DTA), tax information exchange agreements (TIEA) and, from 2017 onwards, the OECD/Council of Europe Multilateral Convention on Administrative Assistance in Tax Matters (MAC). The Convention will also be the basis for the spontaneous exchange of information.⁵⁴

4.96. The banking sector also underwent a major regulatory overhaul during the period under review with the adoption of the Financial Market Infrastructure Act (FMIA) and the Financial Market Infrastructure Ordinance (FMIO), which both came into force on 1 January 2016. In addition, the Federal Council dispatched to the Parliament in November 2015 two draft bills, the Financial Services Act (FinSA or FIDLEG) and the Financial Institutions Act (FinIA or FINIG).⁵⁵ Discussion of the bills in the Council of States, as the first chamber.

⁵³ FATCA stands for Foreign Account Tax Compliance Act, a U.S. act requiring financial institutions worldwide to disclose account information to the U.S. tax authority. Jurisdictions worldwide can either apply the FATCA Regulations of the U.S. Treasury Department or reduce this burden by concluding a FATCA Agreement with the United States. The United States offers its partner jurisdictions the following two different agreements: FATCA Model 1 Agreement (with automatic exchange of information) or FATCA Model 2 Agreement (no automatic exchange of information) where foreign financial institutions will disclose account details directly to the U.S. Tax Authority with the consent of the U.S. clients concerned. The United States will have to request data on recalcitrant clients through normal administrative assistance channels.

⁵⁴ An updated list of all States and jurisdictions covered by DTAs and TIEAs is available at: <https://www.sif.admin.ch/sif/en/home/themen/internationale-steuerpolitik/doppelbesteuerung-und-amtshilfe.html>.

⁵⁵ The draft versions of the bills are available at: <https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilung.msg-id-59331.html>.

4.97. Box 4.2 below describes in more detail the content of these new or planned laws as well as more generally the regulatory framework of banking services in Switzerland.

Box 4.2 Switzerland's regulatory framework for banking services

Recent or planned regulatory changes

The Financial Market Infrastructure Act (FMIA) (RS 956.1) and the Financial Market Infrastructure Ordinance (FMIO) (RS 958.11) came into force on 1 January 2016.^a The FMIA brings the regulation of financial market infrastructures and derivatives trading in line with market developments and international standards. It sets out regulatory requirements for the operation of financial market infrastructures, including stock exchanges, multilateral trading facilities, central counterparties and central securities depositories and trade repositories. In addition, it lists all of the rules on trading in securities and derivatives for all financial market participants, particularly the new derivatives trading rules, which are consistent with international standards.

Legislative projects in progress: Financial Services Act (FinSA) and Financial Institutions Act (FinIA)

The FinSA will serve primarily to improve client protection. The current draft contains rules on providing financial services and offering financial instruments for all financial service providers. The proposed regulation takes account of the various features of financial service providers and financial instruments, as well as the different needs of the various client segments. Improvement in client protection is achieved by means of comprehensive transparency provisions, while refraining from imposing bans.

The proposed FinIA makes provision for an activity-based, differentiated supervisory regime for financial institutions requiring authorization. The main change is in the prudential supervision of managers of individual client assets, managers of the assets of occupational benefits schemes and trustees. Not all financial institutions will be supervised by FINMA during this process. The prudential supervision of managers of individual client assets and fiduciaries will be performed by an independent supervisory organization, several types of which are possible.

Supervisory authorities

Ministry/agency responsible for the coordination and strategic management of international financial, monetary and tax matters: State Secretariat for International Financial Matters, SIF (www.sif.admin.ch).

Sector supervisor (monitoring bank liquidity, supervising financial market infrastructures, etc.): Financial supervision and issuance of banking regulations is performed by the Swiss Financial Market Supervisory Authority, FINMA (www.finma.ch). The Swiss National Bank (SNB) has the task of contributing to the stability of the financial system (www.snb.ch). The SNB also oversees systemically important payment systems, central counterparties and central securities depositories.

Responsibility for competition policy issues: Competition Commission (www.weko.admin.ch).

Preferential and bilateral policies

Preferential arrangements affecting banking services: none (Switzerland's commitments in FTAs are substantially similar to Switzerland's commitments under the GATS).

Bilateral agreements and MOUs (notably on prudential regulation and supervision): FINMA has concluded banking-specific or multi-sectoral MoUs with supervisory authorities of 27 jurisdictions whose banks have significant presence in Switzerland. The largest Swiss banks under foreign control (assets >10 billion in 2015) are British, Brazilian, French, Greek, and German. Agreements have been concluded with all these countries. These MoUs govern the coordination of supervisory activities, as well as the exchange of information relevant for supervision.

Recognition of prudential measures of other countries through international agreements or unilaterally: In general, FINMA will recognize the consolidated supervision of foreign authorities, if the countries adhere to the relevant Basel Core Principles (BCP). As there is no multilateral framework for the banking sector, such agreements are concluded bilaterally. In the area of securities and markets supervision (which involves the broker-dealer activities of banks), FINMA is signatory to the IOSCO multilateral MoU.

Licensing

General criteria: clear scope of business; adequate organization; creation of separate bodies for management on the one hand and for direction, supervision and control on the other, if the scope or importance of business activities is significant, for all operators except small private bankers and securities traders; disclosure of the minimal fully paid-in share capital; good reputation of the persons in charge of administration and management of the bank; guarantee by the natural persons or legal entities with a qualified participation (i.e. which directly or indirectly participate in at least 10% of the capital or the voting rights of a bank or whose business activities are such that they may exercise considerable influence over the bank) that their influence will not impact the bank's prudent and solid business activity negatively; obligation for the persons entrusted with management to be domiciled in a place where they can physically manage the bank in a responsible manner (i.e. generally on Swiss territory with exceptions for larger internationally active banks, e.g. head of Asia division and member of group executive board may be domiciled in Asia) (Article 3 of the Banking Law). Cantonal banks no longer benefit from preferential capital requirements. Their tax treatment is subject to cantonal regulations.

Additional criteria for foreign banks: requirements are the same for Swiss and foreign banks; access remains subject to reciprocity, except when covered by international obligations such as the WTO agreements. However, for Swiss branches of foreign banks, FINMA will grant the foreign banks a licence only if;

a) the foreign bank is appropriately organized, employs adequately qualified staff and has financial

- resources to operate a branch in Switzerland;
- b) the foreign bank and branch are subjected to adequate supervision;
 - c) the competent foreign supervisory authorities make no objection to the establishment of a branch;
 - d) the competent foreign supervisory authorities state that they will immediately inform FINMA if circumstances arise that may seriously jeopardize the interests of the bank's creditors;
 - e) the competent foreign supervisory authorities are able to provide FINMA with official support;
 - f) the licensing requirements set out in Article 3^{bis} para. 1 of the Banking Law are met;
 - g) the branch meets the licensing requirements within the meaning of Article 3, paras. 2c and d of the Banking Law and has a regulation that precisely defines its business activities and provides adequate organization; and
 - h) the foreign bank provides evidence that the company name of the branch qualifies for entry in the Commercial Register.

Special provisions may apply to foreign banks such as FBO-FINMA (RS 952.111) Article 3, para. 2 (fully subjected to Swiss regulation if foreign regulation is not equivalent), Article 4, para. 2 (adequate consolidated supervision by foreign supervisor), Article 7 (collateral requirement if this is necessary for depositor protection). These are set out in the Ordinance of 21 October 1996 of the Swiss Financial Market Supervisory Authority on Foreign Banks in Switzerland (FINMA Foreign Banks Ordinance, FBO-FINMA). In accordance with the FBO-FINMA, the remaining part of the banking regulation, i.e. the Banking Law and the Banking Ordinance are applicable in the same way as for Swiss banks (Article 3, para. 1). Relief may be given on capital adequacy and risk distribution aspects for subsidiaries (Article 3, para. 2).

Licensing organ: FINMA (banking regulation and supervision take place at the federal level, i.e. there are no licensing requirements or regulations at the cantonal level).

Limitation of numbers of licences: none by policy.

Statutory maximum delay to process licences applications: none.

Validity of a licence: unlimited.

Restrictions on banks selling or disposing of licences: licences are specific to the licensed institution and may not be sold or transferred. A significant change in the structure of a bank or its ownership may require a reapplication, which is subject to supervisory review and will be accepted if the licensing criteria are met.

Minimum capital requirements for obtaining a licence: SwF 10 million, usually more in practice, depending on the business plan.

Prudential regulations

Administrative allocation of financial resources: financial resources are not allocated administratively.

Determination of interest rates and fees: banks can freely determine their own interest rates and fees.

Measures to ensure compliance with the Basel Committee's Core Principles for Effective Banking Supervision:

The adoption of Basel III-based capital rules in Switzerland was completed in 2012 when the revised Capital Adequacy Ordinance came into force. Swiss implementation of Basel capital standards was assessed overall as "compliant" in the 2013 Regulatory Consistency Assessment Programme (RCAP) by the BCBS. Some Basel requirements relating to definition of capital, the Swiss Standardized Approach, Credit Risk IRB, and disclosure were assessed to be only "largely compliant" or "materially non-compliant". Since then, FINMA has rectified 20 deviations or potential misinterpretations identified by its own self-assessment and by the RCAP Assessment Team. In 2015, in accordance with the Basel III framework, FINMA introduced reporting and disclosure requirements for the Leverage Ratio and Liquidity Coverage Ratio. In the first half of 2016, FINMA has aligned its circular "Credit risks-banks" with the revised international Basel III banking standards, enhancing capital requirements for derivatives, central counterparty positions, fund investments and securitizations.

On 21 October 2015, the Federal Council has defined new capital adequacy standards for systemically important banks (i.e. the two global systematically important banks UBS and Crédit Suisse and the five domestic systematically important banks, i.e. UBS and Crédit Suisse again and Raiffeisen, Zurich Kantonal Bank and Post Finance) and taken measures to reinforce the current "too big to fail" regime and hence the resilience of these banks. Under the new regulations, global systemically important banks will be subject to a leverage ratio of 5% ("going concern" capital i.e. capital to absorb current operating losses). The 5% relates to the bank's total exposure as a measure of its on- and off-balance sheet positions. At least 3.5% of this must be held in the form of Common Equity Tier 1 capital (CET1) and the remainder in Tier 1 instruments, which would be converted or written down if the CET1 ratio falls below 7% ("high trigger"). In addition, these banks must hold 5% of loss-absorbing debt capital, again measured in terms of total exposure. This bail-in capital ("gone concern" capital i.e. capital to fund an orderly resolution) is earmarked for use in the event of resolution. The result in terms of risk-weighted requirements is a total of 28.6%, consisting of 14.3% for each category. At least 10% must be held in the form of CET1 capital. In addition, the Federal Council decided that Swiss emergency plans drawn up by the global systemically important banks must be ready for implementation by the end of 2019.

The 2014 Financial Sector Assessment Programme by the IMF assessed the Swiss banking supervision to be compliant with 20 out of 29 Basel Core Principles. Two Basel Core Principles were assessed to be "materially non-compliant". Mainly the resourcing of supervision of large second-tier banks and the effectiveness of FINMA's supervisory approach with regard to the involvement of private audit firms have been criticized. FINMA has been addressing these points by conducting more direct, topic-specific supervisory reviews complementing

regulatory audits by audit firms and by reforming its collaboration with audit firms to increase the effectiveness of regulatory audits.

Specific provisions against money laundering and terrorist financing

The Anti-Money Laundering Act of 10 October 1997 (AMLA; RS 955.0) imposes special due diligence obligations on financial intermediaries (banks, securities dealers, casinos, and subject to certain conditions set out in the AML Article 2, fund managers, certain investment companies, and asset managers under the Collective Investments Schemes Act, as well as insurance institutions). These include verification of the identity of the contracting party, establishment of the identity of the beneficial owner, special clarification duties, the duty to keep records, and the duty to implement organizational measures to prevent money laundering and terrorist financing. The financial intermediary must immediately file a report with the Money Laundering Reporting Office Switzerland (MROS) in the Federal Office of Police if it suspects money laundering or terrorist financing.

In the non-banking financial sector (e.g. asset managers, fiduciaries, bureaux de change, money and value transfer services as well as lawyers and notaries providing financial services), the Anti-Money Laundering Act is based on the principle of self-regulation. Self-regulation organizations (SROs) further specify the due diligence obligations contained in the Anti-Money Laundering Act and supervise compliance by their members. Financial intermediaries may either join an SRO or be supervised directly by FINMA, except for lawyers and notaries who can only join an SRO. FINMA recognizes and supervises the SROs.

In February 2012, the Financial Action Task Force (FATF) published the revised international standards on the combating of money laundering and terrorist financing. The Swiss Parliament adapted various laws to those standards in the Federal Act on the Implementation of the Revised FATF Recommendations of 12 December 2014 (RO 2015 1389) in particular on the following points:

- **Beneficial ownership:** the law now expressly stipulates that the financial intermediary has to identify the beneficial owner with the due diligence required by the circumstances. The financial intermediary must obtain a written declaration indicating the natural person who is the beneficial owner particularly when the contracting party is not the beneficial owner or when there is doubt in this respect, and always when the contracting party is a domiciliary company or an operating legal entity.

Predicate offences: the FATF has added "tax crimes (related to direct and indirect taxes)" to its list of offences which must mandatorily constitute predicate offences to money laundering. In addition to extending the scope of the felony already enshrined since 2009 in the Swiss legislation for offences regarding indirect taxation, the 2014 law has introduced a predicate offence – aggravated tax misdemeanour – with regard to direct taxation. Tax fraud now constitutes a predicate offence to money laundering if the amount of tax evaded exceeds SwF 300,000 per tax period.

Regulations on cash payments for purchases of both movable and immovable property: the new law imposes due diligence obligations on natural persons and legal entities dealing professionally in movable or immovable property that receive cash payments exceeding SwF 100,000 ("dealers" in accordance with Article 2, para. 1 letter b of the AMLA). The due diligence obligations envisaged include verification of the identity of the contracting party, identification of the beneficial owner, duty to keep records, clarification of the background and purpose of the transaction when it seems unusual or there are grounds to suspect that the cash used to pay originates from a felony or an aggravated tax misdemeanour, and the obligation to report immediately suspicions to the MROS.

Other areas: the new law also covers issues such as the registration of ecclesiastical and family foundations, transparency regarding legal entities, including companies with bearer shares, politically exposed persons (PEPs), the suspicious activity reporting system and targeted financial sanctions related to terrorism and terrorist financing.

The fourth FATF evaluation of Switzerland published in December 2016^b acknowledges that the Swiss authorities demonstrate a clear commitment to prosecuting money laundering and that the mutual legal assistance provided by Switzerland is generally satisfactory and has involved the freezing and restitution of large sums linked with international corruption, but that shortcomings associated with maintaining the confidentiality of requests have been observed.

Bank deposit insurance scheme

A review of the Swiss deposit insurance scheme is currently under way. Costs and benefits of a change from the existing ex-post to an ex-ante funded system, an increase of the target level, and a shortening of the maximum pay-out period are being analysed. The Federal Council will decide at the beginning of 2017 on the parameters of an adjustment of the Swiss deposit insurance scheme.

- a The texts of the act and of the ordinance are available at:
<https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilungen.msg-id-59647.html> as well as a factsheet summing up their main provisions; and
<https://www.efd.admin.ch/dam/efd/en/dokumente/home/themen/wwf-fin-politik/fb-finfrag-e.pdf.download.pdf/fb-finfrag.pdf>.
- b Online information. Viewed at: <http://www.fatf-gafi.org/media/fatf/content/images/mer-switzerland-2016.pdf>.

Source: Information provided by the authorities.

4.3.1.1.2 Insurance services

4.98. Box 4.3 below describes in detail the regulatory regime for insurance services, which has remained stable during the period under review.

Box 4.3 Switzerland's regulatory framework for insurance, 2016

Recent or planned regulatory changes

Partial revision of the Insurance Contract Act (ICA)

The ICA governs the contractual relationship between insurance companies and their clients. The revision should adjust the ICA to changed circumstances and the law should be given a modern structure that eliminates the deficits of the current law which is more than a century old. The ICA should also become more user-friendly. The following topics are also on the agenda for the partial revision: client segmentation, written form requirements (inclusion of electronic formats), revocation right, provisional cover, assumption of approval, limitation periods, termination options, statutory deadlines, pre-contractual duty to provide information, pre-contractual duty of disclosure, amendment clauses, continued liability and pending insurance claims, right to claim directly/right to information, and compulsory liability.

Partial revision of the Insurance Supervision Act (ISA)

The Insurance Supervision Act sets out how the Swiss Confederation is to exercise supervision over insurance companies and insurance intermediaries. It aims, in particular, to protect insured persons from abuse and the insolvency risks of insurance companies. The revision should provide for rules for recovery and resolution, matching the specific requirements of the insurance business. In addition the following topics are on the agenda for the partial revision: a sophisticated customer-protection-based regulatory and supervisory approach, strengthening of group supervision, supervision of foreign insurance companies and abolition of the exemption regime for internal auditing.

Supervisory authorities

Ministry/agency responsible for defining insurance sector policy: State Secretariat for International Financial Matters (SIF)

Ministry/agency responsible for the supervision of the sector: Swiss Financial Market Supervision Authority (FINMA)

Responsibility for competition policy issues: Competition Commission (COMCO)

Preferential and bilateral policies

Preferential arrangements affecting insurance services: bilateral agreements with Liechtenstein and the EU (see <https://www.finma.ch/en/documentation/legal-basis/international-treaties/>).

Agreement of 10 October 1989 between the Swiss Confederation and the European Economic Community (now the EU) on Direct Insurance other than Life Insurance: this agreement grants Swiss and EU insurance companies active in areas other than life insurance freedom of establishment in the European Union or Switzerland. One requirement of the agreement is that an agency or branch operation must be licensed. Identical access and operating conditions must apply in the host states of the contracting parties. The agreement sets out who is to supervise the agency or branch office. The agreement does not apply to life insurance, reinsurance or social insurance. It is also not applicable to cross-border services that do not go through an agency or branch office.

Agreement of 19 December 1996 between the Swiss Confederation and the Principality of Liechtenstein on Direct Insurance and Insurance Intermediation: this agreement guarantees Swiss insurance companies freedom of establishment in the Principality of Liechtenstein and freedom to provide direct insurance services there; Liechtenstein insurance companies enjoy reciprocal rights in Switzerland. Companies require a licence issued in their home country, which is valid in both countries. Licence holders are supervised by the supervisory authority in their home country. The agreement provides for the mutual recognition of the countries' supervisory legislation. It is not applicable to reinsurers or social insurance schemes.

Bilateral agreements and MoUs: FINMA has concluded MoUs with supervisory authorities of countries whose insurers have significant presence in Switzerland (and vice versa). These MoUs govern the coordination of supervisory activities, as well as the exchange of information relevant for supervision. FINMA is also a signatory to the IAIS multilateral MoU.

FTAs: Switzerland's commitments in FTAs are substantially similar to Switzerland's commitments under the GATS.

Licensing

Criteria for assessing applications for an insurance licence: organizational, legal, capital, and solvency requirements.

Compatibility of life and/or non-life insurance licences: for insurance companies that operate direct life insurance, the only other insurance classes that they may operate are accident and health insurance as set out in Article 12 of the Insurance Supervision Act (ISA) (RS 961.01).

Differential treatment for foreigners in the licensing process: if there are no deviating regulations in international agreements, a foreign insurance company which intends to commence an insurance activity in Switzerland must, in addition (Article 15, ISA):

- a. be authorized to carry out an insurance activity in its home state;
- b. establish a permanent establishment in Switzerland and appoint as its manager a person with a general power of attorney;
- c. have at its headquarters an amount of capital as set out in Article 8 and a solvability margin as in Article 9 which also encompass the business activity in Switzerland;
- d. be in possession of an organizational fund in Switzerland as in Article 10 and the corresponding assets;
- e. deposit a collateral amount in Switzerland which corresponds to a defined proportion of the solvability margin attributable to the business within Switzerland. The supervisory authority defines this proportion and the calculation, the place at which the deposit is kept and the allocable assets.

Limitation on number of providers: none.

Licensing authority: FINMA is the sole competent authority to evaluate licence applications and to grant licences to private insurers. Insurance regulation and supervision is at federal level, i.e. there are no licensing requirements or regulations at cantonal level for private-sector insurance. However, it must be noted that all insurers governed by public law are not supervised by FINMA (even if the public insurers offer private insurance contracts; see the Federal Court's Decision 138 I 378). For public insurers, there might also be regulations at cantonal level. In certain areas, FINMA and other Swiss supervisory authorities have shared competences (for example, accident insurance and pension funds).

(Article 46a of the Administrative Procedure Act). A maximum processing time of 6 months for licensing applications is defined in Article 13.3 of the Agreement of 10 October 1989 between the Swiss Confederation and the European Economic Community (now EU) on Direct Insurance other than Life Insurance).

Period of validity of a licence: unlimited.

Restrictions on selling or disposing of licences: not transferable. Licences are specific to the licensed institution.

Maximum processing time for applications: in general, there is no maximum processing time defined for applications. However, an appeal may be filed against unlawful refusal or delay in issuing a contestable ruling.

Prudential regulations

Differences in treatment between state-owned firms, other domestically owned firms, foreign-owned branches and foreign-owned subsidiaries

FINMA does not treat state-owned firms differently to other domestically owned firms. However, it must be noted that FINMA is not the responsible supervision authority for insurance carriers governed by public law (even if public insurers offer private insurance contracts; see the Federal Court's Decision 138 I 378).

FINMA does not treat domestically owned firms and foreign-owned subsidiaries differently. There are a few additional requirements for branches (see "Licensing").

Recognition of home country supervision of foreign insurance companies: as a rule, FINMA recognizes the consolidated supervision of foreign authorities. FINMA generally cooperates with the home country supervisor and foreign branches are not required to undergo the Swiss Solvency Test (SST). However, usually there is no freedom of service and all branches of foreign insurers must fulfil all the legal requirements and be supervised by FINMA.

Minimum capital requirements to obtain a licence: Article 8 of ISA requires a minimum capital of SwF 3-20 million to obtain a licence, subject to sector-specific provisions by the Federal Council. The Federal Council's Insurance Supervision Ordinance (ISO) defines this requirement for life insurers (Article 7) at SwF 5-12 million, for non-life-insurers (Article 8) at SwF 3-8 million, and for reinsurers (Article 9) at SwF 3-10 million, depending on the business model.

Administrative allocation of insurance services: life, non-life, and reinsurance services are not allocated administratively.

Approval required for life and non-life premiums and products: in general, there is no requirement for premiums and products, although the latter must comply with the respective legal requirements. However, tariffs and general insurance conditions to be used in Switzerland to insure all risks in employee pension plans and in supplementary health insurance must be approved by FINMA. Also, in the case of natural hazard insurance, FINMA requires its scope of coverage and premium rating to be uniform and binding for all insurers (Article 33 ISA).

Compatibility of life and non-life insurance activities: in accordance with Article 12 of ISA, life insurers' non-life-business is limited to accident and health insurance. Life-insurers who offer accident or health insurance are subject to Article 7 b, ISO, which sets a minimum capital requirement of SwF 8 million to obtain a licence.

Source: Information provided by the authorities.

4.3.1.1.3 Pension fund services

4.99. Box 4.4 below describes in detail the regulatory regime for pension fund services, which is in the process of a complete overhaul. The Federal Council adopted the dispatch on the "Retirement Provision 2020" reform project in late 2014. The 2020 pensions reform aims to ensure, in a balanced manner, that both pillars of retirement provisions are adequately funded and allow a more flexible transition to retirement. It is based on the following objectives: maintenance of the level of benefits under the 1st and 2nd pillar, financial consolidation of the pension system and the adaptation of benefits to current socio-political needs. In particular, the reform covers issues related to retirement, the adjustment of the minimum conversion rate and compensatory measures, including measures for intermediate generation. Institutional aspects are also taken into account with a view to improving transparency. Furthermore, the 2020 pensions' reform also addresses AVS-related financing issues, particularly with regard to benefits and contributions, as well as additional financing and the introduction of an intervention mechanism. The bill (14.088) is currently in the parliamentary process. The draft bill submitted to Parliament in November 2014 was examined by the Upper House of the Parliament in 2015 and is now being considered by the Lower House. The Upper House (Council of States) amended the draft as regards the measures to compensate for the lower conversion rate in the second pillar (Occupational Pension Plan), and approved the equalization of the retirement age at 65 for both women and men but refused to make the legislation more restrictive on widows', widowers' and orphans' pensions. As to financing, the Council decided that 1% instead of 1.5% of VAT would cover the supplementary costs resulting from demographic change.

4.100. The Lower House (National Council) debated the draft during the 2016 autumn session of Parliament. If debates in Parliament end by March 2017 with a referendum taking place in September 2017, the law could enter into force by 1 January 2018.

Box 4.4 Switzerland's regulatory framework for pension funds, 2016

Pension fund structure

Occupational benefit plans, also called the 2nd pillar, complete the mandatory basic 1st pillar AVS/AI/APG system (old age, invalidity, income compensation allowances for illness and maternity leave). Both pillars should ensure that to a large extent retired people maintain their former standard of living. The Federal Act on Occupational Benefit Plans (BVG/LPP) defines minimum benefits in the event of old age, death and invalidity. Pension funds may, however, provide higher benefits.

In principle, the law allows pension funds to decide on the form of organization they prefer, the benefits they want to offer, and ways of financing them. The BVG is mandatory for salaried persons already subject to the AVS, with an annual income of at least SwF 21,060 in 2014 or SwF 21,150 since 2015. This is also the threshold for contribution to the obligatory pension fund scheme.

The obligation to take out insurance sets in with gainful employment, after reaching the age of 17 at the earliest. At first, contributions cover only the risks of death and disability. At 25, the insured person also contributes to old age pension benefits. Certain groups of people are not subject to the mandatory scheme: the self-employed, salaried persons with a job contract that does not exceed three months, family members of a person operating an agricultural establishment in which they are employed, persons who are disabled to at least 70% under the provisions of the AVS. If they wish, such persons may take out minimal insurance on an optional basis.

Pension funds providing the statutory minimum need to be registered. The 2nd pillar, when provided by private entities, falls within the scope of the GATS but is subject to specific reservations in the Swiss GATS and FTAs financial services commitments.

Supervision

A recognized audit firm audits the management, accounts and investments of pension funds every year. Periodic reviews are also undertaken by a pension scheme expert. Cantonal surveillance authorities check that pension funds comply with legal provisions and regulations. The supreme surveillance body is the occupational pension funds supervisory committee.

Licensing criteria

Institutions wishing to participate in the mandatory occupational benefits plans must be officially registered by the competent surveillance authority. They should be organized in the form of a mutual association or a foundation.

Additional licensing conditions: none.

Period of validity of a licence: generally unlimited.

Transferability of licences: not transferable.

Limitation on the number of providers: none.

Source: Information provided by the authorities.

4.3.1.1.4 Securities services and capital markets

4.101. The main developments during the period under review include the entry into force of a new Federal Financial Market Infrastructure Act (FMIA or FinfraG) on 1 January 2016.⁵⁶ This Act revamps the existing rules and introduces new rules including regarding central counterparties and trade repositories as well as cross-border participation in Swiss trading venues (so-called remote licence regime). The FMIA brings the regulation of financial market infrastructures and derivatives trading in line with market developments and international standards. In addition, to facilitate the access of Swiss financial services providers to the EU, an EU-compliant regulation has been aimed for. The rules for derivatives trading are also primarily oriented towards those of the EU in the European Market Infrastructure Regulation (EMIR). While there are certain differences between the regulations set out in FinfraG on financial market infrastructures and conduct requirements for derivatives trading and the correspondent EU regulations, the Swiss authorities assume that, in general, the new Swiss regulations are equivalent to the EU regulations.

4.102. In addition, as already mentioned above in the banking section, the Federal Council dispatched to the Parliament in November 2015 two draft bills, the Financial Services Act (FinSa or FIDLEG) and the Financial Institutions Act (FinIa or FINIG), which will have an impact on securities services and also capital markets.⁵⁷ The parliamentary debates have commenced on those two bills. Discussion of the bills in the lower house is expected this year.

4.103. Box 4.5 below describes in detail the resulting regulatory regime for securities services and capital markets.

Box 4.5 Switzerland's market and regulatory regime for securities services and capital markets, 2016

Supervisory authority and licensing organ: FINMA

Licensing

General criteria

Securities dealers must provide information and ensure internal separation of their trading, portfolio management and settlement business; minimum fully paid-up capital is SwF 1.5 million (Article 19, para. 1 and Article 22, para. 1 Stock Exchange and Securities Trading Ordinance, SESTO) (RS 954.11).

Asset managers of Swiss collective investment schemes based in Switzerland must be authorized by FINMA and are subject to its prudential supervision. Asset managers may be a legal entity in the form of companies limited by shares, partnerships limited by shares or limited liability companies, general and limited partnerships or Swiss branches of a foreign asset manager of collective investment schemes.

Additional criteria for foreign firms

Foreign securities dealers may request FINMA authorization to establish a Swiss branch. They must provide information and evidence of adequate organization, sufficient financial resources, and qualified staff. In addition, they must be subject to appropriate supervision. In addition, the foreign supervisory authorities must not object to cross-border operations and provide administrative assistance and information to FINMA (Article 41, para. 1 SESTO).

Foreign trading venues can obtain recognition to grant direct access to their facilities to Swiss participants supervised by FINMA if they are subject to appropriate supervision and regulation. Additionally, the competent foreign supervisory authorities must consent to cross-border operations and provide administrative assistance and information to FINMA (Article 41, para. 2, Financial Market Infrastructure Act, FMIA). FINMA shall grant recognition:

- a. if the foreign trading venue is subject to appropriate regulation and supervision; and
- b. if the competent foreign supervisory authorities:
 1. do not have any objections to the cross-border activity of the foreign trading venue,
 2. guarantee that they will inform FINMA if they detect violations of the law or other irregularities on the part of Swiss participants, and
 3. provide FINMA with administrative assistance.

⁵⁶ The texts of the act and ordinance are available at: <https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilungen.msg-id-59647.html>, and a factsheet summing up their main provisions is available at: <https://www.efd.admin.ch/dam/efd/en/dokumente/home/themen/wwf-fin-politik/fb-finfrag-e.pdf.download.pdf/fb-finfrag.pdf>.

⁵⁷ The draft versions of the bills are available at: <https://www.sif.admin.ch/sif/en/home/dokumentation/medienmitteilungen/medienmitteilung.msg-id-59331.html>.

A foreign trading venue is deemed to be recognized if FINMA finds that:

- a. the State in which the trading venue has its registered office regulates and supervises its trading venues adequately; and
- b. the conditions in paragraph 2 above are met.

FINMA may refuse recognition if the State in which the foreign trading venue has its registered office does not grant Swiss trading venues actual access to its markets or does not offer them the same competitive opportunities as those granted to domestic trading venues. Any deviating international commitments are reserved.

The provision largely corresponds to the previous Article 14 SESTA (RS 954.1).

To refuse approval because of lacking reciprocity of market access was also possible before 2016 (Article 37, SESTA). However, as before, this possibility is subject to any other international obligations (free trade agreements or GATS). There are no cases where approval was refused on the grounds of lacking reciprocity.

Foreign participants may request FINMA authorization to participate in Swiss trading venues. FINMA shall grant such authorization to foreign participants if, among other requirements, they are subject to appropriate supervision and regulation and if the competent foreign supervisory authority does not object to cross-border operations and provides administrative assistance to FINMA (Article 40, para. 1, FMIA).

Foreign central counterparties: Article 60 of FMIA states:

1. A central counterparty registered abroad must obtain FINMA recognition before it:
 - a. grants supervised Swiss participants direct access to its facilities;
 - b. provides services for a Swiss financial market infrastructure;
 - c. enters into an interoperability agreement with a Swiss central counterparty.
2. FINMA shall grant recognition:
 - a. if the foreign central counterparty is subject to appropriate regulation and supervision; and
 - b. if the competent foreign supervisory authorities:
 1. do not have any objections to the cross-border activity of the foreign central counterparty;
 2. guarantee that they will inform FINMA if they detect violations of the law or other irregularities on the part of Swiss participants; and
 3. provide FINMA with administrative assistance.
3. FINMA may refuse recognition if the State in which the foreign central counterparty has its registered office does not grant Swiss central counterparties actual access to its markets or does not offer them the same competitive opportunities as those granted to domestic central counterparties. Any deviating international commitments are reserved.
4. It may exempt a foreign central counterparty from the obligation to obtain recognition provided this does not adversely affect the protective purpose of this Act.

The regulatory framework for CCPs, including the provisions regarding the recognition of foreign CCPs, has been introduced by the FMIA. There are no cases where FINMA refused recognition of a FMI on the grounds of lacking reciprocity and this possibility is subject to any other international obligations (free trade agreements or GATS).

Trade Repositories (TRs): Article 80 of FMIA states:

1. A trade repository registered abroad must obtain recognition from FINMA before accepting reports in accordance with Article 103.
2. FINMA shall grant recognition:
 - a. if the foreign trade repository is subject to appropriate regulation and supervision; and
 - b. if the competent foreign supervisory authorities:
 1. do not have any objections to the cross-border activity of the foreign trade repository;
 2. guarantee that they will inform FINMA if they detect violations of the law or other irregularities on the part of Swiss participants;
 3. confirm to the competent Swiss financial market supervisory authority that the conditions set out in Article 78, paragraph 1 b and c are fulfilled.
3. A trade repository is deemed to be recognized if FINMA finds that:
 - a. the State in which the foreign trade repository has its registered office regulates and supervises its trade repositories adequately; and
 - b. the conditions in accordance with paragraph 2 are met.
4. FINMA may refuse recognition if the State in which the foreign trade repository has its registered office does not grant Swiss trade repositories actual access to its markets or does not offer them the same competitive opportunities as those granted to the trade repositories of the State in question. Any deviating international commitments are reserved.

The regulatory framework for TRs, including the provisions regarding the recognition of foreign TRs, has been introduced by the FMIA. There are no cases where FINMA refused recognition on the grounds of lacking reciprocity and this possibility is subject to any other international obligations (free trade agreements or GATS).

Foreign asset managers may request FINMA authorization to establish a Swiss branch of a foreign asset manager of collective investment schemes. They must provide information and evidence that the asset manager, including the branch, is subject to appropriate supervisory control at its registered office; the asset manager is adequately organized and has commensurate financial resources and qualified personnel to operate a branch in Switzerland; and an agreement on cooperation and the exchange of information between FINMA

and the relevant foreign supervisory authorities is in place. Further, foreign asset managers may be delegated to manage Swiss collective investment schemes if they are subject to recognized supervision.

Period of validity of a licence: generally unlimited.

Transferability of licences: not transferable.

Limitation of the number of provider: none. As at the end of June 2016, three domestic and 56 foreign trading venues have been granted authorization.

Restrictions on foreigners buying and selling on the stock market: none.

Source: Information provided by the authorities.

4.3.1.2 Liechtenstein

4.3.1.2.1 Statistical overview

4.104. Box 4.6 provides the main economic and statistical indicators of the financial services sector in Liechtenstein.

Box 4.6 Financial services: statistical overview

General

Share of financial services in the GDP: 24%

Share of financial services in total employment: 8.8%

Net financial services exports: not available

Capital stock of Liechtenstein financial services providers abroad: not available

Banking services

Number of banks and recent consolidation: 16 of which 6 are foreign (3 banks with Swiss majority shareholders, 2 with Austrian majority shareholders and 1 with Luxemburg majority shareholders).

Total assets under management in the banking system: 2008: SwF 116.7 billion; 2009: SwF 118.3 billion; 2010: SwF 116.2 billion; 2011: SwF 109.2 billion; 2012: SwF 117.7 billion; 2013: SwF 123.4 billion; 2014: SwF 133.9 billion; 2015: SwF 130.5 billion

Assets managed by collective investment schemes: SwF 44.85 billion (as of 31 March 2016)

Assets managed by asset management companies: SwF 33.3 billion^a (as of 31 December 2015)

Assets managed by trustees or trust corporations: no comprehensive data available

Total balance sheet of the banking system: 2008: SwF 55.67 billion; 2009: SwF 55.053 billion; 2010: SwF 52.466 billion; 2011: SwF 54.6 billion; 2012: SwF 55.9 billion; 2013: SwF 57.1 billion; 2014: SwF 63.4 billion; 2015: SwF 61.4 billion

Net profit of the banking system: 2008: SwF 0.464 billion; 2009: SwF 0.587 billion; 2010: SwF 0.569 billion; 2011: SwF 0.163 billion; 2012: SwF 0.260 billion; 2013: SwF 0.471 billion; 2014: SwF 0.580 billion

Concentration: the top three banks account for approx. 88% of the assets

Number of collective investment schemes: 494

Number of authorized trustees: 114

Number of trust corporations: 266

Number of asset management companies: 118

Insurance

Number of insurance companies and recent consolidation: 41 companies at end-2015 (17 non-life insurance companies; 21 life insurance companies; 3 reinsurance companies), 11 of which (8 for non-life, 3 for reinsurance) operated as captive

Number of employees: 596

Number of branches: 12 foreign insurance companies (10 Swiss, 2 EU) have established branches in Liechtenstein

Cross-border activities: as at end-2015, over 355 EEA and Swiss insurance undertakings had registered their intention to provide cross-border insurance services, although these undertakings very rarely become active

Gross premiums of the insurance sector (2015): SwF 3.33 billion, of which 69% in life insurance; 2014: SwF 3.47 billion, of which 68% in life insurance
Capital investment of the insurance sector (2015): SwF 26.0 billion, of which 95% for life insurance; 2014: SwF 29.1 billion

- a Assets of investment undertakings and asset management companies may be included in the total of assets under management in the banking system only to the extent where they are assets under management for the bank and held in a bank in Liechtenstein. However, there is no legal obligation for investments undertakings and asset management companies to domiciliate assets in a local bank.

Source: Information provided by the authorities.

4.3.1.2.2 Regulatory regime

4.105. EU laws on financial services are of tremendous importance to the Liechtenstein financial centre. The incorporation of the first legislative package on the Financial Supervisory Bodies was delayed due to the need to find a balanced solution to certain questions regarding the institutional set-up of the EEA Agreement and constitutional constraints in the EEA/EFTA States. Therefore, Liechtenstein decided – exceptionally and extraordinarily – to transpose the respective EU acts into Liechtenstein law before they become part of the EEA Agreement. With this "advanced implementation", Liechtenstein's market participants already have to comply with the EU provisions. Due to Liechtenstein's "advanced implementation", it voluntarily imposes obligations stemming from the relevant EU laws on its market participants before they are applicable in the EEA. However, Liechtenstein and its market participants cannot benefit from, only prepare for, the cross-border rights those EU laws will confer as soon as they are incorporated into the EEA Agreement.

4.106. All EU Acts incorporated during the period under review into the EEA Agreement (Annex IX – Financial Services) as well as the links to the relevant decisions of the EEA Joint Committee regarding financial services can be found on the website of the European Free Trade Association (EFTA): <http://www.efta.int/legal-texts/eea>.

4.107. A major development for the regulatory environment for financial services in Liechtenstein is the entry into force of the principle of the automatic exchange of information (AEOI) with the EU (in January 2016) and with 32 further partner countries (in January 2017) in conformity with the OECD standards. This is the follow up and the last step of a policy decision confirmed in 2009 and 2013 by government declarations to support the increasing efforts in international cooperation in tax matters. This "Early Mover" approach has been the framework applied to Liechtenstein's policy and legislation via various legal channels: firstly through membership of the European Economic Area (EEA) – in the context of which the whole financial market *acquis* of the EU forms part of Liechtenstein's legal framework – and through multilateral or bilateral negotiations of treaties or membership and cooperation with relevant international bodies such as the OECD and the Global Forum on Transparency and Exchange of Information (GFTEI).

4.108. As early as November 2013 and prior to the finalization and adoption of the automatic exchange of financial account information, Liechtenstein recognized it as the future single global standard⁵⁸ and joined the "early-adopters-group"⁵⁹ promoted by Germany, the United Kingdom, France, Italy and Spain. Liechtenstein – even though not a member of the OECD – has been assigned a special role and has been granted a special status in the relevant OECD body developing the standard, i.e. it serves as a rapporteur between the OECD (as developer of the standard) and the Global Forum (as the competent body to monitor and review proper implementation).

4.109. Liechtenstein has put in place all necessary primary and secondary legislation for the automatic exchange of information as of 1 January 2016. In addition to its agreement with the EU, Liechtenstein has successfully negotiated 27 TIEAs⁶⁰ and has ratified the Multilateral Convention

⁵⁸ Online information. Viewed at: http://www.regierung.li/files/attachments/regierungserklaerung-nov13-eng_635480451044806250.pdf?t=635912129364399226.

⁵⁹ Online information. Viewed at: <http://www.oecd.org/fr/sites/forummondialsurlatransparenceetlechangederenseignementsadesfinsfiscales/AEOIjointstatement.pdf>.

⁶⁰ Online information. Viewed at: <http://www.llv.li/files/stv/int-uebersicht-dba-tiea-engl.pdf>.

on Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA).⁶¹ Liechtenstein therefore currently has EOI arrangements according to the OECD standard with more than 40 partners and that figure has more than doubled with the entry into force of the Multilateral Convention on 1 December 2016. Liechtenstein received a "largely compliant" rating (as did, for example, Germany and the Netherlands) in the Global Forum Peer Report Phase II.⁶²

4.110. Liechtenstein joined the Inclusive Framework for the implementation of the package of measures against Base Erosion and Profit Shifting (BEPS) in March 2016 as one of the first non-OECD countries and thereby committed officially to the BEPS outcome. Liechtenstein is a member of the OECD's Forum on Harmful Tax Practices. It signed the OECD's Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of country-by-country reports⁶³ in January 2016 and will be implementing the spontaneous exchange of tax rulings as provided for under the BEPS project. The Liechtenstein Parliament has approved an adaptation of the Tax Act which includes:

- the introduction of a linking rule for dividends within corporate groups to tackle hybrid instruments and to avoid double non-taxation – thus Liechtenstein will give up the unconditional exemption for dividend income and will be, in this respect, in line with the current revised parent-subsidiary directive, which entered into force at the end of 2015;
- the introduction of country-by-country reporting for multinational enterprises in accordance with OECD requirements;
- in the area of transfer pricing: introduction of the recommended documentation requirements; and
- the abolishment of the intellectual property box regime with grandfathering until 2020.

4.111. As of 1 January 2016, Liechtenstein has changed its legislation for administrative assistance in tax matters to include group requests according to Article 26 of the OECD Model DTA. Serious tax crimes have been made a predicate offence for money laundering from 1 January 2016 and the range of mutual legal assistance provided in tax matters has been considerably expanded as well.

4.112. Box 4.7 below describes in detail the regulatory framework for banking services in Liechtenstein, which has overall remained stable during the period under review save for the transposition of new EU/EEA banking legislation.

Box 4.7 Liechtenstein's regulatory framework for banking services, 2015

Main regulations

Banking Act of 1992 (LLG 1992, No. 108, as amended) and the corresponding Banking Ordinance (LLG 1994, No. 22, as amended)^a

Supervisory authority

The Financial Market Authority (FMA), established in January 2005, is responsible for supervising banks, investment firms, investment undertakings, trustees, lawyers, accountants, and auditors.

Preferential and bilateral policies

Preferential arrangements affecting banking services: as a result of Liechtenstein's participation in the EEA, all of its banking, securities, insurance, and accounting legislation is based on EU legislation, although the national accounting standards for financial institutions (mainly banks, which are not quoted) are also similar to the accounting rules of the Swiss FINMA. Banks in Liechtenstein and Switzerland have very similar principles of accountancy, and the structure of the balance sheet and the income statement are practically identical. Both countries apply similar valuation rules. Generally the company may choose between the national accounting standard and the IFRS standard. However, only 3 banking groups in Liechtenstein apply IFRS on a consolidated level. The national accounting standard is applied on stand-alone basis only.

⁶¹ OECD online information. Viewed at: <https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf>.

⁶² OECD online information. Viewed at: <http://www.oecd.org/tax/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-liechtenstein-2015-9789264245082-en.htm>.

⁶³ OECD online information. Viewed at: <http://www.oecd.org/ctp/exchange-of-tax-information/a-boost-to-transparency-in-international-tax-matters-31-countries-sign-tax-co-operation-agreement.htm>.

Licensing

General criteria: banks and investment firms (i.e. an asset management company in the sense of the EU Markets in Financial Instruments Directive 2004/39^b) require a licence from the FMA in order to commence operations, and may only take the legal form of limited companies (Aktiengesellschaft).^c The head offices and the principal management must be domiciled in Liechtenstein. The minimum required fully paid-up initial capital is SwF 10 million for banks and SwF 1.5 million (or the equivalent in euros or U.S. dollars) for investment firms. After commencing business activity, the minimum capital must not drop below the amount of the minimum capital. The members of the board of directors may have their domicile outside of Liechtenstein as long as they fulfil the obligations of their functions; they must be authorized to fully represent their company.^d

Additional criteria for foreign banks

Establishment of a branch or subsidiary of a non-EEA bank or investment firm requires a licence. Additional requirements are: the institution must be subject to home consolidated supervision comparable to Liechtenstein supervision, and the home authorities must raise no objections. To establish a branch in Liechtenstein a foreign institution requires a licence issued by the FMA; this is granted if it is supervised in its home country (consolidated supervision in the case of a group) in a manner comparable to Liechtenstein supervision, the home supervisory authorities do not object to the presence of the bank in Liechtenstein, and the branch is organized, staffed and funded adequately. No reciprocity requirements exist.

Investment firms and banks domiciled in an EEA member State have free movement of services rights for the activities covered by their home licences; they do not require a Liechtenstein licence. However, a notification is sent to the FMA by the home supervisory authority. The latter also supervises the investment firms and banks' operations in Liechtenstein. The same applies to the establishment of branches of EEA financial institutions in Liechtenstein.

Prudential regulations

Administrative allocation of financial resources: financial resources are not allocated administratively

Determination of interest rates and fees: banks may determine interest rates and fees freely

Specific provisions against money laundering

The core legal basis for the AML/CFT preventive measures in Liechtenstein is the Liechtenstein Due Diligence Act, No. 47/2009, and the Liechtenstein Due Diligence Ordinance, No. 98/2009. As an EEA member, Liechtenstein implemented the Third EU Anti-Money Laundering Directive (2005/60/EC) and the related implementing measures, which have been incorporated into the above-mentioned acts.

The Liechtenstein Due Diligence Act imposes special due diligence obligations on financial institutions (banks and investment firms, e-money institutions, payment institutions, insurance companies, asset management companies, etc.) as well as designated non-financial business professions (DNFBPs) such as professional trustees, auditors, lawyers, dealers in goods, real estate agents, etc.

Obligations include the requirement to identify and verify the identity of the customer and the beneficial owner, ongoing monitoring of the business relationship (including scrutiny of transactions), and preparation of a business profile (information on the source of funds and the purpose and intended nature of the business relationship). The Due Diligence Act also provides for record keeping obligations and the duty to implement organizational measures to prevent money laundering and terrorism financing.

Where suspicion of money laundering, a predicate offence of money laundering, organized crime, or terrorist financing exists, all financial institutions and DNFBPs are required to report immediately to the Financial Intelligence Unit (FIU). Likewise, all offices of the national administration and the Liechtenstein Financial Market Authority are subject to the obligation to report to the FIU.

The European institutions have recently adopted measures to reinforce the EU's existing rules on anti-money laundering and fund transfers, particularly taking into account the revised FATF Recommendations. The new measures were published in June 2015. As mentioned above, due to its EEA membership, Liechtenstein is implementing the new directive (4th Anti-Money Laundering Directive) into domestic law within two years of its publication. Liechtenstein has already adopted measures to transpose the new requirements and complete transposition is envisaged for 2017. The revised wire transfer regulation will be directly applicable upon incorporation into the EEA Agreement.

The compliance of the Liechtenstein AML/CFT framework with the FATF Recommendations has been regularly assessed by the International Monetary Fund in cooperation with experts from MONEYVAL. The most recent 4th assessment visit to Liechtenstein took place in June 2013. The respective IMF/MONEYVAL report was published in June 2014 on the website of the Council of Europe/MONEYVAL. The Liechtenstein framework to prevent money laundering and terrorist financing was overall assessed very positively. In total, 38 out of 40+9 recommendations were rated positively, either as "compliant" or "largely compliant".

The report acknowledges that "Liechtenstein has made significant steps and achieved considerable progress since the last mutual evaluation, particularly in bringing its legal framework more closely in line with the FATF recommendations, consolidating an overall robust institutional framework for combating money laundering (ML) and terrorist financing (TF) and moving towards greater transparency.

Bank deposit insurance scheme

The Liechtenstein Bankers Association (LBA) established the Liechtenstein Deposit Guarantee and Investor Protection Foundation of the Liechtenstein Bankers Association (*Einlagensicherungs- und Anlegerschutzstiftung des Liechtensteinischen Bankenverbands, EAS*), an autonomous foundation under Liechtenstein law. The Foundation has assumed the obligation, in the event of a bank's insolvency or bankruptcy, to pay compensation up to a specified maximum (SwF 100,000). All banks operating in Liechtenstein participate in the EAS.

- a The full text of the Banking Act is available at: <https://www.gesetze.li/lilexprod/lfshowpdf.jsp?lqblid=1992108000&version=18&signed=n&tablesel=0>).
- b Online information. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:02004L0039-20070921:EN:NOT>.
- c Exceptions may be granted by the FMA.
- d Banks are obliged to adopt a dual management structure, with a board of non-executive directors and a management board; internal auditors, reporting directly to the board of directors, must also be appointed.

Source: Information provided by the authorities.

4.113. Box 4.8 below describes in detail the regulatory framework for insurance services in Liechtenstein, which was extensively revised in 2015 through the adoption of a new Insurance Act and its implementing ordinance.

Box 4.8 Liechtenstein's regulatory framework for insurance services, 2016**Main regulations**

The Insurance Supervision Act (LLG 2015, No. 231)^a and the Associated Ordinance (LLG 2015, No. 239, fully in force since 1 January 2016)

Supervisory authority: the FMA

Preferential and bilateral policies

Preferential arrangements affecting insurance services: none

As a result of Liechtenstein's participation in the EEA, all of its banking, securities, insurance, and accounting legislation is based on EU legislation. The FMA fully participates in the European Insurance and Occupational Pensions Authority (EIOPA) without the right to vote. On the basis of a bilateral agreement (*Direktversicherungsabkommen*) in force since 1998, insurance undertakings domiciled in Switzerland or Liechtenstein are granted freedom of establishment and operation in the other country. This agreement was extended in 2007 to allow insurance intermediaries to engage in cross-border activities. Since October 2012, the FMA has also been a signatory to the IAIS multilateral MoU.

Licensing

A licence is required for conducting insurance activities.

Undertakings must adopt the legal form of a limited company, *Societas Europaea* (SE), a cooperative, or European Cooperative Society (SCE).

On 1 January 2016, the completely revised Insurance Supervision Act entered into force. Liechtenstein has thus implemented the EU Solvency II Directive into national law. Solvency II is a risk-based system that defines new requirements in regard to governance, risk management, and reporting. The new system makes appropriate qualitative and quantitative tools available to national supervisory authorities, allowing them to appropriately assess the total solvency of an insurance undertaking. The main administration of the company (including accounting) must be situated in Liechtenstein.

Undertakings domiciled and licensed in an EEA country may conduct direct insurance business in Liechtenstein without a Liechtenstein licence: the single-licence principle has applied since accession to the EEA.

Insurance companies are prohibited from undertaking non-insurance activities.

Cross-border provision of insurance services by EEA companies is possible, provided the insurance undertakings have the necessary solvency margin.

Non-EEA-country insurance undertakings (except Switzerland, see above) require authorization in order to operate in Liechtenstein; they must establish an agency subsidiary or a branch office in Liechtenstein.

- a The full texts of this act and ordinance are available at: https://www.gesetze.li/lilexprod/lgpage2.jsp?formname=showlaw&lqblid=2015231000&version=0&search_loc=text&lqblid_von=2015231000&lqblid_bis=2015231000&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=03.05.2016; and https://www.gesetze.li/lilexprod/lgpage2.jsp?formname=showlaw&lqblid=2015239000&version=0&search_loc=text&lqblid_von=2015239000&lqblid_bis=2015239000&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=03.05.2016.

Source: Information provided by the authorities.

4.114. Box 4.9 below describes in detail the regulatory framework for investment undertakings/collective investment schemes, asset management companies, and payment services providers. The regulatory framework for investment undertakings has been extensively revised by the new Law on Investment Undertakings (IUA, LLG 2016, No. 45) which entered into force on 1 October 2016.⁶⁴ The main change brought about by this new legislation is the creation of four types of investment undertakings: (i) investment undertakings for single investors; (ii) investment undertakings for families; (iii) investment undertakings for community of interests; and (iv) investment undertakings for enterprises.

Box 4.9 Regulatory framework for investment undertakings, asset management companies, and payment services providers

Collective investment schemes

Main regulations

The Law on Investment Undertakings (IUA, LLG 2005, No. 156), the Act on Certain Undertakings for Collective Investment in Transferable Securities (UCITSA, LLG 2011, No. 295) and the Act on Alternative Investment Fund Managers (AIFMG, LLG 2013, No. 49)^a

Recent or planned regulatory changes

On 2 December 2015, the Parliament adopted the new Law on Investment Undertakings (IUA, LLG 2016, No. 45) which will replace the old IUA from 2005. On the same day, the Parliament adopted amendments to the AIFMG in order to implement the EU regulations on European Venture Capital Funds (EuVECA) and European Social Entrepreneurship Funds (EuSEF). The UCITS V Directive has been implemented through an amendment of the UCITSA, which entered into force on 18 August 2016.

Licensing

Any collective investment scheme requires a licence from the FMA. Collective investment schemes are divided into investment funds on a contractual basis (common contractual fund), investment funds which have the legal form of a trusteeship, and investment companies (which have the legal form of a public limited company). Furthermore, investment funds (without UCITS) may be constituted under a partnership (investment limited partnership or investment partnership of limited partners) too. The minimum required fully paid-up capital is SwF 1 million for management companies under the IUA and €125,000 or the equivalent amount in SwF for UCITS management companies and AIFMs (internally managed investment companies or alternative investment funds €300,000 or the equivalent amount in SwF). Investment companies must be incorporated as public limited companies, with fixed or variable capital. Regardless of form, these collective investment schemes (with fixed or variable capital) are obliged to have both a board of directors and a custodian bank, which must be registered in Liechtenstein. Mostly, the principal administration of collective investment schemes in Liechtenstein is domiciled in Liechtenstein. According to notification procedures, the management companies can be domiciled in another EEA country and manage Liechtenstein collective investment schemes from there.

Business scope

Mutual funds may be marketed only by banks, fund management companies, or trustees with commercial presence in Liechtenstein. There are no secondary markets or underwritings in Liechtenstein. Liechtenstein banks may participate in secondary markets through their Swiss operations. Units of foreign investment undertakings may be sold in Liechtenstein under licence or, if reciprocity exists, after notification.

Asset management companies

Relevant legislation

The law on asset management (Asset Management Act, AMA) (LLG 2005, No. 278) entered into force on 1 January 2006. This Act lays the foundation for asset management companies as new, internationally recognized, financial intermediaries^b (supervisory authority: the FMA).

Licensing conditions: minimum fully paid-up capital requirement of SwF 100,000

⁶⁴ The text of this law is available at:
<https://www.gesetze.li/lilexprod/ifshowpdf.jsp?lqblid=2016045000&version=1&signed=n&tablesel=0>.

Payment services providersRelevant legislation

The law on payment services (Payment Service Act, PSA) entered into force on 1 November 2009. It transposes the European Payment Service Directive into national law and regulates the establishment of payment service providers as new financial intermediaries as well as the requirements and obligations for the provision of payment services.^c

Supervisory authority: the FMA

Licences granted: none

- a The texts of this legislation are available at:
<https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2005156000&queltiqdate=03052016>;
<https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lqblid=2011295000&queltiqdate=03052016> and
https://www.gesetze.li/lilexprod/lqpage2.jsp?formname=showlaw&lqblid=2013049000&version=0&search_text=AIFMG&search_loc=text&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=29.04.2016.
- b The text of this law is available at:
<https://www.gesetze.li/lilexprod/ifshowpdf.jsp?lqblid=2005278000&version=11&signed=n&tablesel=0>).
- c The text of this law is available at:
<https://www.gesetze.li/lilexprod/ifshowpdf.jsp?lqblid=2009271000&version=12&signed=n&tablesel=0>).

Source: Information provided by the authorities.

4.115. Finally, Box 4.10 describes in detail the regulatory framework for pension funds in Liechtenstein.

Box 4.10 Liechtenstein's regulatory framework for pension funds**Pension funds****Main regulations**

The Pension Funds Act (LLG 2007, No. 11) and the Associated Ordinance (LLG 2007, No. 16). As a result of Liechtenstein's participation in the EEA, the legislation on Pension Funds is based on EU law, which provides a prudential framework for pension funds based on minimum harmonization and mutual recognition.

Pension fund structure

A pension fund means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking for the purpose of providing retirement benefits on the basis of an agreement in the context of an occupational activity. Institutions under the PFA must be kept strictly separate from institutions under the Occupational Pensions Act. There are no institutions subject to both laws. According to Article 1 of the Occupational Pensions Ordinance, the Occupational Pensions Act and the Occupational Pensions Ordinance only apply to persons insured by the Liechtenstein Old Age and Survivors Insurance (AVS). In all other cases, the Pension Funds Act applies. In case of a cross-border Pension Fund only the prudential regulation of the home member State is applicable. However, the pension fund has to comply with the social and labour law of the host member State.

Licensing

Pensions funds must hold a licence by the FMA prior to taking up business activities.

Supervisory authorities

The Office of Public health for health insurance, compulsory accident insurance and the first pillar of the pension system; and the FMA for the second and third pillars of the pension system.

Source: Information provided by the authorities.

4.3.2 Telecommunications services

4.3.2.1 Switzerland

4.116. Box 4.11 provides the main economic indicators for the telecommunications sector in Switzerland, while Box 4.12 describes in some detail its regulatory framework and recent developments.

Box 4.11 Market structure and regulatory framework of Switzerland's telecommunications sector, 2016

Economic data (2014)

Gross value added (% of total economy)

2006: 1.33

2011: 1.29

2014: 1.24

Employment in the sector (% of total)

2006: 0.6

2011: 0.68

2015: 0.72

Penetration rates

Total telephone subscribers (per 100 inhabitants): 194

Penetration rate for fixed lines: 48.7%

Mobile phone subscribers (% of total subscribers): 73.3

Internet users (per 100 inhabitants aged of 14 years old and over): 87.4 (Source: OFS)

Fixed broadband subscriptions (per 100 inhabitants, June 2015): 50.5 (Source: OECD, Broadband portal)

Mobile broadband subscriptions (per 100 inhabitants, June 2015): 103.8 (Source: OECD, Broadband portal)

Main actors

Number of telecom services providers hosting SMS/MMS services and premium rate services

There are 3 operators (Swisscom, Sunrise and Salt) which have the authorization to allocate and host SMS/MMS short numbers. All three are active in hosting SMS/MMS services. Premium-rate services (premium-rate phone numbers) are hosted by 56 telecom-service providers. (Source: data OFCOM/TP/NA, June 2016).

Names and market shares of the leading companies for fixed telecom services

Total: 84 companies

Market leaders (by duration of connections): Swisscom: 55.0%, Sunrise: 14.0%; UPC Cablecom: 13.5% (Cablecom was renamed UPC Cablecom in 2011)

Market leaders (by number of subscribers): Swisscom: 62.3%, UPC Cablecom: 11.8%, Sunrise: 9.1% (Cablecom was renamed UPC Cablecom in 2011)

Name and market shares of the leading companies for mobile telephones services

Total: 13 companies

Market leaders (by number of contracts): Swisscom: 56.0%; Sunrise: 18.4%; Orange: 18.5%. Eight other companies are simple resellers and two (UPC Schweiz GmbH and Lycamobile AG) are mobile virtual network operators (MVNOs). There is no legislation forcing the three network operating companies to make an offer to MVNOs

Name and market shares of the broadband Internet services

Total: 169 companies

Market leaders (by number of contracts): Swisscom: 53.4%; UPC Cablecom: 21.0%; Sunrise: 9.1%

Foreign ownership participation in telecom companies

Orange/Salt and UPC Cablecom are 100% foreign-owned

Sunrise has been listed on the Swiss stock market SIX Swiss Exchange since 2015 (IPO, 6 February 2015)

State ownership

51% of the shares of Swisscom

Establishment of new companies, mergers or closures during the review period

On 23 February 2015, Orange Communications SA (Orange Suisse) was sold to NJJ Capital. NJJ Capital is a private holding owned by the French businessman Xavier Niel. On 23 April 2015, the company was renamed Salt.

Source: OFCOM Statistical Observatory, unless exceptions. Viewed at: www.ofcom.admin.ch; and Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> (28 September 2016); and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016).

Box 4.12 Regulatory framework for telecommunication services in Switzerland

Access/interconnection regulation and competition issues

Access and interconnection regulation procedures

The Swiss Telecommunications Act prescribes that telecommunications regulation is enforced ex-post following complaints by telecommunications service providers to the Swiss Federal Communications Commission (ComCom). Only in case of a complaint does ComCom review the reference offer of the operator with significant market power. If significant market power (SMP) is denied by the operator, ComCom must first analyse the market power of the operator in question according to competition law. During this market analysis process, ComCom is required to consult the Swiss Competition Authority (COMCO). The legislator chose this approach, which is unusual by international standards, with the intention of protecting investments into fibre access networks and to restrain the powers of the regulator so there is no unnecessary regulation. Much weight was attached to the bargaining ability of the market players by the legislator. From its point of view, the regulator should only intervene if the market players are unable to reach an agreement. ComCom has no power to intervene autonomously.

Fixed-access regulation

Telecommunication service providers with significant market power must provide services and facilities to other telecommunications service providers according to Article 11 of the Swiss Telecommunications Law (RS 784.10). The services and facilities have to be provided at cost-oriented prices and on non-discriminatory and transparent terms and conditions. The cost-oriented prices of an operator with significant market power are calculated on the basis of the "long-run incremental costs" (LRIC), a method applied by most European countries. Operators with significant market power must publish a reference offer according to the rules given by the Swiss Telecommunications Law and the Ordinance on Telecommunications Services every year.

Mobile-access regulation

In principle, the rules regarding fixed voice termination also apply to mobile voice services. To date there have been one or more complaints against each of the mobile network operators, but no telecommunications service provider has ever upheld its complaint for long enough for ComCom to make a decision. In every case, the parties involved found an agreement and the applicant withdrew its lawsuit. Thus, so far, there have not been any decisions on mobile termination rates by ComCom. The content of the agreements is not known to the regulator.

Recent or planned changes

On 1 July 2014, a revised version of the Ordinance on Telecommunications Services entered into force. The revision included further guidelines on how to handle the modern equivalent asset approach, which is part of the LRIC cost model, in case of major technological shifts. Furthermore there was a change regarding the costing methodology to calculate the cost of ducts and trenches. The new costing methodology is related to the infrastructures renewals accounting approach as it is applied to water utilities in the UK for example.

Within the last four years, telecommunications services providers filed complaints on nearly all forms of access obligations imposed on the SMP operator by law (see Article 11 of the Swiss Telecommunications Act). Most of these decisions were the subject of an appeal to the Swiss Federal Administrative Court. On 18 January 2016, the Swiss Federal Administrative Court decided that from 1 January 2013, fibre-optic cables are to be considered the modern equivalent asset to build an access network with. Due to this decision, there are ongoing procedures regarding the prices since 2012 and ComCom is preparing the final decisions.

Number of complaints filed or resolutions of access/interconnection disputes among operators

Compared with the four preceding years, the number of complaints has significantly decreased. Nevertheless, ComCom has had to lower most of the prices of the SMP operator (Swisscom AG) contested by other telecommunications service providers. However, the difference between prices in the reference offers and prices in ComCom's decisions has been steadily declining.

Other regulatory aspects

Regulatory supervision

The Federal Communications Commission (ComCom) is the independent authority regulating the telecommunications market. The activities and main tasks of this extra-parliamentary commission are the following:

- the attribution of the concessions for the use of radio-communication frequencies;
- the granting of the concessions (s) for the universal services;
- the setting of access conditions (unbundling interconnection, leased lines, etc.) when providers cannot reach an agreement;
- the approval of national numbering plans;
- the setting of the implementation modalities of number portability and of the free choice of the provider;
- decision-making regarding monitoring measures and administrative sanctions.

As stipulated by the Telecommunications Law, ComCom calls on the Federal Office of Communications (OFCOM) for the preparation of the cases and the execution of its decisions.

Facility sharing

For reasons of public interest, OFCOM may require providers of telecommunication services to allow joint use of their installations for an appropriate compensation. This is particularly relevant for mobile operators. Mobile-concessions include a clause on site sharing, but on a voluntary basis. ComCom has published a

guideline about technical elements which can be shared.

Local loop unbundling

Local loop unbundling on regulated terms and conditions is limited to twisted copper pair loops. At the moment, the unbundling on regulated terms and conditions of fibre local loops is not permitted by law. Demand for unbundled local loops reached its maximum in summer 2012. Since then, demand has decreased rapidly. To cope with the demand for higher bandwidths, operators who unbundled local loops are substituting them with other wholesale products available on commercial terms and conditions. These commercially offered access products may be unbundled fibre local loops or any type of bitstream.

SMP operators were required to offer local bitstreams over copper local loops on regulated terms and conditions during four years only. Since 2014, there has no longer been a reference offer for local bitstream.

Number portability

Providers must ensure portability of numbers and freedom of choice in the selection of suppliers of national and international connections.

Spectrum management

Auction of all mobile frequencies (including the "digital dividend" in the 800 MHz band as well as the 2,600 MHz band).

Orange, Sunrise and Swisscom were assigned mobile telephony frequencies in the auction that took place in early 2012. The assignment concerned frequencies that were already free or that would soon become free, and all those granted to operators in the past (all in all 620 MHz were offered, of which 575 MHz were allocated). The auction covered the spectrum bands 800, 900, 1,800, 2,100 and 2,600 MHz. All three companies won 20 MHz in the 800 MHz band (digital dividend). The frequencies may be used on a technology-neutral basis, which means, all mobile radio technologies (including LTE/4G) can be used in all these bands. While fully open, the auction did not attract any new entrants or MVNOs.

Roaming: There are transparency obligations regarding roaming for SMS. Operators may decide to apply the EU zero rate. However termination fees are higher in Switzerland than in the EU, hence operators tend to resort to commercial negotiations with their partners. On the other hand, roaming fees are increasingly included in the bundled offers.

Transparency

New provisions regarding transparency entered into force in 2015.

Firstly, the protection of value added services consumers was improved via the reinforcement of the provisions on the indication of prices. Article 11a *bis*, al. 3, of the Ordinance on the Indication of Prices (OIP; RS 942.211) stipulates that when a service is offered via internet and is billed on a provider's invoice or via a pre-paid connection, it can only be billed to the final consumer if this consumer has explicitly confirmed the acceptance of the offer.

Furthermore telecommunication providers will no longer be able to bill supplements in excess of the indicated prices, for instance for the establishment or the duration of a call towards a number giving access to a value-added service. Calls to the 0800 numbers will hence become truly free whatever the origin of the call, a fixed connection or a mobile (new Articles 39a et 39b of the Ordinance on Telecommunications OST). Finally, price transparency was also improved regarding calls directed to numbers dedicated to companies' networks (058). When initialising the call, customers will be have to been informed, simply and for free, when additional taxes will be billed for such calls as compared to numbers containing a geographical dialling code (Article 10, al. 1 *bis*, OST).

Accounting rates: not used.

Licensing

Switzerland applies a registration ("announcement") regime for telecommunications network and service providers. Licensing is only used for the right of use of frequencies and the universal service obligation.

Universal service (beneficiaries, contributors, services covered, level, expenditures, method of calculation and management)

ComCom shall ensure that the universal service (US) is guaranteed for all sections of the population in all parts of Switzerland. To this end, it shall periodically grant one or more US licences. An invitation to tender shall be issued for the granting of the licence(s). The procedure shall be conducted in accordance with the principles of objectivity, non-discrimination and transparency.

If it is clear in advance that the invitation to tender cannot proceed under conditions of competition, or if it does not produce any suitable candidates or when only one bid was submitted, the ComCom may appoint one or more providers of telecommunications, obliging them/it to offer the services making up the US.

On 21 June 2007, ComCom designated Swisscom, the only applicant, as the universal licensee for a period of 10 years, i.e. from 1 January 2008 to 31 December 2017. To date, the US licensee has not applied for any financial compensation. Any compensation would be provided from a universal service fund (USF). The

decisive factor in calculating a provider's fee is its turnover in the services provided in the country minus the costs of the telecommunications services it has purchased wholesale from third-party providers or billed for third parties. Providers with a relevant annual turnover of less than SwF 5 million are exempted from the fee.

The content of the US, which is examined periodically by the Federal Council, consists of public telephone service (national and international calls, telefax) and data transmission (Internet access) at a fixed location, emergency call services, public payphones and specific services for disabled persons. Mobile telephony is not part of the US. However, the US provider is free to use the most suitable technology. For example, it may provide US in the form of mobile communication; such cases do effectively occur in mountain areas. Some of these services are tagged with a ceiling price. The US licensee must measure, and report yearly, on the quality of the services. The latest modification, which concerns the broadband data rate (Internet connection at a "new" minimum speed of 2,000/200 kbit/s), entered into force on 1 January 2015. There are no specific regulations on universal service and cross-subsidization.

Source: Information provided by the authorities.

Table 4.7 Telecom tariffs, 2012-15

	2012	2013	2014	2015
Fixed-lines national services^a				
Index of real prices for a:				
small user	91.8	92.5	96.9	100.0
medium user	98.0	99.2	99.7	100.0
large user	93.1	94.8	99.6	100.0
Mobile services^b				
Index of real prices for a:				
small user	100.0	90.6	76.5	66.2
medium user	100.0	94.7	91.8	72.1
large user	100.0	104.0	95.7	70.4
Internet services (only broadband services)^a				
Index of real prices for a:				
small user	133.5	126.1	116.5	100.0
medium user	147.6	148.6	121.3	100.0
large user	131.0	133.5	106.8	100.0
Access/Interconnection rates^c (monthly charge per line)	15.8 ^d	15.8 ^d	13.5 ^d	12.2 ^d

a Indexed data: 2015=100.

b Indexed data: 2012=100.

c Wholesale price of unbundled local loop.

d Price as offered by Swisscom (SMP operator). Due to open legal procedures the price might be changed by ComCom in the final decision.

Sources: Retail Data: OFCOM Statistical Observatory. Viewed at: www.ofcom.admin.ch.

Interconnection rates: information provided by the Swiss authorities.

Table 4.8 Retail mobile roaming rates, 2015

Service (prices in SwF per minute/SMS/MB)	Q4 2015
Retail voice roaming: calls made – prepaid & post-paid – EU – based on billed minutes	0.319
Retail voice roaming: calls made – prepaid & post-paid – rest of world – based on billed minutes	1.994
Retail voice roaming: calls received – prepaid & post-paid – EU – based on billed minutes	0.196
Retail voice roaming: calls received – prepaid & post-paid – rest of world – based on billed minutes	1.592

Source: Retail Data: OFCOM Statistical Observatory. Viewed at: www.ofcom.admin.ch.

Wholesale Data: information provided by the Swiss authorities.

4.3.2.2 Liechtenstein

4.117. The telecommunications sector in Liechtenstein is governed by the applicable EEA Law.⁶⁵ Box 4.13 below provides the main economic indicators of the sector, while Box 4.14 describes the main features of its regulatory regime.

Box 4.13 Market structure and main economic indicators of Liechtenstein's telecommunications sector, 2016

Main actors

Name and market share of the leading company for fixed telecom services: Telecom Liechtenstein AG (85% market share).

Name and market shares of the leading companies for mobile telephones services: Salt (Liechtenstein) AG/Salt Mobile SA (40% market share), Swisscom (Schweiz) AG (39% market share), and Telecom Liechtenstein AG (19% market share).^a Swisscom (Schweiz) AG and Salt Mobile SA have a significant number of cross-border customers living in Liechtenstein, who subscribe to their Swiss mobile networks (with Swiss number ranges +41 7xx and contracts subject to Swiss legislation over which the National Regulatory Authority of Liechtenstein has no jurisdiction).

Companies providing value added telecom services: Telecom Liechtenstein AG

Foreign ownership participation in telecom companies: Some two thirds of all registered enterprises are fully or partly owned by foreigners. The Austrian Mobilkom Beteiligungs GmbH holds a 24.9% share in Telecom Liechtenstein AG. Salt (Liechtenstein) AG and Swisscom (Schweiz) AG are 100% foreign-owned.

State ownership: Liechtensteinische Kraftwerke (LKW) owns, operates and maintains the major part of the fixed communication network infrastructures (Twisted Copper, HFC and fibre), and is 100% state-owned. The Principality of Liechtenstein retains 75.1% ownership of Telecom Liechtenstein AG. Both LKW and Telecom Liechtenstein AG are regulated, due to significant market power (see Box 4.14, paragraph on competition policy).

Penetration rates (2015)

Population: 37,623

Households (2010): 15,474

ISDN subscribers: 5,112

Main (fixed) telephone lines in operation: 17,312

Main (fixed) telephone lines/100 inhabitants: 46

Main (fixed) telephone lines/100 households: 112

Mobile cellular telephone subscribers (digital): 41,471

Mobile cellular telephone subscribers/100 inhabitants: 110

Internet subscribers (fixed line): 15,608

Internet subscribers (fixed line)/100 households: 101

Mobile broadband/100 inhabitants: 102

Tariffs (evolution of tariffs since the last TPR in 2013)

Bundle and flat rate offers are becoming predominant in both fixed and mobile services. This development makes tariff comparison more complex for the end-user

For local services: stable tariffs

For international services: stable tariffs

For mobile services: decreasing tariffs (roaming directive)

For interconnection rates: decreasing tariffs

For internet services: stable tariffs, coupled with a significant increase in Mbit/s performance for fixed and increased data volume or Mbit/s performance for mobile internet service

Market developments

The trend towards web- and mobile-based services continues. Although the decline in the fixed network is quite moderate compared to other countries, a strong uptake in mobile and web-based services can be observed – triggered mainly by data-only mobile internet-access offered by one provider for international travellers. In the fixed network, a trend towards IP-based voice services, which are bundled with internet-access and TV, can be observed.

Currently, many discussions are taking place regarding "Internet of Things" and "Machine-to-Machine-Communication" and mobile operators are investing intensively in the development and deployment of services and infrastructure. These developments are closely monitored by the Office for Communications – especially

⁶⁵ See Annex XI to the EEA Agreement. Viewed at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex11.pdf>.

with regard to the competition in the traditional telecoms markets.

Establishment of new companies, mergers or closures since the last TPR in 2013

Since the last review, 15 enterprises have left the notification register (ceasing telecom services in the Liechtenstein market), and 12 enterprises notified entrance to the telecom market of Liechtenstein, all of them focusing on business customers (data services) or telecom service providers (wholesale offers, e.g. mobile messaging, IoT, and fixed voice interconnection). Mobilkom Liechtenstein AG merged into Telecom Liechtenstein AG in August 2014. This was the only change with relevance to the national retail market.

- a The last 2%-market share is held by "non-leading companies" as only a few people in Liechtenstein have contracts with them. The companies are: Sunrise, European Internetworking and First Mobile. Sunrise customers have to pay roaming fees in Liechtenstein. European Internet ceased to exist recently and First Mobile is a start-up in its early stages

Source: Information provided by the authorities.

Box 4.14 Regulatory framework of telecom services in Liechtenstein

Recent or planned regulatory changes

The telecommunications market in Liechtenstein is subject to vertical separation, separating the provision of the passive network infrastructure from the provision of services. In order to enhance efficiency, in the sense of maximizing consumer welfare and achieving optimal allocation of resources (e.g. avoiding double investments into the communication networks and achieving synergies with the electric power network infrastructure of Liechtensteinische Kraftwerke), the Government of the Principality of Liechtenstein decided to separate the passive network and the active network for the provision of services by means of a "consolidation agreement" signed by the state-owned Liechtensteinische Kraftwerke (LKW) and Telecom Liechtenstein AG. The purpose of the agreement was to concentrate all retail customer relationships and intelligent network components (active network) in Telecom Liechtenstein's hands and to combine all passive network components, including in particular the local loop, transmission lines, cable routes, civil engineering infrastructure, in the hands of Liechtensteinische Kraftwerke. LKW is obliged to grant unhindered, non-discriminatory wholesale access to the passive network to all registered telecommunication service providers. The agreement, which was also notified to the EFTA Supervisory Authority (ESA), was put into effect on 1 January 2007.

Since the EU telecommunications regulatory framework applies through the EEA, Liechtenstein has transposed the Telecom Package 2002, including the Access Directive (2002/19/EC); the Authorization Directive (2002/20/EC); the Framework Directive (2002/21/EC); the Universal Service Directive (2002/22/EC); and the e-Privacy Directive (2002/58/EC).

As a result, a new Communication Act^a entered into force in June 2006.

In 2007, the corresponding ordinances of the Communication Act entered into force (Ordinance concerning the Responsibilities and Powers of the Regulatory Authority in the Field of Electronic Communication of 3 April 2007, Ordinance concerning Electronic Communications Networks and Services of 3 April 2007, Ordinance concerning Means of Identification and Frequencies in the Field of Electronic Communication of 8 May 2007, Ordinance about Levy of Usage and Administration Fees by the Communication Act of 13 April 2004 (Revision), the Liechtenstein Numbering Plan referred to as ITU-T E.164 of 3 April 2007 and Ordinance concerning Radio Equipment and Communications Terminal Equipment of 3 April 2007).

The Communication Act was revised in 2010^b due to changes in the legal environment as well as technical advancement in electronic communication. Other reasons for the revision were the protection of users and the fight against the abuse of call numbers. In the same year, the main part of the corresponding ordinances was also revised.

The Telecom Package 2009, which consists of Directives 2009/136/EC and 2009/140/EC as well as Regulation (EC) 1211/2009, is currently under preparation to be incorporated into the EEA Agreement. Another revision of the Communication Act will transpose, *inter alia*, the amendments of the new telecom package directives into national law.

Furthermore the relevant roaming regulations were transposed into Liechtenstein's laws implementing the respective roaming tariffs. The Office for Communications is closely screening the application of these tariffs.

Mobile roaming and net-neutrality: On 26 November 2015, the European Union adopted Regulation 2015/2120 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union. As in Regulation 531/2012, the political aim is to eliminate the differentiation between domestic and roaming tariffs. The new regulation provides for the abolition of roaming surcharges. Furthermore, it aims to establish common rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related end-users' rights. It aims to protect end-users and simultaneously guarantee the continued functioning of the internet ecosystem as an engine of innovation. The supervision and control of enforcement rests with

the National Regulatory Authority. Therefore, the Office for Communications is competent and responsible for the transposition into national law and for ensuring the correct application by the operators.

Interconnection

Telecom Liechtenstein AG and Liechtensteinische Kraftwerke are obliged to make their infrastructure and services available to other enterprises offering telecommunication services, in a neutral, non-discriminatory, and cost-based manner. Interconnection obligations are based on the relevant EU principles and therefore apply to all market participants. Neither Telecom Liechtenstein AG nor Liechtensteinische Kraftwerke enjoys any exclusive rights.

On national level, the mobile operators are interconnected to Telecom Liechtenstein AG only. All operators run further international interconnections. Mobile interconnection charges are agreed between operators. The mobile termination fees are regulated as a result of the mobile termination market analysis, by a phased reduction of price caps ending at 0.0765 SwF/min as of 1 January 2013. As of 1 May 2016, the termination tariffs had been reduced to 0.039 SwF/min as a result of an agreement between the Liechtenstein operators responding to the measures of the Roaming IV Regulation, which will abolish roaming tariffs within the EEA.

Competition policy

Market analysis/enquiries: In 2009-2012, the Office for Communications conducted several market analyses on the markets for access to the public telephone network at fixed locations ("M1"), call origination and termination on fixed networks ("M2" and "M3"), network infrastructure access at fixed locations ("M4"), broadband ("M5"), terminating segments of leased lines (wholesale market; "M6"), trunk segments of leased lines (wholesale market) and mobile termination ("M7"). The Office for Communications finalized the market analysis for M6 as defined by the EFTA Surveillance Authority (ESA) in the recommendation of 5 November 2008, concluding that there was no dominant position in M6.

In 2013-2016, the market for physical access to infrastructures in the core network was analysed by the Office for Communications with the result that Liechtensteinische Kraftwerke has significant market power. Liechtensteinische Kraftwerke was obliged to grant access to their network (including the access to ducts and other passive infrastructure) in a non-discriminatory manner, charging cost-oriented prices. Furthermore, Liechtensteinische Kraftwerke is obliged to adhere to accounting separation, non-discrimination, publication of a reference offer and transparency.

The relevant reference offer for granting access to the twisted pair copper network as well as the reference offer for collocation were both revised in 2014 and approval was granted in January 2015. Also in January 2015, the relevant prices were approved by the Office for Communications.

In addition, preliminary work for reanalysing the market for voice call termination on individual mobile networks has commenced.

Dominant suppliers: The Office for Communications identified Telecom Liechtenstein AG (in M1, M2, M3, M5, M7, Liechtensteinische Kraftwerke (in M4 and in the market for physical access to infrastructures for high-capacity transmission routes in the core network) as well as each mobile network operator (M7) as providers with significant market power, and applied specific regulatory remedies under the Communication Act of June 2006. In the wholesale market of leased lines, comprising trunk as well as terminating segments, effective competition prevails and no measures of special regulation are required in the sense of an ex-ante regulation.

Other regulatory aspects

Regulatory supervision: The Office for Communications (online information available at: <http://www.llv.li/#/1833/> in English)

Facility sharing and local-loop unbundling: Both services are offered by Liechtensteinische Kraftwerke to registered telecom service providers under transparent, cost-oriented, non-discriminatory conditions, according to the reference unbundling offer, which was authorized by the Office for Communications in the framework of the M4 market analysis.

FTTB network infrastructure (fibre to the building): Liechtensteinische Kraftwerke is preparing the rollout of a national FTTB access network, with expected completion in the early 2030s. The Office for Communications is following the project planning of Liechtensteinische Kraftwerke in order to make sure that the future offer of glass fibre local loops as well as the migration phase will be in line with the regulatory obligations (non-discrimination and transparency) and will further competition in the telecoms market.

Number portability: Not implemented. A consultation conducted by the Office for Communications in June 2012 resulted in low interest from the alternative providers in Liechtenstein, since the costs for (mobile) number portability would be extremely high due to the relatively low numbers of users on each network.

Spectrum management: The Liechtenstein Frequency Allocation Plan (FAP) consists of several parts including the principles of spectrum management. These principles are described with a transparent approach on both national and international levels. The integral components of FAP are: frequency ranges and radio interface requirements, as well as comprehensive lists of specific assignments and harmonized frequency ranges. All the relevant CEPT and ECC or European Commission decisions are also listed and referenced in the FAP.

The technical and operational requirements of the frequency use in Liechtenstein create a transparent and comprehensive picture which reflects the components of the R&TTE and soon to be introduced RED directives

of the European Union. This is important for the users themselves, but above all for the manufacturers and distributors of radio devices.

The FAP complies fully with the ITU (International Telecommunication Union) and the CEPT (European Conference of Postal and Telecommunication Administrations) recommendations.

Viewed at: <http://www.llv.li/files/ak/pdf-llv-ak-frequenzzuweisungsplan.pdf>.

Accounting rates: not used.

Licensing: The 2006 Communication Act eliminated the licencing system. All activities in the area of electronic communication are licence-free; however a notification to the Liechtenstein Office for Communications, the national regulatory authority, is required.

Universal service: provided by Telecom Liechtenstein AG.

- a The text of this Act is available at:
https://www.gesetze.li/lilexprod/lgsystpage2.jsp?search_loc=text&rechts_gebiet=0&menu=0&tables_el=0&observe_date=18.10.2016&formname=showlaw&lqblid=2006091000&version=1.
- b The text of this Act, as revised in 2010, is available at:
https://www.gesetze.li/lilexprod/lgsystpage2.jsp?search_loc=text&rechts_gebiet=0&menu=0&tables_el=0&observe_date=18.10.2016&formname=showlaw&lqblid=2006091000&version=2.

Source: Information provided by the authorities.

4.3.3 Postal, express and courier services

4.3.3.1 Switzerland

4.118. Box 4.15 below describes the main features of the postal services sector in Switzerland.

Box 4.15 Main features of the Swiss postal sector, 2016

Gross value added (% of total economy)

2006: 0.80

2011: 0.73

2014: 0.52

Employment in the sector (% of total)

2006: 1.17

2011: 0.92

2015: 0.85

Governmental authority: Federal Department of Environment, Transport, Energy and Communications (DETEC)

Regulatory authorities: the regulation of the sector is shared among three authorities:

- The Federal Office of Communications (OFCOM) prepares the official decisions of the DETEC, the Federal Council and the Parliament relating to matters in the postal sector. It systematically observes and analyses the national and international markets in the postal sector, supervises the services provided under the universal service regarding provision of payment transaction services as well as access to those services. Furthermore, it evaluates the postal legislation and develops new legal principles. In addition, it attends international affairs in the postal sector and in the sector of payments and it evaluates applications for press support.

- The Postal Commission (PostCom) is an independent regulatory authority. It monitors universal services, checks that Swiss Post computes correctly the net costs of universal service and respects the prohibition of cross-subsidization. At the request of the municipalities concerned, PostCom emits recommendations to Swiss Post in case of closure or transfers of post offices or of their transformation into agencies (i.e. a partner who undertakes postal operations on behalf of Swiss Post, e.g. a grocery store). It adjudicates disputes between postal services providers concerning access to P.O. boxes or exchange of addresses data. It administers the registration of postal services operators and monitors the application of usual social and working conditions of the branch by these operators. Finally, it institutes and monitors the "Independent Conciliation Organ" which is tasked with making proposals of conciliation in cases of dispute between postal services providers and their clients.

- "Mister Price" (Preisueberwacher) is the price surveillance authority with a right of recommendation for the prices of the reserved services, which are subject to final approval by the Federal Council. For non-reserved services, it has a right of decision for services where Swiss Post has a dominant position. In case of price abuse, it must first try to obtain an out of court settlement.

Designated operator

Swiss Post is legally obliged to ensure the universal service for postal services and payment services. The scope of the universal service obligation is defined in the Postal Law (LPO; RS 783.0) of 17 December 2010 and the Postal Ordinance (OPO; RS 783.01) of 29 August 2012. The mandate is not limited in time. The Postal Law must be evaluated every 4 years and the scope of the universal service obligation will be adapted if necessary. The first evaluation report was published by the Swiss Government by the end of 2016.

Swiss Post is a public law limited company held at 100% by the Swiss Confederation.

Restructuring/postal reform

The law on postal reform was voted on by the Parliament on December 2010 and entered into force together with the postal ordinance on December 2012. The reform process was declared concluded by the Federal Council on June 2013. The reform entails the transformation of Swiss Post into a public law limited company and its separation from Post Finance. The postal ordinance specifies notably the scope of the universal service regarding postal services and payments services, various rules regarding the regulation of the market, inter-operability, the price support mechanism for the diffusion of the press and institutional arrangements.

Universal service

Deposit, collection, transport and distribution of all letters and of parcels up to 20 kilogrammes at least five days a week according to uniform principles in terms of quality and tariffs. Swiss Post must exploit a network of post offices covering the entire territory and ensure that services are available at a reasonable distance for all regions and all segments of the population.

Reserved services

Letters whose weight does not exceed 50 grams, of a maximum thinness of 2 cm and of B4 format (353x250 mm) for a price that can reach up to three times the base tariff for letters.

Services opened to competition: the parcels market has been fully opened to competition since 1 January 2004. Companies providing non-reserved services and whose turnover exceeds SwF 500,000 must "announce" the commencement of their activities to PostCom in the framework of an "ordinary announcement obligation". Companies offering such services but having a turnover below this threshold are subject to a simplified announcement procedure.

Rates: the Federal Council sets maximum/ceiling rates for reserved service through an ordinance. The rates of the various services must be fixed according to economic and uniform principles. In particular, the tariffs of letters and parcels covered by universal services must be set independently from distance. The competent authorities only check compliance with these principles on a case-by-case basis.

Financing methods: Swiss Post must self-finance its activities and has no access to financial markets. The Federal Council set quadrennial objectives for the company. The present objectives cover the period 2013-2016.

Status of personnel: since the 2010 reform, the personnel hired by Swiss Post have had a private law status. All the employment contracts had to be transferred to a private law status agreement within two years of 1 October 2012 (entry into force of the new postal law). The transformation was completed in Summer 2016.

All postal providers including Swiss Post and the subcontractors with which they realize more than 50% of their turnover must abide by the usual working and social conditions of the branch and conclude a collective working agreement.

Source: UPU; information provided by the authorities and Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> (28 September 2016); and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016).

4.119. Table 4.9 below shows the turnover of Swiss Post and its various perimeters and of the alternative postal providers (as a group), employment figures, as well as the number of alternative postal services providers subject to the two "announcement procedures". There is no information available on the market share of foreign-owned postal services providers.

Table 4.9 Main economic indicators of the Swiss postal services sector, 2015

	2015
Swiss Post Group: Operating income (includes all activities, for example, communication market, logistics market, passenger transport market, financial services market)	SwF 8,224 million
Swiss Post (not including associated companies with postal services): Revenues from postal services (includes letters up to 2 kg; parcels up to 30 kg, newspapers, periodicals, express courier, domestic, import, and export)	SwF 3,118 million

	2015
Other postal services providers: Revenues from postal services (includes letters up to 2 kg, parcels up to 30 kg, newspapers, periodicals, express courier, domestic, import, and export)	SwF 819 million
Number of postal services providers subject to the ordinary duty to register	41
Number of postal services providers subject to the simplified duty to register	116
Employment postal sector	62,341 employees or 44,131 full-time equivalents (Swiss Post Group)

Source: Information provided by the authorities.

4.120. Switzerland does not have any GATS commitments regarding postal services (i.e. services defined by the CPC/W120 classification system as the collection, pick up, transport and distribution of letters and parcels by public entities) and courier services (the same services provided by private entities). But Switzerland has subsequently undertaken extensive commitments in these sectors. The formulation of these FTAs commitments varies somewhat depending of the agreement concerned.

4.121. With respect to recent FTAs, such as the Agreement between EFTA and Central America (Costa Rica, Guatemala and Panama), Switzerland undertook some commitments in the area of postal and courier services. However, these commitments are limited to "express delivery services" defined in the agreement as follows: "Express delivery services are taken as "*letter deliveries*" which are delivered at five times the price applied by Swiss Post (La Poste Suisse/Die Schweizerische Post) to the delivery of a priority letter of first level of weight and format and as "*parcel deliveries*" which are delivered at double the basic tariff applied by Swiss Post to the delivery of a parcel of first level of weight, as according to Swiss law". The commitments for "express delivery services" are full for market access and national treatment

4.122. Regarding more specifically the express services subsector, express carriers are considered as alternative postal services providers by the Postal Law. Hence, they are subject to an announcement procedure and to the working conditions of the postal and courier sector. There is no specific licencing regime. Switzerland does not apply any GATS market access or national treatment restrictions to the sector and only requires evidence of an address in Switzerland for the company's headquarters.

4.123. As evidenced by Table 4.10 below, express carriers are among the top postal services providers in Switzerland both in terms of volume and revenues

Table 4.10 Number of postal service providers with more than 1% of the total Swiss postal market, 2015

	2015	Including express and courier services	Notes
In terms of volume	5	Yes	letters, parcels, newspapers, periodicals, also all express and courier services, domestic, import, and export
In terms of revenues	7	Yes	letters, parcels, newspapers, periodicals, also all express and courier services, domestic, import, and export

Source: Information provided by the authorities.

4.3.3.2 Liechtenstein

4.124. Liechtenstein's accession to the EEA brought major changes in the area of postal services. Since 1 January 2000, all tasks regarding postal services previously performed by the Swiss Post have been taken over by the Liechtensteinische Post AG. In addition, the Liechtensteinische Post AG is universal service supplier.

4.125. In 2004, the Postal Act was amended with regard to the further opening of the postal market.⁶⁶ The monopoly limit regarding the conveyance of letters was lowered to 100 grams, and then to 50 grams as of 2006.

4.126. Directive 2008/6/EC (Third Postal Directive) provides for the total liberalization of postal services within the Single Market. The gradual opening of the market and the liberalization of the postal services has entered into a crucial phase. The Member states are obliged to ensure that high quality universal services are offered for an affordable price. The establishment of an independent national regulatory authority is one of the main pillars of the EU postal reform. It also contains the legal framework for the definition of universal service obligations and tariff principles, and provisions concerning the transparency of the accounting of universal service providers as well as the determination of and compliance with quality standards. This directive has not been incorporated into the EEA Agreement yet. However, the preparatory work for national implementation has been completed.

4.3.4 Architectural services

4.127. Architectural services in Switzerland are lightly regulated as there is no federal legislation limiting the access to the profession and only 6 cantons out of 26 regulate access.

4.128. Box 4.16 describes the main economic indicators and regulatory features of architectural services in Switzerland.

Box 4.16 Main economic and regulatory features of architectural services in Switzerland

Statistical data

Number of architects (2015): 5,330

Regulatory data

GATS commitments

None for modes 1, 2 and 3 for market access, none for modes 1, 2 and 3 except for national treatment for the Canton of Lucerne where three years of prior professional practice in Switzerland is required for modes 1 and 3.

FTAs commitments

- for positive listing agreements (EFTA-Colombia, EFTA-Korea, EFTA-Singapore, EFTA-Ukraine, Switzerland-China: none for market access and national treatment for modes 1, 2 and 3.
- for negative listing agreements (EFTA-Hong Kong, China, Japan-Switzerland): full commitments except one reservation to national treatment for an existing measure regarding official certification for construction authorizations and stipulating that "Applications for construction authorizations may require the signature of a natural person registered in the Swiss Registers of Engineers, Architects and Technicians (REG)".

Applied regime

There is no federal legislation limiting access to the profession and only 6 cantons out of 26 regulate this access. In the other cantons, the architectural profession is not regulated. This means that the foreign architect does not need to obtain recognition of his/her professional qualifications and may work directly on the basis of his/her foreign qualification. In the 6 cantons where the profession is regulated the rules are the following:

- access

In the Cantons of **Geneva**, **Vaud**, and **Neuchâtel**, an authorization is required in order to work in this profession. Authorization is granted on the basis of proof of specific professional qualifications. In these cantons, authorization to work in this profession is set forth in spatial planning legislation. It is therefore

⁶⁶ The relevant basic legislation is available at:

https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=1999035000&version=5&search_loc=titel&lrnr=783.0&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=26.04.2016 (Act of 18 December 1998 on the Liechtenstein Postal System (Postal Act) LGBl. 1999 No. 35 (LR 783.0));

https://www.gesetze.li/lilexprod/lqpage2.jsp?formname=showlaw&lglid=2004106000&version=0&search_loc=text&lglid_von=2004106000&lglid_bis=2004106000&sel_lawtype=chrono&rechts_gebiet=0&menu=0&tablesel=0&observe_date=28.10.2016 (Act of the Amendment of the Postal Act, LGBl. 2004 No. 106, (LR 783.0)); and

https://www.gesetze.li/lilexprod/lgsystpage2.jsp?formname=showlaw&lglid=1999248000&version=3&search_loc=titel&lrnr=783.0&sel_lawtype=conso&compl_list=1&rechts_gebiet=0&menu=0&tablesel=0&observe_date=26.04.2016 (Ordinance of 14 December 1999 to the Postal Act, LGBl. 1999 No. 248, (LR 783.01)).

required in order to sign building permit applications. If the architect does not intend to sign building permit applications, e.g. because he/she works as an employee of an architectural firm and the building plans are signed by the employer or by another architect holding such authorization, therefore working in the profession is possible without the need for recognition (i.e. the profession is not regulated).

Authorization to work in this profession is required regardless of how the profession will be carried out, i.e. on a long-term basis (domiciliation in Switzerland) or on a more temporary basis (provision of services, limited to 90 days per calendar year within the framework of the Agreement of 21 June 1999 on the Free Movement of Persons).

In the Canton of **Fribourg**, the situation is identical with the exception that if the architect provides services without becoming domiciled within the territory of the Canton of Fribourg, he/she must be qualified to work in this capacity and must obtain recognition of his/her qualification before starting to carry out this activity (i.e. the profession is regulated). However, no formal authorization to carry out this profession will be issued to him/her. In such cases, when submitting a building permit application to the competent cantonal authority, the architect providing the services must show proof that his/her professional qualifications have been recognized.

In the Canton of **Ticino**, the person must obtain authorization from the Ordine Ingegneri e Architetti del Canton Ticino (OTIA) in order to work as an architect. This authorization is also specifically requested both when applying for a building permit (Art. 4 of Building Code) and for the project study and execution phases for contracts subject to legislation on public procurement contracts (Art. 34 al. 1 let. d of RLCPubb/CIAP). It is therefore specifically required in order to sign building permit applications and to manage construction. This requirement applies both to architects domiciled in Switzerland and to architects who only provide services on a temporary basis.

In the Canton of **Lucerne**, architects must have the necessary training but there is no procedure for registration with a professional association or register, nor is there any requirement to obtain authorization to work in this profession.

Qualifications

- A local qualification: a Bachelor's or Master's degree from a Swiss higher education institution (UAS, EPFL or USI) and a non-compulsory inscription in the Swiss Register of Engineers, Architects and Technicians (REG) (either Architect REG A: full scope of exercise, or REG B: narrower scope of exercise^a). Inscription in the REG is one way to obtain cantonal authorization, but it is not the only one. Cantonal authorization is also issued if the applicant has a Bachelor's or Master's degree but is not registered in the REG. Additionally, it is possible for a construction draftsman (without being architect), for example, to pass a special examination at the REG ("self-made architect" exam) to obtain cantonal authorization, even if he/she does not hold a BSc or MA degree as an architect;

- or, alternatively, a recognized foreign qualification, which grants the same rights as those enjoyed by holders of a Swiss qualification with the sole exception of the right to use a legally protected qualification title.

There are two main legal bases and procedures for the recognition of foreign qualifications, one specific for EU and EFTA citizens and one generic applying to both EU and EFTA citizens and citizens of other states.

- First, the Agreement of 21 June 1999 on the Free Movement of Persons (AFMP) allows citizens of EU/EFTA countries to seek recognition of their professional qualifications if they are fully qualified, in their country of origin, to work in this profession in question. The AFMP refers to its Annex III to Directive 2005/36/EC on the recognition of professional qualifications. For architects holding a qualification listed in Annex 5.7.1 or Annex VI of the Directive, this directive provides for automatic recognition (i.e. no need to examine the content of training). For architects who are fully qualified in their country of origin but whose qualification is not listed in either of these two annexes, recognition of the qualification will require comparison of training content and possible "compensatory measures" i.e. additional exams and tests.

- Second, the Ordinance of 12 November 2014 to the Higher Education Act provides for recognition of foreign qualifications that are comparable to a degree programme at a Swiss university of applied sciences (UAS). It applies indistinctly to citizens of EU/EFTA member States. It establishes various criteria, namely equivalence of duration, level and content of training. Training must also include acquisition of practical competences.

If the conditions for recognition are met, this procedure leads to equivalence with a Bachelor's degree or a Master's degree in architecture awarded by a Swiss university of applied sciences (UAS). It is worth noting that so far there is no legal basis enabling recognition for a Bachelor's degree or a Master's degree in architecture awarded by a Swiss federal institute of technology (the EPF in Lausanne and the ETH in Zurich). The same holds true for degrees in architecture awarded by the Università della Svizzera italiana in Lugano (USI); since there is no legal basis, it is not possible to submit a request for equivalence with the Master's degree in architecture awarded by the USI.

Procedures

There are 3 different procedures applicable depending on the case:

- Architects that satisfy the conditions for automatic recognition under Directive 2005/36/EC may contact SERI. They will receive a letter from SERI confirming that the qualification must be automatically recognized and that they must be automatically inscribed in the registers of cantons that regulate this activity (MPQ register in the Canton of Geneva, CAMAC in the Canton of Vaud, OTIA in the Canton of Ticino, etc.). This letter may also be presented when submitting bids for public procurement contracts. It is usually mailed out within 1-2 weeks if the application file is complete.

- For EU/EFTA architects fully qualified in their country of origin but whose qualification does not appear in Annex 5.7.1 or VI of Directive 2005/36/EC, the procedure involves comparing training content with that required for Swiss qualifications in the cantons that regulate the profession (Articles 11-14 of Directive 2005/36/EC). If the qualification is not known, this comparison may take three or four months. The amount of time required for possible compensatory measures will increase this duration.

- For architects from third States who are fully qualified to work in this profession in their country of origin, and whose training is comparable to a degree programme at a Swiss UAS, the procedure is similar to the one described directly above. However, it may last a little longer. Moreover, possible compensatory measures may be less supple than those set forth in Directive 2005/36/EC. In particular, applicants are not generally allowed to choose between the various compensatory measures.

Scope of practice: the regulation covers the right to sign a construction request in order to get the construction permit.

Legal monopoly: no, shared with civil engineers.

Possibility for foreign architect to exercise independently: yes.

a For more details on the REG, see <http://reg.ch/en>.

Source: Information provided by the authorities.

4.3.5 Construction services

4.129. Construction is a significant activity in Switzerland as it represents over 5% of the GDP.

4.130. Table 4.11 below provides the main economic indicators of the construction services sector in Switzerland.

Table 4.11 Construction sector main economic indicators, 2006, 2011 and 2015

	2006	2011	2015
Gross value added (% of total economy)	4.87	5.15	5.35 ^a
Services exports (% of commercial export services)	1.73	1.41	1.01
Services imports (% of commercial import services)	0.81	0.68	0.48
Turnover (SwF billion)			
Construction	16.37	19.70	18.38
of which:			
Building	8.96	9.46	9.06
Civil engineering	7.41	10.24	9.32
Number of new dwellings	41,989	47,174	48,000 ^b
Number of full-time equivalent workers of which:	81,400	82,400	78,100
Swiss (% of total)	44.23	44.30	45.20
Foreigners (% of total)	55.77	55.70	54.80

a 2014 provisional data.

b Estimates.

Source: Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016); and Société Suisse des Entrepreneurs, facts and figures (2008, 2013, and 2015). Viewed at: <http://www.baumeister.ch/fr/politik-kommunikation/economie/faits-et-chiffres/> (28 September 2016).

4.131. The regulatory access regime for construction services in Switzerland is fairly liberal. Box 4.17 below describes the main regulatory features of the construction services sector in Switzerland.

Box 4.17 Regulatory framework for construction services**GATS commitments**

- For 3.A (general construction work for buildings), 3.B (general construction work for civil engineering), 3.D (building completion and finishing work) and 3.E (other construction and related engineering services): for both market access and national treatment: mode 1 unbound due to lack of technical feasibility, modes 2 and 3 none
- For 3.B (installation and assembly work): for market access: mode 1 unbound due to lack of technical feasibility, modes 2 and 3 none; for national treatment: mode 1 unbound due to lack of technical feasibility, mode 2 none, modes 3 and 4 unbound for installations in the area of energy, heating, water, communications and elevators

FTAs commitments

For positive listing agreements (EFTA-Colombia, EFTA-Korea, EFTA-Singapore, EFTA-Ukraine, Switzerland-China)

- For 3.A (general construction work for buildings), 3.B (general construction work for civil engineering), 3.D (building completion and finishing work) and 3.E (other construction and related engineering services): for both market access and national treatment: mode 1 unbound due lack of technical feasibility, modes 2 and 3 none
- For 3.B (installation and assembly work): for market access: mode 1 unbound due to lack of technical feasibility, modes 2 and 3 none; for national treatment: mode 1 unbound due to lack of technical feasibility, mode 2 none, modes 3 and 4: unbound for gas, water and electricity meters, gas pipelines, electricity and main water lines, which are reserved exclusively to cantons or municipalities or to specific operators

For negative listing agreements

(EFTA-Hong Kong, China; Switzerland-Japan): no restriction except for two reservations to cover respectively:

- national treatment for existing measures on official certification for construction authorizations and stipulating that "applications for construction authorizations may require the signature of a natural person registered in the Swiss Register of Engineers, Architects and Technicians (REG)"
- and national treatment and market access for existing and future measures in construction work for engineering works; services incidental to mining (limited to the oil sector) stating that "concession issued by cantons is required for the prospecting and exploitation of oil. Cantons may grant such concession on a case-by-case and discretionary basis. In the Cantons of Zürich, Schwyz, Glarus, Zug, Schaffhausen, Appenzell Innerrhoden, Appenzell Ausserrhoden, St. Gallen, Aargau and Thurgau foreign capital participation in an enterprise holding such a concession is restricted to not more than 25% (Intercantonal Agreement on the prospecting and exploitation of oil, Article 3). Other cantons apply similar measures.

Qualification: "Switzerland reserves the right to maintain, modify or adopt any measures restricting market access and/or national treatment in respect of the prospecting and exploitation of oil.

EU/EFTA providers

In accordance with the Agreement on the Free Movement of Persons (AFMP), professionals who are legally established in the EU/EFTA may provide services in Switzerland without permanently establishing themselves in the country. In such cases, the duration of service provision is limited to 90 days per calendar year. If the profession they wish to pursue is regulated, which is the case only in the Ticino Canton, they can take advantage of a fast-track verification procedure for their professional qualifications, as set out in the EU Directive 2005/36/EC2 and the DRPA3. The service provision must be declared in advance to SERI4.

Applied regime

The regulatory regime described in the negative listing agreements is applicable *erga omnes*, regardless of the nationality of suppliers.

Licensing, authorization or registration requirements, professional qualification requirements, and procedures (including pre-qualifications)

In the absence of federal legislation in this area, it is up to individual cantons to decide whether to regulate the building contractor profession. As it currently stands, this profession is regulated only by the Canton of **Ticino**. In all other Swiss cantons, the building contractor profession is not regulated. Consequently, anyone may work in this capacity without having to obtain prior recognition of his or her foreign qualifications.

In **Ticino**, building contractors are the persons primarily responsible for managing and organising the activities of a construction company. All work on the structure of buildings (main and secondary contract work) is regulated and therefore subject to the declaration requirement. The regulated activities include main and secondary contract work (masonry, civil engineering, road construction, etc.), and, in particular, activities that are carried out under the supervision of a civil engineer, an architect or a building contractor. These activities also include masonry work, concrete casting and reinforcement, and civil engineering work for the construction of roads, bridges and railways. Less extensive work is not regulated and may be performed regardless of the canton, i.e. without any verification of professional qualifications.

At the federal level, in all cases, persons intending to provide services must also register with the State

Secretariat for Migration (www.sem.admin.ch, CH-EU/EFTA registration procedure) and follow the registration procedure for short-term work in Switzerland: <https://meweb.admin.ch/meldeverfahren>. This obligation also applies to non-regulated professions.

Source: Information provided by the authorities.

4.3.6 Health and social services "cluster"

4.132. Under this heading the following sectors and subsectors will be described: firstly health services *lato sensu*, i.e. medical and dental services (MTN.GNS/W/120 item 1.A.h, CPC 9312) and private-hospital services (part of MTN.GNS/W/120 item 8.A, part of CPC 9311), and secondly social services (MTN.GNS/W/120 item 8.C, CPC 933) and of CPC 8121).

4.3.6.1 Health services

4.133. Table 4.12 provides the main indicators of the human health sector in Switzerland.

Table 4.12 Human health activities sector, 2006, 2011 and 2014-15

	2006	2011	2014	2015
Gross value added (% of total economy)	4.63	4.85	5.26 ^a	..
Employment in the sector (% of total) ^b	6.0	6.5	6.8 ^c	7.0
Health expenditure per capita, PPP (constant 2011 international, US\$)	4,268	5,819	6,468	..
Health expenditure, total (% of GDP)	10.39	11.21	11.66	..
Health expenditure, private (% of GDP)	4.25	3.91	3.96	..
Health expenditure, public (% of total health expenditure)	59.12	64.22	66.00	..
Out-of-pocket health expenditure (% of total expenditure on health)	30.79	26.41	26.80	..
Physicians (per 1,000 people)	3.86	3.92	4.22	4.29
Swiss	2.9
Foreigners	1.4
Hospital beds (per 1,000 people)	5.4	4.9	4.6	..
Life expectancy at birth, total (years)	81.49	82.70	82.85	..
Mortality rate, infant (per 1,000 live births)	4.20	3.80	3.50	3.4
Nurses and midwives (per 1,000 people)	14.54	16.6	17.56	..

.. Not available.

a Provisional.

b Based on full-time equivalent jobs (4th quarter for each year).

c Full-time employment in category 87 (*Heime* = incl. nursing homes) is not included. This category, however, also partly contains employees working in the health sector. Therefore, the effective percentage would be higher.

Source: Federal Statistical Office. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> (28 September 2016); and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> (28 September 2016); Population: Federal Statistical Office. Viewed at: <https://www.bfs.admin.ch/bfs/de/home/statistiken/bevoelkerung/stand-entwicklung/bevoelkerung.assetdetail.161714.html%20> (8 November 2016); Physicians: Swiss Medical Association (professionally active physicians). Viewed at: <http://www.fmh.ch/services/statistik.html> (8 November 2016); Nurses: OECD Data. Viewed at: <https://data.oecd.org/healthres/nurses.htm> (8 November 2016); and World Bank World Development Indicators. Viewed at: <http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators> (28 September 2016).

4.3.6.1.1 Medical professions

4.134. Medical professions are governed by a common regulatory regime based on a non-discriminatory economic needs test regime administered at cantonal level and geared at providing universal access to health services at an acceptable cost for the social security system. This regime is partially reflected in Switzerland's FTA commitments. According to the Swiss Medical Federation, in 2015, there were 35,325 doctors in activity in Switzerland; 18,128 of which in the ambulatory sector; 25.9% of the ambulatory doctors are of foreign nationality, while this

percentage stands at 37.5% in the hospital sector; 56% of the ambulatory doctors practice in individual cabinets while the remaining 44% practice in double or collective cabinets.

4.135. Table 4.13 describes in more detail the number of physicians and its evolution in proportion to the population.

Table 4.13 Number of physicians and its evolution, 2010-15

Years	Practising physicians	Professionally active physicians	Population	Practising physicians	Professionally active physicians
	Number (head count)	Number (head count)	Number	Rate per 1,000	Rate per 1,000
2010	29,803	30,273			
2011	30,327	30,849	7,870,134	3.85	3.92
2012	31,313	31,858	7,954,662	3.94	4.00
2013	32,681	33,242	8,039,060	4.07	4.14
2014	33,785	34,348	8,139,631	4.15	4.22
2015	34,762	35,325	8,237,666	4.22	4.29

Source: Information provided by the authorities.

4.136. Box 4.18 below describes the regulatory framework for medical and dental services in Switzerland.

Box 4.18 Regulatory framework for medical services in Switzerland

GATS commitments

For market access: modes 1 and 2: none; modes 3 and 4: unbound

For national treatment: modes 1 and 2: none; modes 3 and 4: Swiss nationality necessary to practise independently

FTAs commitments

For positive listing agreements: EFTA-Colombia; EFTA-Korea; EFTA-Singapore; EFTA-Ukraine; Switzerland-China): same as GATS commitments

For negative listing agreements: (EFTA-Hong Kong, China; Switzerland-Japan): no restrictions except for three reservations:

- One to national treatment and market access for the following existing measures:

-- The number of service suppliers admitted to practice on account of the compulsory medical and health insurance is limited per canton and per occupation (quantitative ceiling). Cantons may exclude any further admission if the density of service suppliers in the canton is above the regional or the national average (RS 832.10, Article 55a and RS 832.103, all articles).

-- Swiss nationality is required to practice a medical profession independently. However, a foreign natural person may exercise the medical profession in a practice provided the practice is located in a region where the number of professionals is proven to be insufficient (economic needs test), and if its diploma is recognized as equivalent and the foreign natural person speaks a national language. Moreover, a foreign natural person may be allowed to independently practice a medical profession in a specific hospital if that person is allowed to teach within accredited course programmes in that hospital, and if his or her diploma is recognized as equivalent. (RS 811.11, Articles 2, 12, 15, 34, 36; RS 811.112.0, Article 14). Foreign persons with Swiss diplomas can practice independently. However, regardless of nationality, only doctors with post-diploma professional experience in a recognized Swiss institute can practice independently and without being subject to quantitative limits on account of the compulsory medical and health insurance (LAMal 55a).

- One to national treatment and market access for existing (and, at cantonal level, future) measures regarding blood collection and storage whereby at federal level collecting human blood from donors for transfusion, for the manufacture of therapeutic products, or for supply to a third party, including the import of blood products, is subject to authorization. Only juridical persons domiciled in Switzerland and registered in a cantonal Commercial Register as well as natural persons residing in Switzerland may be granted such authorization (RS 812.21, Articles 2, 10 and 34) and at cantonal level authorization issued by the cantons is required for operating establishments such as hospitals which do not collect, but stock blood or blood products (RS 812.21, Article 34). Cantons have and may maintain measures restricting market access and/or national treatment.

- And one to national treatment and market access for maintaining, modifying or adopting any measures restricting market access and/or national treatment with respect to human health, veterinary, social services or intermediation services relating to social services, as well as related retailing services.

EU/EFTA providers: In accordance with the Agreement on the Free Movement of Persons (AFMP), professionals who are legally established in the EU/EFTA may provide services in Switzerland without permanently establishing themselves in the country. In such cases, the duration of service provision is limited to 90 days per calendar year. If the profession they wish to pursue is regulated, they can take advantage of a fast-track verification procedure for their professional qualifications, as set out in the EU Directive 2005/36/EC2 and the DRPA.^a The service provision must be declared in advance to the State Secretariat for Education Research and Innovation (SERI).

Applied regime

The negative listing FTA commitments correspond to the applied regime *erga omnes* as, regardless of nationality, only doctors with post-diploma professional experience in a recognized Swiss institute are not subjected to quantitative limits.

The number of service suppliers admitted to practice on account of the compulsory medical and health insurance is limited per canton and per occupation (quantitative ceiling). Cantons may exclude any further admission if the density of service suppliers in the canton is above the regional or the national average (RS 832.10, Article 55a and RS 832.103, all articles).

From 2013 to 2016, 18 out of 26 cantons applied article 55a LaAMal, and 8 cantons chose not to apply the limitation. For the period from 2016 to 30 June 2019, 8 cantons (Aargau, Appenzell Innerrhoden, Appenzell Ausserrhoden, Fribourg, Grisons, Jura, Zug, and Zurich) decided not to reintroduce the limitation.

In these cantons, medical professionals can practice their medical profession independently, even if they do not have the necessary 3-year-professional experience in a recognized Swiss institute (here also, the nationality of the medical professional does not matter).

Qualification requirements and recognition procedures

UE/EFTA providers: Medical professions fall within the scope of the Agreement of 21 June 1999 on the Free Movement of Persons (AFMP) which allows citizens of EU/EFTA countries to seek recognition of their professional qualifications if they are fully qualified, in their country of origin, to work in this profession in question. The AFMP refers to its Annex III to Directive 2005/36/EC on the recognition of professional qualifications. For medical, dental and veterinary medicine as well as for pharmacy the recognition is based on sectoral agreements (so-called "automatic recognition"). The EU Directive sets notably the minimum requirements for education and spells out explicitly in its annexes the diplomas that must be recognized. The competent authority for recognition is the MEBEKO (Federal Commission of Medical Professions)

Other providers: as a general rule, Switzerland does not recognize medicine diplomas delivered outside the UE and EFTA. It is however possible for a foreign doctor to obtain a Swiss federal diploma by taking the Swiss exam, regardless of his/her nationality. The academic training section of the Federal Commission of Medical Professions (MEBEKO) decides if the applicant fulfils the admission conditions of the federal exam and if the applicant must undertake all or part of the exam based on their background and professional experience.

- a Federal Act of 14 December 2012 on the Declaration Requirement and the Verification of Service Provider Qualifications in Regulated Professions, RS 935.01.

Source: Information provided by the authorities.

4.3.6.1.2 Hospital services

4.137. Hospitals, public or private, are also subject to a non-discriminatory economic needs test regime administered at cantonal level and geared at providing universal access to health services at an acceptable cost for the social security system. In addition, the Swiss health insurance law (KVG) gives the Swiss cantons the possibility of financing hospitals with a global budget, a procedure which amounts to a limitation of the total value of services transactions provided. Three cantons (Geneva, Ticino and Vaud) use this instrument so far.

4.138. There are no limitations regarding hospitals and hospital treatment not reimbursed by the Swiss social security system, such as aesthetical surgery.

4.139. The only foreign-owned hospital/clinic services operator exercising in Switzerland is the Privatklinikgruppe Hirslanden, which currently runs 16 hospitals/clinics and whose number of beds operated is shown in Table 4.14 below. Since 2007, the hospital group has been owned by Mediclinics International from South Africa.

Table 4.14 Number of beds operated by the Privatklinikgruppe Hirslanden, 2012-16

	2012	2013	2014	2015	2016
Number of beds	1,479	1,487	1,567	1,655	1,680

Source: Information provided by the authorities.

4.140. Box 4.19 below describes this applied regime in more detail as well as Switzerland's FTA commitments regarding hospital services.

Box 4.19 Regulatory framework for hospital services in Switzerland

GATS commitments

No commitments

FTAs commitments

For positive listing agreements (EFTA-Colombia; EFTA-Korea; EFTA-Singapore; EFTA-Ukraine; Switzerland-China): no commitments

For negative listing agreements (EFTA-Hong Kong, China; Switzerland-Japan): no restrictions for the three categories (medical and dental services/services provided by midwives, nurses, physiotherapists and paramedical personnel, and other human health services) except for two reservations:

- One to national treatment and market access for the following existing measures:

-- The number of service suppliers admitted to practice on account of the compulsory medical and health insurance is limited per canton and per occupation (quantitative ceiling). Cantons may exclude any further admission if the density of service suppliers in the canton is above the regional or the national average (RS 832.10, Article 55a and RS 832.103, all articles).

-- Swiss nationality is required to practice a medical profession independently. However, a foreign natural person may exercise the medical profession in a practice provided the practice is located in a region where the number of professionals is proven to be insufficient (economic needs test), and if its diploma is recognised as equivalent and the foreign natural person speaks a national language. Moreover, a foreign natural person may be allowed to independently practice a medical profession in a specific hospital if that person is allowed to teach within accredited course programmes in that hospital, and if his or her diploma is recognized as equivalent (RS 811.11, Articles 2, 12, 15, 34, 36; RS 811.112.0, Article 14).

- And one to national treatment and market access for maintaining, modifying or adopting any measures restricting market access and/or national treatment with respect to human health, veterinary, social services or intermediation services relating to social services, as well as related retailing services.

Applied regime

The negative listing FTAs commitments correspond to the applied regime *erga omnes* as, regardless of nationality, only doctors with post-diploma professional experience in a recognized Swiss institute are not subjected to quantitative limits. According to Article 39 KVG, the Swiss Cantons have to establish a list of hospitals eligible to provide medical services paid by the health insurance (reimbursement of in-patient hospital services is co-financed by the health insurance and by the cantons). The number of service providers has to be in line with demand/the services needed in order to ensure access of the population to in-patient care. Articles 39 and 49a KVG are applicable to all service providers regardless of their nationality or of the nationality of their owners.^a

Furthermore, Article 51 KVG gives the Swiss Cantons the possibility to finance hospitals with a global budget. Currently, 3 out of 26 cantons (Geneva, Ticino and Vaud) use the instrument of hospital financing by global budget. Most global budgets are determined on the basis of the predicted quantity of services. If a hospital exceeds predicted quantity, reimbursement is limited to marginal cost of services. If applied, the measure is applicable to all service providers regardless of their nationality or of the nationality of their owners.

Licensing procedures for hospitals and clinics including foreign-owned ones

The establishment of a hospital requires a cantonal authorization. Furthermore, the cantons are responsible for examining whether sanitary rules and regulations are being complied with.

Article 39 of the Swiss Health Insurance Law (KVG) lists the following prerequisites which hospitals must fulfil in order to be able to provide services covered by the health insurance: guarantee of sufficient medical care, of necessary and skilled personnel, of appropriate medical equipment and of appropriate pharmaceutical provision.

a For further information, see the cantonal hospital lists (online information of the Swiss Cantonal Health Care Directors). Viewed at: <http://www.gdk-cds.ch/index.php?id=624&L=1> (available only in French and German); and the text of the Swiss Health Insurance Law (KVG). Viewed at: <https://www.admin.ch/opc/fr/classified-compilation/19940073/index.html> (available only in French, German and Italian).

Source: Information provided by the authorities.

4.3.6.2 Social services

4.3.6.2.1 Overview

4.141. Residential care and social work activities represented 2.32% of the gross value added of the Swiss economy in 2014 and 5.24% of employment in 2015.⁶⁷ Social services (with or without accommodation) are normally regulated at cantonal or municipal level. In some cases federal legislation does also apply, regarding surveillance, quality of services or financing (e.g. childcare services, shelter for disabled children and placement of children out of family) or through decisions of the Social Insurance Institution (granting of benefits or any measures). Service providers are either public agencies, semi-public entities or private organizations, and they can coexist. They operate with a level of competition that varies greatly from one canton to another, or from one sector to another, and different philosophies prevail. But these kinds of services are closely supervised due to the interests to be protected and they are not very appealing to profit organizations because of limited earnings prospects, if any, and the complexity of requirements.

4.142. Most of the private organizations are non-profit organized, as a result of the policy of conditional subsidies followed by cantons and municipalities. Three legal forms are compatible with non-profit business, but services can also be provided on a profit basis with some exceptions depending on the cantons. And in some cases individuals or families can benefit from financial aid regardless of the provider, subsidized or unsubsidized. In terms of staff and management, having appropriate qualifications is a prerequisite to obtaining the necessary authorizations as a service provider.

4.143. According to the authorities and based on information available at federal level, it can be said that these conditions apply to both national and foreign service providers.

4.3.6.2.2 Retirement houses and medicalized homes

4.144. Among social services, the only subsector that has real trade relevance, essentially through foreign investment/mode 3, is that of private retirement houses and medicalized homes. The other types of social services (e.g. residential care activities, establishments for disabled persons and for psychosocial problems) are essentially of a not-for-profit nature and are domestically owned, managed and provided.

4.145. There were in total 1,575 retirement houses and medicalized homes in Switzerland in 2014, 460 of which were public, 480 were private but publicly subsidized (i.e. benefitting from guaranteed subsidies based on running costs or investment costs and/or from a guaranteed coverage of the exploitation deficit) and 635 were purely private. As illustrated by the table below public retirement houses tend to prevail in the western part of the country while private establishments dominate in the eastern part (Table 4.15).

Table 4.15 Number of institutions by legal/economic status and sector, 2014

Canton	Retirement houses and medicalized homes			
	Public	Subsidized private	Private	Total
ZH	105	45	90	240
BE	55	78	177	310
LU	44	4	15	63
UR	5	2	3	10
SZ	18	4	9	31
OW	1	1	5	7
NW	1	2	4	7
GL	7	..	1	8
ZG	4	5	8	17

⁶⁷ Swiss statistics. Viewed at: <http://www.bfs.admin.ch/bfs/portal/en/index/themen/06/02/blank/data.html> [28 September 2016]; and <http://www.bfs.admin.ch/bfs/portal/en/index/themen/04/02/02.html> [28 September 2016].

Canton	Retirement houses and medicalized homes			
	Public	Subsidized private	Private	Total
FR	24	18	3	45
SO	9	8	31	48
BS	6	15	13	34
BL	2	8	21	31
SH	11	2	4	17
AR	16	3	10	29
AI	3	..	1	4
SG	63	9	42	114
GR	15	25	13	53
AG	15	11	74	100
TG	10	9	33	52
TI	26	29	6	61
VD	2	115	16	133
VS	6	36	2	44
NE	2	5	50	57
GE	5	44	..	49
JU	5	2	4	11
CH	460	480	635	1,575

.. Not available.

Source: Swiss Federal Statistics Office, *Statistique des institutions médico-sociales 2014*, Santé, 14 March 2016.

4.146. In total, these three types of establishment offer 100,000 beds and employ 48,000 persons, a significant number of which of foreign origin. There is no data available on the number of beds and on employment by type of establishment. Forecasts⁶⁸ predict the creation of 50,000 additional beds by 2040 as well as of 23,000 new full-time jobs in the sector by the same date. The market is relatively concentrated and moving towards the high end of the market, implying that some customers have to mobilize savings in addition to their pension to be able to afford such services. The market is open and internationalized: while its leader, Swiss Prime Site, a real estate company, is Swiss and has recently taken over two Swiss operators Tertianum and Boas Yakhin; its number 2 Senevita belongs to Orpea, a French company, number 2 on the European market; its number 3 Seniocare to the Austrian company Senecura; its number 4 is the French company Korian Medica which is also the European leader; while its number 5 is Credit Suisse Real estate Fund Living Plus, a Swiss real estate company.

4.3.7 Air transport services

4.147. Box 4.20 below describes the main regulatory and economic characteristics of the air transport services sector in Switzerland while Table 4.16 details the features of the bilateral air services agreements signed or modified by Switzerland and entered into force during the period under review.

⁶⁸ Business Scoot "le marché des maisons de retraite médicalisées en Suisse", October 2016.

Box 4.20 Switzerland's market and regulatory regime for air transport subsectors, 2016**Computer reservation services**

General regulatory framework: there is no regulation granting a monopoly or prescribing the compulsory use of a CRS supplier. Switzerland applies EC Regulation 80/2009^a

Economic characteristics: all CRS providers may operate as long as they comply with EU Regulation 80/2009. This does not imply that they have a local branch established

Selling and marketing of air transport services

General regulatory framework: there are no specific regulations (including foreign exchange controls) preventing or limiting the sale by foreign airlines of their own tickets through whatever channel (online, airports counters, city offices). This is not affected by individual provisions of bilateral agreements

Aircraft repair and maintenance

General regulatory framework: no specific limitations on the establishment of foreign providers

Number of certified repair stations: 84 certified by the European Aviation Safety Agency (EASA); 10 of them are also certified by the Federal Aviation Administration and 4 by TCCA Canada

Ground handling services

General regulatory framework: Switzerland applies EC Regulation 97/67^b
Bilateral agreements may contain clauses granting specific rights to the carriers of the countries concerned

Main providers: Zurich: Swissport, Dnata, and Airline Assistance Switzerland for passenger handling; Dnata and Cargologic for cargo handling (all Swiss companies or branches); Geneva: Swissport, Dnata for passenger and cargo handling (all Swiss companies or branches)

Airport management services

General regulatory framework: concessioned airports are managed by public or private entities (even for private entities, the majority of the capital may be in public hands)

Economic characteristics: international airports (with line and charter traffic) are: Zurich (passengers: 26,294,317; cargo tonnes: 291,082); Geneva (passengers: 15,694,603; cargo tonnes: 32,806); Basel (passengers: 7,052,113; cargo tonnes: 48,977); Berne (passengers: 175,121); Lugano (passengers: 156,435; cargo tonnes: 57); Altenrhein (passengers: 91,976); and Sion (passengers: 6,660). Total domestic traffic 655,303 passengers (start from departure airport and arrival at destination airport count as 1 passenger)^c

Commercial aviation

General regulatory framework:

National establishment rules: in line with EU Regulation 1008/2008^d

Cargo: no specific policy

Charter: Switzerland applies EC Regulation 1008/2008^e, thus charter traffic is not discriminated and is based on the principle of reciprocity. Low-cost carriers do operate from Switzerland

Domestic traffic: Domestic traffic is limited in principle to Swiss operators unless it has been agreed otherwise in the bilateral ASA: Such an opening has been negotiated but not finalized between Switzerland and EU

Slot allocation: in line with EU Regulation 96/97^f

a Online information. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:035:0047:0055:EN:PDF>.

b Online information. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997L0067:en:NOT>.

c All figures 2015, general aviation not included.

d Online information. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:293:0003:0020:en:PDF>.

e Online information. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:293:0003:0020:en:PDF>.

f Online information. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0097:EN:HTML>.

Source: Information provided by the Swiss authorities.

4.148. These agreements are all extremely liberal and go beyond traditional so-called open skies agreements, in particular due to the presence of the principal place of business clause for withholding, which corresponds to the peculiar situation of Swiss, which is majority foreign owned. One can note that this liberal policy is a general policy since the geographical partners concerned are very diverse.

Table 4.16 Switzerland's air transport agreements⁶⁹ concluded or modified between January 2012 and December 2015

Partner	Date	Entry into force	5th ^a	7th ^b	Cabotage ^c	Coop ^d	Designation ^e	Withholding ^f	Pricing ^g	Capacity ^h	Stat ⁱ	ALI
Japan (modified)	23/07/13	05/02/14	Y	N	N	Y	M	PPoB	FP	FD	no	38
Mauritius (new)	05/05/15	01/08/15	Y	N	N	Y	M	PPoB	DD	FD	no	36
New Zealand (modified)	19/11/14	27/07/15	Y	N	N	Y	M	PPoB	DD	FD	no	36
Saudi Arabia, Kingdom of (new)	04/07/09	05/02/15	N	N	N	Y	M	PPoB	DD	FD	no	36
Serbia (modified)	15/04/15	08/12/15	N	N	N	Y	M	PPoB	DD	FD	no	36

a Fifth freedom: "Y" granted, "N" not granted.

b Seventh freedom: "Y" granted, "N" not granted.

c Cabotage: "Y" granted, "N" not granted.

d Cooperation clause (e.g. allowance of code share): "Y" present, "N" absent.

e Designation: "S" single, "M" multiple.

f Withholding: "PPOB" principal place of business, "SOEC" substantial ownership and effective control; "COI" community of interest

g Pricing: "DD" dual disapproval, "FD" free determination, "DA" double approval, "COO" country of origin, "ZP" zone pricing.

h Capacity clause: "PD" Pre Determination; "B1" Bermuda I, "FD" Free determination, "O" other, "n/a" not available.

i A "no" indicates that an exchange of statistics is not foreseen by the agreement.

Source: Information provided by the authorities.

4.149. Another significant recent development regarding Switzerland's bilateral air transport relationship with the EU are the negotiations initiated in November 2011 to complement the 1999 EU–Switzerland bilateral air transport agreement and to grant mutually eighth and ninth freedom i.e. cabotage right. While these negotiations ended positively in a consensus, the implementation of their results were suspended by the EU following the 9 February 2014 vote against mass immigration and conditioned by the EU to the conclusion of an agreement on institutional questions and on a coupling of the respective emission trading schemes of EU and of Switzerland, two questions so far unresolved.

⁶⁹ The term "air transport agreements" is used here to refer to air services agreements, memoranda of understanding, exchange of notes, and other such relevant instruments.

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Table A1.6 Trade in services by sector and destination/origin, 2012-15

	2012	2013	2014	2015
Exports (SwF billion)	102.3	105.9	110.9	108.8
	(% of total exports)			
<u>By sector</u>				
Transport	11.4	11.4	11.5	9.8
Tourism	14.7	14.7	14.7	14.5
Insurance and pension services	6.0	5.9	5.9	5.9
Financial services	20.2	19.6	18.1	18.3
Licence fees	15.8	16.3	15.1	14.3
Telecommunications, computer and information services	9.3	9.6	11.6	12.1
Research and development services	3.3	2.8	3.3	3.6
Consulting services	5.3	5.2	5.1	5.1
Technical, trade-related, and other business services	6.6	6.5	7.2	8.6
Other services	7.4	8.0	7.6	7.7
<u>By major destinations^a</u>				
EU-28	35.2	35.8	35.7	35.6
of which:				
Germany	8.6	8.8	9.2	9.0
United Kingdom	6.3	6.0	6.2	5.9
France	4.1	4.6	4.4	4.1
Italy	3.5	3.3	2.8	3.1
Luxembourg ^b	2.1	2.0	1.8	2.6
United States	12.5	13.1	14.2	15.6
Russian Federation ^b	1.7	1.9	2.0	1.9
China	1.7	1.8	1.7	1.8
Japan	1.3	1.2	1.1	1.3
Singapore ^b	0.7	1.1	0.9	1.1
India ^b	0.4	0.4	0.4	0.4
Imports (SwF billion)	80.8	85.6	91.5	90.8
	(% of total imports)			
<u>By sector</u>				
Transport	13.7	13.6	12.6	9.3
Tourism	17.6	17.5	16.9	17.0
Insurance and pension services	1.9	1.6	1.5	1.8
Financial services	4.3	4.0	3.9	3.9
Licence fees	12.9	12.7	14.2	13.7
Telecommunications, computer and information services	13.2	14.1	14.3	14.6
Research and development services	9.4	8.3	10.1	10.3
Consulting services	15.0	15.9	15.9	16.2
Technical, trade-related, and other business services	7.2	7.1	7.1	9.4
Other services	4.7	5.2	3.6	3.9
<u>By major origins^a</u>				
EU-28	40.2	41.2	41.3	40.4
of which:				
Germany	10.8	11.4	11.2	10.6
United Kingdom	8.2	8.0	8.5	9.4
France	5.1	6.0	5.5	5.3
United States	17.0	17.3	19.4	20.3
Japan	1.4	1.3	1.5	1.7
China	1.7	1.7	1.3	1.4
India ^b	0.9	0.8	0.8	1.1

a Without tourism.

b Without research and development services (confidential).

Source: Swiss National Bank (SNB) data portal. Viewed at: <https://data.snb.ch/en> (accessed in October 2016).