SwissHoldings

# Department of Economics

October 2023

# Trade and Investment Policy

## Bilateral Relations Switzerland / EU

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| **Current Status** | The European Union (EU) is by far Switzerland's most important trading partner. Simultaneously, Switzerland is also one of the EU's largest export and import markets. Therefore, the relationship between Switzerland and the EU is crucial for the Swiss economy. Switzerland is pursuing a bilateral approach in this regard. Beginning with the free trade agreement signed in 1972, Switzerland has established a dense and ever-evolving network of agreements with the association of states. The Bilateral I and II agreements are particularly noteworthy as they grant the contracting parties non-discriminatory access to each other's markets and establish close cooperation in various areas between Switzerland and the EU. This bilateral approach has brought numerous advantages to Switzerland.<br><br>However, the EU has linked the further development of the agreement network to a clarification of the institutional framework. Based on this demand, a draft agreement was drawn up between 2014 and 2018. At its meeting on May 26, 2021, the Federal Council decided not to sign the institutional framework agreement and to end negotiations with the EU. The body believes that various substantial differences could not be resolved.<br><br>Nevertheless, the Federal Council wants to continue bilateral cooperation. Two years after the failure of the Framework Agreement, the Federal Council decided in the spring to make a new attempt to clarify the relationship with the EU. The reason given for this was that the body had noted a positive dynamic at the technical, diplomatic and political levels in the exploratory talks with the EU that had been underway since the end of February last year. The administration was therefore instructed by the body to draw up the key parameters of a negotiating mandate by the end of June and to take soundings with the European Union. The package approach proposed by the Federal Council will continue to serve as the basis for the talks: instead of a single agreement of a horizontal nature regulating institutional issues (such as the adoption of laws, monitoring, dispute settlement), an entire package of new concrete agreements (including electricity, food safety and health) is to be drawn up. The existing and new single market agreements should each include solutions to the institutional issues in their area. The aim is to enable a broad balance of interests with this approach and to increase the chances of success in any subsequent negotiations.<br><br>On June 21, the Federal Council has now approved the key parameters for a negotiating mandate between Switzerland and the EU. They form the basis for further talks with the EU, in particular to settle the outstanding points. If the talks with the EU and the internal work continue to progress well, the Federal Council will prepare to adopt a negotiating mandate by the end of the year. At the same meeting in June, the long-awaited Federal Council report "Situation Assessment of Switzerland-EU Relations" was also adopted. The report |

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| | concludes that the bilateral path remains the most advantageous solution for Switzerland. |
| **Outlook** | Orderly and secure relations between the European Union and Switzerland are essential for both sides. For the foreseeable future, the EU member states will remain extremely important trading partners for the strongly export-oriented Swiss economy. It must therefore remain a priority goal that the bilateral path can be successfully preserved.<br><br>SwissHoldings welcomes the fact that the Federal Council is endeavoring to ensure that the bilateral agreements are applied as smoothly as possible, even without the conclusion of the InstA. From the association's point of view, it is also important to exhaust all possibilities that Switzerland can implement unilaterally to strengthen the framework conditions, in order to ensure the competitiveness of our country. |

## Free Trade Agreement

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| **Current Status** | The Swiss Economy has a strong global orientation and is therefore dependent on cross-border trade and international investment activities. Thus, the constant improvement of access to foreign markets was and is a focus of Swiss foreign policy. Amongst other channels, this is accomplished through free trade agreements with third parties. In addition to the EFTA Convention and the free trade agreement with the European Union (EU), Switzerland has a network of 33 free trade agreements with 43 partners worldwide. In conjunction with the other EFTA states, Switzerland is currently negotiating free trade agreements with six new partner states; namely India, Kosovo, Malaysia, Mercosur, Thailand and Vietnam. In addition to the modernization of various existing agreements; such as those with Chile, Mexico and the South African Customs Union. Switzerland is also negotiating a comprehensive bilateral FTA with the UK. |
| **Outlook** | Especially against the backdrop of growing trade conflicts worldwide, a World Trade Organization (WTO) that is losing influence, and generally growing protectionism, the expansion of the network of free trade agreements is important for the export-oriented Swiss economy and for the member companies of SwissHoldings.<br><br>The aspect of sustainable development is becoming increasingly important in the context of global trade. From SwissHoldings' point of view, it is central that sustainability aspects are duly taken into account within the current considerations and plans for the further development of free trade agreements (FTAs). The chapter on "Sustainability and Trade" provides a solid foundation for promoting sustainable development. Moreover, it should not be neglected that intensified trade relations are an important factor in promoting sustainable development. SwissHoldings will continue to advocate for the important expansion of the Swiss network of free trade agreements. |

## Investment Controls

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| **Current Status** | The introduction of investment controls is also currently being discussed in Switzerland. On May 18, 2022, the Federal Council published the preliminary draft of a new Investment Control Law and submitted it for consultation. Prior to this, Parliament had called for a corresponding legal basis by adopting Motion 18.3021 Rieder. The proposal is to introduce a reporting and approval requirement for certain acquisitions of domestic companies. |

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| | The Federal Council presented a regulatory impact assessment on the preliminary draft as part of the consultation process. The RIA concludes that the cost-benefit ratio of such a new law is unfavorable. Consequently, the panel continues to oppose the introduction of an investment audit. It considers the existing legal framework to be sufficient.<br><br>SwissHoldings participated in the consultation (statement) and essentially stated:<br><br>- Foreign direct investment is central to Switzerland. In the small and open Swiss economy, the prosperity of the population and the competitiveness of companies depend directly on integration into global value chains.<br>- Since Swiss companies themselves are among the largest direct investors abroad, Switzerland has a particular interest in accessing international investment markets, as non-discriminatory and transparent as possible. Switzerland is most likely to achieve this if it shows itself to be open to foreign investment.<br>- The Federal Council presented a Regulatory Impact Assessment (RFA) on the preliminary draft as part of the consultation process. The RIA concludes that the cost-benefit ratio of such a new law is unfavorable: for this reason, the panel remains opposed to the introduction of an investment audit. It considers the existing legal framework to be sufficient. SwissHoldings supports this position.<br>- However, the question of whether Switzerland should introduce an investment audit cannot be assessed in isolation from international developments. If OECD member states introduce restrictions on certain foreign investments across the board, then this must be taken into account when assessing the Swiss regulatory approach - not least to prevent a pull effect being triggered on the Swiss economy.<br>- In this context, the present draft represents a compromise. In order to keep the legal risks for the economy as small as possible, such a state intervention mechanism should be examined in the context of a targeted, administratively lean and transparent design. It is also important that the regulation is compatible with Switzerland's existing obligations under International Law. |
| **Outlook** | The Federal Council is currently in the process of preparing a draft law for the introduction of investment controls and will submit this to parliamentary consultations in the current year. The law is not expected to enter into effect before 2024. |

## Investment Protection Agreement (ISA)

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| **Current Status** | Switzerland has a network of a total of 111 bilateral investment protection agreements (ISA). According to UNCTAD, Switzerland thus has the third-largest network of such agreements in the world after Germany and China. By concluding ISAs, Switzerland improves the framework conditions and thus its attractiveness as a location for international investments. Due to a change in practice by the Federal Council, ISAs are now subject to an optional state treaty referendum in addition to free trade agreements. The first ISA to be subject to consultation is the new ISA with Indonesia. The agreement closes |

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| | the gap in the treaty that has existed since the previous agreement expired in 2016. |
| **Outlook** | SwissHoldings will continue to closely follow the regulatory developments around the investment agreements and in this context will point out the great importance of ISA and international arbitration for Swiss companies and Switzerland as a business location. |

# Corporate Social Responsibility

## Corporate Responsibility Initiative

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| **Current Status** | The popular initiative was rejected at the ballot box on November 29, 2020, paving the way for the indirect counter-proposal's entry into enforcement. The Federal Council presented the ordinance on the indirect counter-proposal on December 3, 2021, which imposed new obligations based on EU regulations and, in some cases, went beyond them. The law took effect on January 1, 2022, meaning that Swiss companies would have to report in accordance with the new rules for the first time by the 2023 financial year.<br><br>During a meeting on November 23, 2022, the Federal Council adopted the Climate Change Reporting Enforcement Ordinance ("TCFD") for large Swiss companies and brought it into effect on January 1, 2024. Further information and the preprint of the ordinance can be found here.<br><br>In addition, the Federal Council has evaluated the extent to which there is a need for Switzerland to adapt; as a result of the dynamic developments in EU Law. Specifically in the area of Sustainable Corporate Governance. The body has subsequently decided to prepare a consultation draft by July 2024, at the latest, to examine the applicability of the new EU rules for ESG reporting. In the area of due diligence, however, it is still intended to wait. SwissHoldings welcomes this decision. It is true that the EU is planning a new law to monitor risks in value chains. However, the contours of this regulation are only beginning to emerge (see also media release SwissHoldings: Federal Council rightly adheres to an internationally coordinated approach in the area of corporate responsibility - SwissHoldings).<br><br>Moreover, the Parliamentary Initiative (Pa.Iv) Gredig (21.427)" - "Combating forced labor by expanding the scope of the counter-proposal UVI" is currently being dealt with in the Legal Commission of both Councils. The aim of the parliamentary initiative is to ensure the scope of the counter-proposal is extended to include the prohibition of forced labor in the special due diligence obligations and transparency; with a focal point on conflict minerals and child labor (Art. 964j et seq. CO). The focus here is on the core conventions ratified by Switzerland on the International Labor Organization No. 29 regarding forced or compulsory labor, No. 105 on the abolition of forced labor, the UN Guiding Principles on Business and Human Rights, and the OECD Guidelines.<br><br>However, in mid-March the Legal Commission decided to suspend the work on implementing the Parliamentary Initiative Gredig 21.427 "Combating forced labor by extending due diligence" until further notice against the backdrop of current developments at EU level and the corresponding resolutions of the Federal Council (see also above). The Commission has expressed its support for Petition 22.2039 "Coalition for Corporate |

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| | Responsibility. For a strong corporate responsibility law" as part of the Parliamentary Initiative Gredig 21.427. |
| **Outlook** | The new obligations associated with the implementation of the counterproposal are challenging, especially in the area of child labor. The association will support the implementation work for the member companies as much as possible and offer a platform for the exchange of expertise. |

## Developments EU level

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| **Current Status** | The European Commission is presently considering potential regulations in the area of Sustainable Corporate Governance and related Due Diligence. In the first half of 2022, it published a proposal for a directive on Corporate Sustainability Due Diligence. The specific objective is to define corporate interests under European Law, taking into account various sustainability criteria. Additionally, the initiative focuses on the implementation of corporate due diligence obligations in global supply chains. In the legislative process, the trilogue negotiations are still currently pending between the EU Commission, the EU Parliament and the Council of the European Union. Whereby divergent positions have been introduced into the negotiation process by these three institutions. Considering the current circumstances, it is assumed that the discussions in the trilogue process will be contentious and intensive. If adopted, the directive will have to be transposed into National Law accordingly by the member states. |
| **Outlook** | SwissHoldings member companies are likely to be directly affected by this new EU regulation in the area of Sustainable Corporate Governance, The regulation provides for a third country regime - through which Swiss companies operating in the EU are directly covered by EU regulations above a certain size. |

## Collective Legal Protection

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| **Current Status** | On December 10, 2021, the Federal Council presented the class action bill and passed it for the attention of Parliament. The bill provides for the expansion of the existing class action, the creation of a new class action for the assertion of compensation claims, and the possibility of settlements declared binding by the courts.<br><br>The business community is critical of these plans, which the Federal Council wants to establish without prior consultation. In the summer of 2022, the RK-N decided not to act on the class actions. It was not possible at the present time to decide on the expansion of instruments of so-called "collective redress". Essential questions had not yet been clarified<br><br>In June of last year, the Legal Commission of the National Council (RK-N) began deliberations on this matter and expressed doubts about the Federal Council's proposal. The commission therefore decided not to act on the bill for the time being and instead to commission extensive further clarifications from the Federal Office of Justice (FOJ).<br><br>However, the audit reports of the administration that are now available (see also media release of the RK-N) only marginally address the justified fundamental concerns of the Commission with regard to the introduction of class action instruments. This is in direct contrast to the current discussions at EU level. These far-reaching "safeguard" measures are being discussed to contain the feared risks of abuse of these instruments, up to and including a |

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| | fundamental ban on commercial litigation funding or a general restriction of access to ordinary civil proceedings, via a pre-screening clause. Furthermore, it raises questions that not a single company in Switzerland was consulted for the regulatory impact assessment (RIA), although it is customary in such cost assessments that the main stakeholders affected can contribute.<br><br>During its last deliberation on this matter in the beginning of July, it included an extended examination of safety measures, as well as a validation of the already available RFA report through direct company interviews. This must be indicated before it can decide on the further course of action. It is anticipated that the Commission will resume deliberations in Q1 2024.<br><br>For the business community, the focus is on efficiently balancing the interests of different parties. There are various instruments for this purpose, and the superiority of individual instruments, in relation to others, is evident based on empirical developments abroad. Therefore, it is crucial to conduct the discussion at the appropriate level. The fact that the need for action has been emphasized by the Federal Council in the Dispatch on civil procedure indicates that important alternatives have been excluded from the beginning. This exclusion must be addressed through the analyses commissioned by the Commission. The clarifications provided by the Federal administration aim to demonstrate how other countries attempt to resolve tensions between parties resulting from mass and scatter damages. In this context, special emphasis will be placed on the promising system in Scandinavian countries, where the majority of experiences with this model have been positive. |
| **Outlook** | SwissHoldings supports the decision of the Legal Commission of the National Council (RK-N). From the association's point of view, the business is not ready for political consultation. |

# Accounting and Reporting

## IFRS Standard Setting

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| **Current Status** | The focus of the work was to support and comment on the IASB's consultation on "IAS 12 Income Taxes," in which the Board proposed amendments to IAS 12 Income Taxes. The aim is to provide temporary relief in accounting for deferred taxes arising from the forthcoming implementation of the Second Pillar Model Rules published by the Organization for Economic Cooperation and Development (OECD).<br><br>The IASB is responding to stakeholder concerns about the potential impact of these rules on the accounting for income taxes in financial statements (the SwissHoldings comment letter can be found at the following link: SwissHoldings comment letter on ED International Tax Reform-Pillar Two Model Rules).<br><br>Furthermore, two projects are currently underway at IASB level in the area of the Post-Implementation Review on IFRS 15 (revenue recognition) and on IFRS 9. The work of the partner standard setter ISSB is also progressing with regard to sustainability reporting. The ISSB has published the first two standards (S 1 and S 2) in recent weeks.  S 1 refers to the superordinate level and includes principles on how sustainability-related opportunities and risks should be presented in general. On the other hand, S 2 relates specifically to climate-related reporting. |

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| **Outlook** | SwissHoldings will continue to actively follow the work of the IFRS Foundation and participate in consultations relevant to our members. |

## Sustainable Finance Switzerland Strategy

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| **Current Status** | At **the end of 2023, the Federal Council published two strategy documents for a sustainable financial center and possible fields of action in general in the area of sustainable finance** ("Sustainable Finance Switzerland - Fields of Action 2022-2025 for a Leading Sustainable Financial Center" and Position Greenwashing Prevention in the Financial Sector).<br><br>The **Sustainable Finance Switzerland report** highlights the role of the Swiss financial center in terms of sustainability and identifies past and future fields of action. Four fields of action are addressed: (1) sustainability data from the overall economy, (2) transparency in the financial sector, (3) impact investments and green bonds, and (4) pricing of environmental pollution. A total of 15 specific measures can be grouped into the action areas. As shown in the report, many of the measures have already been addressed.<br><br>**In the position paper on greenwashing, the Federal Council has specified its approach in this regard. Financial products or services should only be offered as sustainable if they are compatible with at least one specific sustainability goal or contribute to achieving a sustainability goal.** This is to ensure that financial products and- services that are intended to reduce any ESG risks are only designated as sustainable, if they pursue a sustainable investment objective in addition to a purely financial one. Providers of sustainable products or services should explain how they intend to achieve the intended sustainable investment objective. |
| **Outlook** | It is true that many of the aspects under discussion are aimed exclusively at the financial sector. However, the real economy is - at least indirectly - directly affected by the discussion and the planned regulatory approaches. For example, financial services companies depend on information and data sets from issuers to fulfill their transparency obligations. Generally speaking, the primary lever for a transition to a sustainable economy lies with the real economy, which directly influences the various sustainability areas through the production and consumption of goods and services.<br><br>SwissHoldings will therefore closely follow the planned work of the Federal Government in coordination with the other industry associations. |

## Sustainable Finance & ESG Reporting at EU Level

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| **Current Status** | At the EU level, the topic of sustainability is at the center of public discussion. In the context of this discussion, the European Commission has become active through various initiatives.<br><br>In 2020, the EU adopted the Action Plan for Financing Sustainable Growth, which forms the basis for several legislative initiatives. Among these initiatives is the Taxonomy Regulation, which is particularly relevant for preparers. With the introduction of the Taxonomy, companies will be required to classify all their business activities in a classification scheme to determine the "green character" of their economic activity. Companies will also need to disclose separately the share of sales, the share of investments ("CapEx"), and the |

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| | share of operating expenses ("OpEx"). Additionally, all these activities must be evaluated in relation to minimum social criteria.<br><br>The action plan also includes a proposal for a Corporate Sustainability Reporting Directive (CSRD) to replace the existing Non financial Reporting Directive (NFRD). The directive was adopted at the EU level on November 10. The core element of the CSRD is that reporting will no longer be based on an internationally accepted standard such as GRI, but on a new European standard to be developed. Other significant changes include a substantial expansion of the required report content (such as forward-looking elements and information on intangible assets) and the principle that all information must be made available via a digital reporting structure.<br><br>On July 31, the European Commission published the first set of European Sustainability Reporting Standards (ESRS). This contains a number of adjustments compared to the original drafts - whereby in particular the principle of materiality in application has been strengthened.<br><br><u>SH member companies are likely to be directly affected by both of these regulatory measures due to their close economic ties with EU member states.</u> |
| **Outlook** | SwissHoldings views the current initiatives for greater standardization in the area of sustainable finance and ESG reporting as fundamentally positive. A more uniform framework for mapping a company's sustainability performance helps create clarity and trust between investors and preparers. However, the association emphasizes that sustainability data must always be placed in a comprehensible context with business strategy and financial reporting in the future. The criteria of relevance, feasibility, and cost/benefit ratio should always apply to transparency requirements.<br><br>While the EU's ambitious plans offer opportunities for sustainability-oriented investors and companies, they also harbor the risk of disproportionate market intervention. The newly envisaged transparency and disclosure requirements for companies in the area of ESG are high and threaten to overwhelm many market players.<br><br>SwissHoldings is monitoring ongoing developments and continues to support the business, particularly within the framework of the working group of umbrella organizations at the European level. |

# Capital Markets

## Monetary Policy SNB

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| **Current Status** | In today's extraordinary times, the Swiss National Bank (SNB) is increasingly in the spotlight. At the parliamentary level, various proposals have been discussed with the aim of tying the SNB's distributions to certain purposes. In addition, concerns have recently been raised calling for a reform of the SNB's governance structure. |
| **Outlook** | SwissHoldings will closely follow the ongoing developments. From the association's point of view, the SNB's current orientation has proven its worth. The organization is critical for a "politicization" or further earmarking of the SNB's profits. |