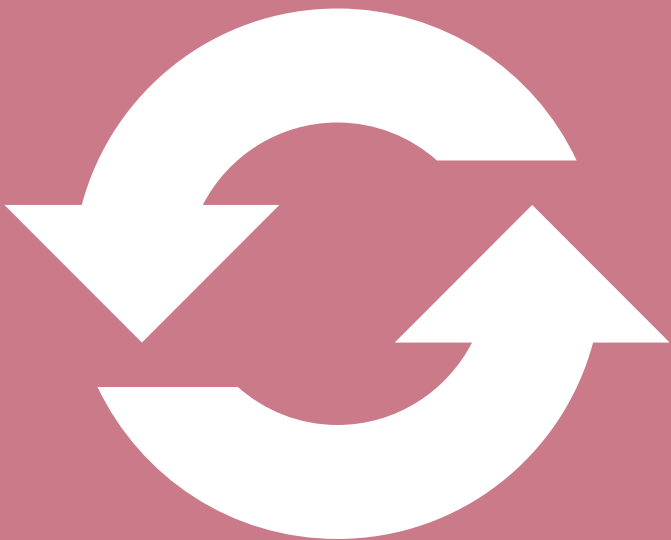


Update

April 2024



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 Updated documents are available here.

SwissHoldings is the association of multinational industrial and service companies in Switzerland. At federal level, we advocate for optimal framework conditions on behalf of our more than 60 members. Together, our members account for around 66 per cent of the total market capitalisation on the SIX Swiss Exchange. Our members employ around 1.8 million people worldwide, around 202,000 of them in Switzerland. Through the numerous service and supply contracts they place with SMEs, multinational companies in Switzerland employ - directly and indirectly - more than half of all employees in Switzerland.

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Capital Market Law

Draft Register of Beneficial Owners



Executive Summary

The draft for a Federal Law on the Transparency of Legal Entities seeks to enhance the integrity of Switzerland as a financial and business hub. The proposed measures include the establishment of a Federal Register of Beneficial Owners and other specific interventions to enhance the effectiveness of combating money laundering and white-collar crime. These measures are designed to align with the international standards set forth by the Financial Action Task Force and the Global Forum on Transparency and Exchange of Information for Tax Purposes.



Contents

The proposed [legislation](#) has two primary objectives. Firstly, it aims to enhance the transparency of legal entities to facilitate more efficient identification of Beneficial Owners by the authorities. This involves the introduction of a Federal Register of Beneficial Owners and the imposition of Anti-Money Laundering Act obligations, including corresponding due diligence requirements, on specific activities within legal advice. Secondly, the bill encompasses amendments to existing laws that aim to bolster the effectiveness of the Anti-Money Laundering efforts. This includes the revision of supervisory regulations and the implementation of additional measures in specific sectors such as real estate and precious metals trading.



Stance

The consultation process concluded at the end of November 2023, and the received positions are currently under evaluation by the Federal Department of Finance (FDF). In line with the [adoption of Recommendation 24](#) at international level, corresponding efforts have commenced at the national level. Thus far, the Federal Council has directed the FDF, in collaboration with the Federal Department of Justice and Police (FDJP), to draft a bill no later than June 2023, aiming to facilitate the identification of Beneficial Owners of Legal Entities (see press [release](#)). As outlined in the press release, the proposed bill is expected to establish a central register for the Identification of Beneficial Owners and introduce new obligations for updating information on Beneficial Owners based on a risk-based approach.



Ausblick

SwissHoldings, as part of the consultation process, presented its statement (refer to the position below) at the conclusion of November 2023. Anticipated further developments are foreseen in the second quarter of 2024.


Position

SwissHoldings has raised specific concerns in a [consultation response](#). In particular, we consider the following points to be especially important:

- Clarification of the Term "Control": SwissHoldings advocates for a more precise definition of the term "Control" to mitigate potential confusion or conflation with the terminology employed in Company Law and that pertaining to participation transparency.
- Full Exemptions for Listed Companies and Their Subsidiaries: The association is dedicated to ensuring that listed companies and their subsidiaries are granted complete exemptions concerning specific regulations.
- Limitation of Access to Beneficial Ownership Information: SwissHoldings urges that access to information on Beneficial Owners be restricted to the minimum necessary and made available solely to relevant authorities.
- Negligent Breach of the Duty to Report and Provide Information: SwissHoldings asserts that a negligent breach of the duty to report and provide information should not be subject to the criminal provisions outlined in Article 41 of the Anti-Money Laundering Act (AMLA). Moreover, it is imperative, in our perspective, that negligence in violating the reporting obligation in Article 37 of the AMLA is not subject to criminal prosecution.

Revision of the Financial Market Infrastructure Act (FMIA)


Executive Summary

As per a report from the Federal Department of Finance (FDF), the Financial Market Infrastructure Act (FMIA) has, by and large, demonstrated its efficacy thus far. The Federal Council is presently undertaking a routine and comprehensive assessment, with a specific focus on enhancing transparency and legal certainty in designated regulatory domains. The consultation process for these considerations is slated to commence in mid-2024.


Contents

In this [report](#), the Federal Department of Finance (FDF) concludes that the Financial Market Infrastructure Act (FMIA) has largely demonstrated its efficacy since its enforcement. Nevertheless, there is a need to augment transparency and legal certainty in specific regulatory domains. Additionally, the Federal Council has determined to enact the reporting obligation for small non-financial counterparties concerning derivatives transactions, which will be made effective on January 1, 2028.


Stance

In this [report](#), the Federal Department of Finance (FDF) concludes that the Financial Market Infrastructure Act (FMIA) has largely demonstrated its efficacy since its enforcement. Nevertheless, there is a need to augment transparency and legal certainty in specific regulatory domains. Additionally, the Federal Council has determined to enact the



reporting obligation for small non-financial counterparties concerning derivatives transactions, effective January 1, 2028.



Ausblick

Following this report, the Federal Council directed the Federal Department of Finance (FDF) at the end of September 2022 to formulate a consultation draft for the revision of the Financial Market Infrastructure Act (FMIA) by mid-2024 (see [press release and documents](#)).



Position

The proposed amendments to derivatives regulation represent a principled improvement and are, therefore, commendable. However, we emphatically oppose the notion of transferring ad hoc notifications of shareholdings from self-regulation to state regulation under the supervision of FINMA. Self-regulation has demonstrated its efficacy, and its abandonment should only occur when deemed absolutely necessary; it should be preserved as a locational advantage.

Competition Law & Policy

Amendment of the Cartel Act: Partial Revision



Executive Summary

On May 24 2023, the Federal Council adopted the [dispatch concerning the partial revision of the Cartel Act \(23.047\)](#). The primary objective of this partial revision is to modernize Swiss Merger Control, aligning it with international standards. Additionally, the revision seeks to enhance Civil Antitrust Law and streamline the objection procedure for practicality. In connection with these goals, the Federal Council has directed the Federal Department of Economic Affairs, Education, and Research (EAER) to present a proposal for institutional reform in the first quarter of 2024. The Economic Affairs and Taxation Committee of the Council of States (WAK-S) initiated its deliberations during the same time period. SwissHoldings explicitly appreciates the inclusion of the long-requested institutional reform within the revision.



Contents

The transition from the Qualified Market Dominance Test to the Significant Impediment to Effective Competition Test (SIEC test) is undertaken with the objective of aligning the practices of the Competition Commission (COMCO) with international standards. As articulated in the report presented by [the State Secretariat for Economic Affairs \(SECO\)](#), the proposed modifications are designed to empower the imposition of targeted prohibitions or the approval of mergers in cases where a significant impairment of competition is identified. The proposition encompasses a streamlined notification obligation for mergers at the European level and a regulation pertaining to the extension of deadlines within the examination procedure. Another integral aspect of the legislative amendment involves the reinforcement of Civil Antitrust Law, with an anticipated extension for the right to institute legal proceedings. Furthermore, the objection procedure is slated for enhancement to render it more practicable by avoiding the immediate risk of



sanctions if an investigation is not initiated within the stipulated shortened deadline.



Stance

At its [meeting on March 17, 2023](#), the Federal Council directed the Federal Department of Economic Affairs, Education and Research (EAER) to submit a dispatch on the partial revision of the Cartel Act (Cartel Act) by mid-2023. This was adopted by the Federal Council at its [meeting on May 24, 2023](#), whereupon the matter was passed to the WAK-S for the first Parliamentary Preliminary Consultation.

In this context, the Federal Council incorporated two requisitions from [Motion 16.4094 Fournier](#) aimed at enhancing the position of small and medium-sized enterprises (SMEs) in competition proceedings. These requisitions encompass the establishment of specific time limits and the provision of compensation for parties involved in first-instance proceedings before the Competition Commission (COMCO). Additionally, the preliminary draft includes an implementation proposal for [Motion 18.4282 Français](#), which was adopted in June 2021, and takes into consideration both qualitative and quantitative criteria.

Lastly, the preliminary draft incorporates provisions pertaining to the principles of investigation, the presumption of innocence, and the burden of proof. These provisions are included to fulfill the requirements outlined in [21.4189 Wicki](#). For more detailed information, please refer to [the press release and the consultation documents](#).



Outlook

In January of this year, the WAK-S decided during its deliberations that there was a need for further clarification. It therefore decided to hold hearings. Due to time constraints, the hearings could not be finalised during the meetings in February and March. The committee will continue the hearings at its upcoming meeting on 2 and 3 May 2024 so that the matter can be dealt with in the summer session.



Position

In particular, SwissHoldings anticipates a stringent implementation of the Français and Wicki Motions. Both Motions assert that authorities and courts must (once again) scrutinize the actual effects of an agreement or practice and substantiate its detrimental impact on competition. However, the draft revision fails to meet these expectations adequately. The draft disproportionately emphasizes Article 5 of the Cartel Act (CartA) concerning agreements and overlooks the analogous necessity for action outlined in Article 7 of the Cartel Act addressing unlawful conduct. In addition, there is too much room for interpretation, which makes clarification necessary (see the [SwissHoldings position paper to the WAK-S](#)).

Additionally, SwissHoldings has conveyed significant improvement suggestions to the WAK-S, including:

- Introduction of a Compliance Defense: SwissHoldings advocates for the inclusion in the Cartel Act of a provision acknowledging substantial compliance efforts, with such efforts considered in mitigating penalties, up to the exclusion of sanctions.



- Appeals Procedure: While acknowledging the positive intent of the revision to enhance the appeals procedure, SwissHoldings appreciates the proposed changes in the draft and the dispatch. However, specific clarifications are deemed necessary.
- Civil Antitrust Law: SwissHoldings opposes the extension of the right to sue to all parties affected by unlawful restraints of competition.

Amendment of the Cartel Act: Institutional reform



Executive Summary

In the context of revising the Cartel Act, the reform of the competition authorities will be addressed separately, as urged by various stakeholders during the consultation process. This approach aims to prevent the revision of the Cartel Act from encountering obstacles again. The EAER, tasked with this responsibility by the Federal Council, intends to present a more detailed implementation proposal in the first quarter of 2024. Currently, several options are under consideration in collaboration with a specially appointed commission of experts.



Contents

Concurrently with the ongoing partial revision of the Cartel Act, the Federal Council is advancing a distinct overhaul [revision of the competition authorities](#) (hereinafter referred to as Institutional Reform). This aspect is no longer integrated into the suggested Cartel Act revision but is being addressed as a separate initiative. This approach draws on insights gleaned from the unsuccessful 2012 revision of the Cartel Act, which faced rejection twice in the National Council. The Institutional Reform primarily targets rectifying issues within administrative proceedings, particularly concerning the separation of decision-making and investigative functions. In 2012, the Federal Council advocated for the establishment of a Competition Authorities Act (CAA) in its dispatch on the revision. This proposal entails a restructuring of the prosecution process: a competition authority would conduct investigations and subsequently file an application with a first-instance competition court. This constitutes the central tenet of the proposed Institutional Reform.



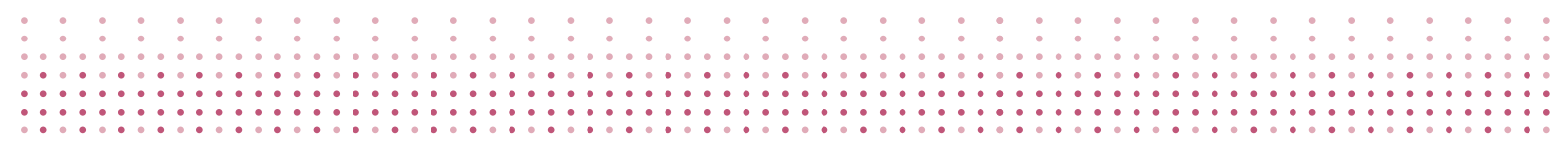
Stance

Various parties called for Institutional Reform during the [consultation process](#). During the [meeting on March 17, 2023](#), the Federal Council instructed the EAER to submit a proposal for implementation. An independent commission of experts was set up for this purpose. The recently published [final report of the expert commission](#) chaired by former Federal Judge Hansjörg Seiler, concluded that the COMCO operates effectively in principle and does not exhibit any constitutional deficiencies. Therefore, a change of system is not warranted.



Outlook

[On March 15, 2024 based on the final report](#), the Federal Council instructed the EAER to submit a consultation draft on the reform by mid-2025. The enhanced separation will now entail the Secretariat conducting the investigation consistently without the involvement of COMCO,



which will continue to function as a part-time authority. Additionally, consideration is being given to appointing a proceedings officer to alleviate COMCO's workload. Furthermore, the Federal Council aims to strengthen the appeals process at the Federal Administrative Court by appointing specialized judges. In summary, the Federal Council is aligning with the recommendations of the Expert Commission.

Position

SwissHoldings welcomes the initiation of the long-awaited Institutional Reform in conjunction with the ongoing revision of the Cartel Act. The proposed modifications demonstrate a strong dedication to modernizing and fortifying the existing institutional frameworks governing Anti-trust Law. However, careful consideration must be given to assess the feasibility and efficacy of the proposed changes, particularly regarding a potential shift in the system. SwissHoldings will articulate its position itself accordingly during the consultation process.



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International Tax Law

OECD/G20 Project on the Taxation of the Digitalized Economy



Executive Summary

Switzerland implemented the OECD Minimum Tax in the form of a Swiss Supplementary Tax at the beginning of 2024. This places Switzerland at a significant and unwarranted disadvantage as a business location when compared to numerous non-implementing countries, including the USA, China, and India. Switzerland must vigilantly monitor international developments and strive to establish an internationally level playing field, placing increased emphasis on new instruments to enhance Switzerland's attractiveness as a business location.



Contents

The OECD project on the Taxation of the Digitalized Economy is structured around two pillars and aims to enhance the acceptance of International Corporate Taxation. The OECD Secretariat oversees this endeavor. The new tax regulations are formally endorsed by the "OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting" (hereinafter referred to as IF), which encompasses over 140 countries. In October 2021, the IF members endorsed the political guidelines for the two pillars. Subsequently, substantial efforts have been dedicated to formulating the technical implementation provisions. Under Pillar 1, a multilateral agreement is slated for submission to states for signature and subsequent ratification by the end of 2024. Conversely, Pillar 2 will not be implemented via a multilateral agreement but through a uniform adoption of rules collaboratively developed and individually embraced by the states (common approach).



Stance

The G20-initiated project aimed at taxing the digitalized economy faces an uncertain future. Initial enthusiasm among G20 member states has waned. Regarding Pillar 1, it is increasingly evident that the new regulations may not materialize, as the USA is unlikely to ratify the required multilateral agreement. Without US participation, the desired redistribution of tax revenues from host states like Switzerland to market states such as China or India cannot proceed. The project's second pillar, known as OECD Minimum Taxation, fares only marginally better. In early 2024, nearly all European countries began implementing Minimum Taxation, but economically significant nations like the USA, China, and India show no indication of embracing it. The potential election of Donald Trump as US President could bolster resistance to Minimum Taxation in the US and elsewhere. Specifically, the US might resist supplementary taxation of its tax base and the tax base of US companies abroad (e.g., in Switzerland) by threatening sanctions and

insisting on significant adjustments to Minimum Taxation regulations. Consequently, Switzerland and its companies should prepare for a highly fragmented international tax landscape in the coming years. Given this context, the Federal Council should carefully evaluate future steps regarding Minimum Taxation implementation (e.g., introduction of the International Irrelevance Rule) and retain the flexibility to revisit decisions later to safeguard the Swiss economy. Past experiences indicate that Switzerland cannot prevail in tax disputes with major powers like the USA.

Towards the conclusion of 2023, the Federal Council resolved to implement the Swiss Supplementary Tax commencing from the onset of 2024. Concurrently, the Federal Council issued the conclusive ordinance pertaining to this matter. However, the determination regarding the implementation of the foreign supplementary taxes, namely the Income Inclusion Rule (IIR) and the Undertaxed Profits Rule (UTPR), is deferred to a later time. Anticipated deliberations on this matter are slated for the latter half of 2024. Given the significance of the US elections scheduled for November 2024, the Federal Council may opt to defer its decision until December 2024.

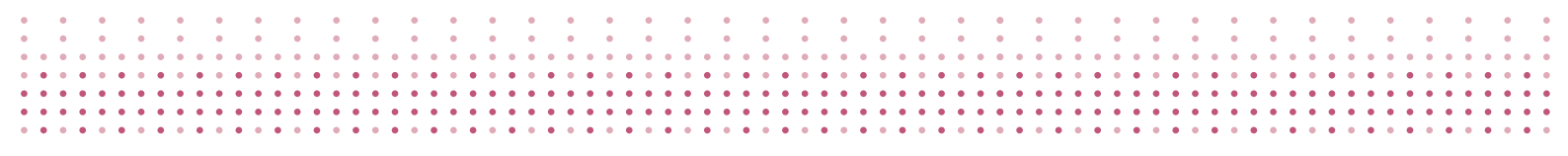


Outlook

Regarding the OECD Minimum Tax, current international developments cannot be reliably anticipated. Presently, there is substantial uncertainty surrounding the global establishment and adoption of this tax by major economic powers such as the USA, China, India, EU, Brazil, among others. Many nations are actively seeking to foster industrial growth, attract additional investments, and create employment opportunities, thereby enhancing tax revenues. Consequently, these countries are reluctant to impose additional tax burdens that might deter companies from investing. Consequently, much of the initial enthusiasm among many nations for the OECD Minimum Tax has dissipated. The outcome of the upcoming US presidential and congressional elections holds significance for the global acceptance of the Minimum Tax. While Democrats advocate for general tax hikes (coupled with tax incentives for research, development, and domestic production relocation), Republicans oppose such increases and may retaliate against foreign countries accessing US tax bases via the Income Inclusion Rule (IIR) and Undertaxed Profits Rule (UTPR). Depending on the election results, adjustments to the Minimum Taxation regulations may vary in significance.

As a small state, Switzerland will not be able to significantly influence the Minimum Taxation Rules. Switzerland's aim must be to prevent objectively unjustifiable disadvantages for Switzerland or protectionist advantages for other countries in order to maintain a level playing field as far as possible. Should other countries wish to provide tax deductions for research, development, CO2 reductions and other activities, Switzerland should definitely support such efforts.

The Federal Council's decision to implement the Swiss Supplementary Tax raises several application issues for Swiss companies, along with



significant concerns regarding Switzerland's appeal as a business destination. The enactment of the OECD Minimum Tax presents legislative and administrative challenges. Nevertheless, for many companies, the competitive disadvantages of the location outweigh the complexities associated with compliance.

Position

SwissHoldings acknowledges that to prevent financial losses, particularly diminished tax revenues. However, we firmly oppose the introduction of the international supplementary tax, UTPR, scheduled for 2025. We anticipate that many foreign countries, including the USA and China, may view the taxation of their tax base by affluent Switzerland as unacceptable and may retaliate accordingly. We also express reservations about the introduction of the international supplementary tax, IIR, for similar international considerations, which could provoke adverse reactions and negatively impact the Swiss economy. Therefore, we urge the Federal Council to thoroughly assess the repercussions of its decision in consultation with affected economic stakeholders. Additionally, it would be prudent to await the outcome of the US elections before proceeding. Should the implementation of the IIR prove detrimental to the Swiss economy in 2025 or 2026, we urge the Federal Council to reconsider its decision retrospectively.

In addition, the Confederation and cantons should ensure that locational disadvantages due to higher tax burdens on Swiss companies are compensated for in other ways. The following factors should be taken into account:

- International Implementation of the OECD Minimum Taxation
- Effects on the Attractiveness of Various Industries
- Financial and Economic Consequences (short, medium and long term) without Countermeasures
- Possibility of Creating Internationally Accepted and Targeted Location Measures
- Effects Under Transfer Pricing Law
- Domestic Policy Aspects



Scan or click QR-Code.

More information on the OECD/G20 project on the taxation of the digitalised economy can be found on our website.



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Trade and Investment Policy

Bilateral Relations between Switzerland and the EU



Executive Summary

Switzerland boasts an extensive web of Bilateral Agreements with the European Union (EU). The objective is to enhance and solidify the relationship between Switzerland and the EU through the revision of five existing agreements, alongside the incorporation of two novel internal market agreements and collaboration in the realms of research, education, and health. However, the EU has tethered this progress in the agreement network to the clarification of the Institutional Framework. To achieve this and further develop and stabilize the relationship between Switzerland and the EU, a package approach is now employed. Instead of addressing institutional matters comprehensively in a horizontal agreement, these issues are now individually addressed in each sector-specific agreement.



Stance

At its [session on June 9, 2023](#), the Federal Council officially endorsed the long-awaited [report on the assessment of relations between Switzerland and the European Union \(EU\)](#). The evaluation confirmed the continued viability of the existing bilateral approach as the most advantageous solution for Switzerland. Shortly thereafter, during its [sessions on June 21, 2023](#), The Federal Council established the key parameters for a negotiating mandate between Switzerland and the EU. These parameters serve as the foundational framework for subsequent negotiations with the EU. Subsequent to exploratory discussions with the EU, the Federal Council, in its session [on November 8, 2023](#). [On December 15, 2023](#), the Federal Council adopted a preliminary negotiating mandate concerning the so-called Bilaterals III. Concurrently, during the same session, the Federal Council granted approval and released the [report documenting the outcomes of the exploratory discussions with the EU](#). An overview detailing the components of the package approach is available for reference [here](#). In the following phase, the draft mandate will undergo a consultation process with the Foreign Affairs Committees of the Federal Assembly (FAC) and the Conference of Cantonal Governments (CCG). The Federal Council's objective is to commence negotiations with the EU expeditiously, considering the upcoming European elections in the summer of 2024, with the aim of avoiding unnecessary delays.



Position

The establishment of orderly and secure relations between Switzerland and the European Union (EU) is imperative for the mutual benefit of both entities. The EU member states retain significant importance as

trading partners for Switzerland, given its heavily export-oriented economy. Consequently, maintaining the successful trajectory of Bilateral Relations must remain a paramount objective. SwissHoldings acknowledges and appreciates the Federal Council's efforts to sustain the application of bilateral agreements with minimal disruptions.

In the perspective of the association, it is crucial to explore all unilateral measures within Switzerland's purview to enhance the framework conditions, thereby securing the competitiveness of our nation. This proactive approach aligns with the overarching goal of ensuring the continued success and effectiveness of the bilateral path.

Free Trade Agreement



Executive Summary

In addition to regulated trade relations, the strongly export-oriented Swiss economy also relies on a broad network of Free Trade Agreements (FTAs). Switzerland has succeeded in continuously expanding this network in recent years. It is particularly pleasing in this respect that the Federal Council recently achieved a breakthrough in the negotiations for an FTA with India at the beginning of the year after 16 years. This successful negotiation is of great strategic importance for the Swiss economy. Switzerland is also negotiating further agreements with Vietnam, Mercosur, Malaysia, Thailand, and Kosovo. It is also working on modernizing existing agreements.



Contents

The Swiss economy maintains a strong international focus, engaging in extensive cross-border trade and investment activities. In light of this context, Switzerland's foreign policy emphasizes the continual enhancement of access to foreign markets. This objective is realized, among other measures, through the negotiation and conclusion of Free Trade Agreements with third countries.



Stance

In addition to the EFTA Convention and the Free Trade Agreement with the European Union, Switzerland has a network of 33 Free Trade Agreements with 43 partners worldwide. Together 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, and is investing in the modernization of various existing agreements such as those with Chile, Mexico, and the South African Customs Union.



Position

The expansion of the network of Free Trade Agreements holds significance for the export-oriented Swiss economy and, consequently, for the member companies of SwissHoldings. This is especially pertinent amid the backdrop of escalating trade conflicts globally, a diminishing influence of the World Trade Organization (WTO), and a rise in general protectionism.



Investment Controls

**Executive Summary**

The implementation of an Investment Review aims to forestall the acquisition of domestic companies by foreign investors, especially when such takeovers pose a threat to public order or security in Switzerland. In pursuance of this objective, the Federal Council endorsed [the dispatch for an investment screening act on December 15, 2023](#). The primary focus of the investment review will be on investors under state control and domestic companies operating in particularly critical sectors. The Committee of the First Council will address this matter in the upcoming year.

**Contents**

The implementation of an Investment Review is designed to forestall the acquisition of domestic companies by foreign investors, particularly if such takeovers jeopardize public order or security in Switzerland. Consequently, takeovers of domestic companies operating in particularly critical sectors by foreign, state-controlled investors are subject to an approval requirement. These critical sectors encompass armaments and goods for civilian and military use, electricity grids and production, water supply, as well as healthcare, telecommunications, and transportation infrastructure. Generally, small companies are exempt from these provisions.

**Stance**

At its [meeting on May 18, 2022](#), the Federal Council published the [preliminary draft for a new Investment Control Act](#) and submitted it for consultation. Parliament had previously called for a corresponding legal basis by adopting [Motion 18.3021 Rieder](#), proposing the introduction of a notification and approval requirement for certain takeovers of domestic companies. At its [meeting on December 15, 2023](#), the Federal Council adopted the [dispatch on the matter](#) for the Parliament.

**Position**

Foreign Direct Investment (FDI) holds significant importance for Switzerland. In the small and open Swiss economy, the prosperity of the population and the competitiveness of companies depend directly on their integration into global value chains. Given that Swiss companies themselves are among the largest direct investors abroad, Switzerland has a particular interest in ensuring that access to international investment markets is as non-discriminatory and transparent as possible. This goal is most likely to be achieved if Switzerland remains open to foreign investment.

- As part of the consultation process, the Federal Council presented a Regulatory Impact Assessment (RIA) on the preliminary draft. The RIA concludes that the cost-benefit ratio of such a new law is unfavorable; for this reason, the committee continues to oppose the introduction of an investment review, deeming the existing legal framework sufficient. SwissHoldings supports this position.
- However, the question of whether Switzerland should introduce an investment review cannot be assessed in isolation from

international developments. If restrictions on certain foreign investments are introduced universally by OECD member states, this must be taken into account when assessing the Swiss regulatory approach, not least to prevent a pull effect on the Swiss economy.

Investment Protection Agreements



Executive Summary

SwissHoldings closely follows the developments surrounding the investment agreements and emphasises the great importance of these agreements for Switzerland as a business location. With over 111 Bilateral Investment Protection Agreements (BITs), Switzerland boasts the third-largest network of such agreements globally. These agreements serve as a crucial pillar in enhancing Switzerland's appeal as a business location. Currently, an agreement is being formulated with Indonesia, and SwissHoldings is actively monitoring the developments surrounding these investment agreements, emphasizing their significant importance for Switzerland as a business destination.



Contents

Switzerland maintains a network of 111 Bilateral Investment Protection Agreements (BITs), positioning it as the third-largest global network after Germany and China, according to UNCTAD. By entering into Investment Protection Agreements (IPAs), Switzerland enhances the regulatory framework, thereby augmenting its attractiveness as an international investment destination.



Stance

With a change in practice by the Federal Council, Investment Protection Agreements (IPAs) are now subject to an optional state treaty referendum, in addition to free trade agreements. The first IPA undergoing consultation is the new agreement with Indonesia, addressing the contractual gap that emerged since the expiration of the previous agreement in 2016.



Position

Direct investments are key for Switzerland: the prosperity of the population and the competitiveness of companies in the small and open Swiss economy depend directly on their integration into global value chains. Investment promotion and protection agreements play an essential role here: foreign investments not only entail economic risks for companies, but also political risks. This makes treaties between states to protect and promote foreign investment activity even more important.

Effective investment protection requires an investor-state arbitration mechanism: investor-state dispute settlement procedures have proven their worth both for Switzerland and for Swiss companies. They build on existing international structures (ICSID, UNCITRAL) and enable disputes to be resolved in a relatively timely, objective and politically independent manner.



Corporate Social Responsibility

Corporate Responsibility



Executive Summary

The Responsible Business Initiative faced rejection at the ballot box on November 29, 2020, leading to the enactment of the indirect counter-proposal. Swiss companies are set to adhere to the new regulations for the first time in 2024, covering the 2023 financial year. Additionally, the Federal Council has indicated its intention to review the adaptation of laws in alignment with the EU's evolving regulatory approaches in the realms of sustainability reporting and due diligence. A consultation draft on reporting is slated for release at the beginning of June.



Contents

The emerging regulatory approaches in sustainability aim to embed Prof. John Ruggie's three-pillar principle to promote compliance with human rights and environmental regulations in the value chains of globally active companies, including legislative considerations.



Stance

In the aftermath of the Responsible Business Initiative's rejection, the indirect counter-proposal, primarily modeled on the corresponding regulatory approaches of the EU in sustainable corporate governance, has been enacted. Given the EU's continuous expansion of provisions in this domain, Switzerland is currently evaluating potential amendments to relevant laws. A consultation draft on Environmental, Social, and Governance (ESG) reporting is expected in early June.



Position

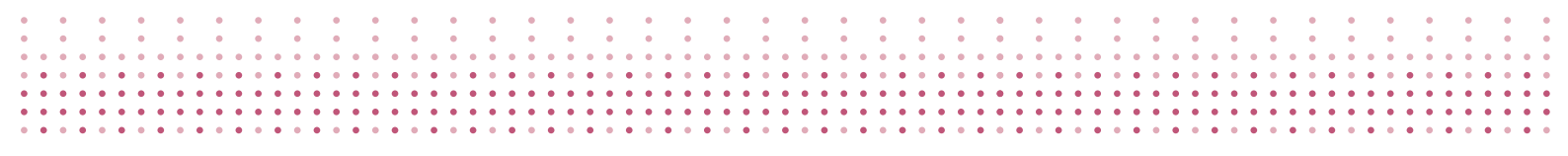
Many Swiss companies have recently invested substantial efforts in complying with the new due diligence and reporting obligations in Switzerland. The first reports are anticipated next year. The business community urges the Federal Government to coordinate extensively across departments for upcoming tasks in this domain and to avoid overburdening companies. Any adjustments resulting from new regulatory projects should adhere to established practices, including a careful assessment of cost implications for companies. Importantly, the dynamic nature of ESG regulation outside the EU must be considered, given the broad global base of the Swiss economy. Over 50 percent of its exports presently go to countries outside the European Union. To prevent duplication, close coordination with globally applicable ESG standards is essential.

Collective Legal Protection



Executive Summary

Switzerland is presently undergoing political deliberations on the potential expansion of its existing array of collective redress instruments. In December 2021, the Federal Council issued the corresponding dispatch for parliamentary consideration. However, from the business community's perspective, the bill is not ripe for parliamentary discussion. The Federal Council's proposal is criticized for approaching dispute resolution from a limited perspective, exclusively focusing on a specific procedural law instrument.



It fails to consider international developments in recent years, new technological possibilities, and potential alternatives to court-based class actions.



Contents

The proposed class action bill entails the expansion of the existing class action, the creation of a new class action for pursuing compensation claims, and a novel option for settlements declared binding by the courts.



Stance

In December 2021, the Federal Council presented the dispatch on the class action bill and forwarded it to Parliament. Last June, the National Council's Legal Affairs Committee (RK-N) commenced its deliberations on the matter, expressing reservations about the Federal Council's proposal. Consequently, the committee opted not to take a stance on the bill at the moment and tasked the Federal Office of Justice (FOJ) with conducting extensive further investigations. However, the audit reports from the administration, now available (see also [the media release from the RK-N](#)) only minimally address the committee's valid fundamental concerns regarding the introduction of class action instruments. This stands in stark contrast to ongoing discussions at the EU level, where comprehensive "safeguard" measures to mitigate potential risks of abuse of these instruments are being considered. Such measures include a fundamental ban on commercial litigation funding or a general restriction on access to ordinary civil proceedings through a preliminary examination clause. Consequently, the Commission decided at the beginning of July, during its last deliberation, that an extended examination of security measures and validation of the existing RFA report through direct interviews with companies is necessary before deciding on further proceedings. The Commission is expected to resume its deliberations in the first quarter of 2024.



Position

For the economy, the emphasis lies in efficiently balancing the interests of various parties. Various instruments serve this purpose, with international developments indicating the empirical superiority of certain instruments over others. Therefore, it is crucial that the discussion takes place at an appropriate level. The Federal Council's assertion of the need for action in the dispatch at the civil proceedings level means that significant alternatives are excluded from the outset. This exclusion must be countered by the analyses commissioned by the Commission. The investigations by the Federal Administration aim to demonstrate how other countries are addressing tensions arising from the phenomenon of mass and scattered damages. Notably, the promising model in Scandinavian countries deserves special attention, given the overwhelmingly positive experiences with this approach in Scandinavia.

Accounting and reporting

IFRS Standardization



Executive Summary

SwissHoldings diligently monitors developments in the realm of IFRS standardization. For its globally engaged members, the presence of a universally recognized reporting standard holds pivotal significance as the foundation for their own reporting. Following the convergence process with the US standard US GAAP, the evolution of standards has somewhat stabilized. Additionally, the IFRS Foundation's newfound focus on ESG reporting is progressively assuming a more prominent role in the organization's undertakings.



Content

The IFRS Foundation functions as a non-profit foundation, aiming to formulate high-quality global accounting standards, promote the utilization and implementation of these standards, and facilitate the alignment of national accounting standards with its global counterparts. The Foundation supervises the activities of both the IASB (International Accounting Standards Board), responsible for financial standards, and the ISSB (International Sustainability Standards Board), responsible for non-financial standards.



Stance

In the recent period, the IASB concluded two projects: "Business Combinations under Common Control" and "Extractive Industries." Additionally, work on the IAS 32 project (Classification as Equity or Liabilities) continued. Simultaneously, the ISSB, the collaborating standard-setting partner, is making progress in the realm of sustainability reporting. In recent weeks, the ISSB released the initial two standards (S 1 and S 2). S 1 pertains to the overarching level, delineating principles for presenting sustainability-related opportunities and risks in a comprehensive manner. On the other hand, S 2 specifically addresses climate-related reporting. SwissHoldings remains actively engaged in monitoring the activities of the IFRS Foundation and contributing to pertinent consultations on behalf of its members.



Position

The detailed positions are shown in the association's statements.

Capital Markets

Monetary Policy SNB



Executive Summary

In these unprecedented times, the Swiss National Bank (SNB) is increasingly drawing attention. Several motions have been addressed at the parliamentary level, aiming to link the SNB's distributions to specific purposes. Additionally, recent proposals have surfaced advocating for a reform of the SNB's governance structure. Ensuring the bank's ability to operate independently of political interests is of paramount importance. The Swiss National Bank (SNB) operates under a distinct mandate: to uphold price stability, a critical factor in our prosperity.



**Contents**

In these unprecedented times, the Swiss National Bank (SNB) is increasingly drawing attention. Several motions have been addressed at the parliamentary level, aiming to link the SNB's distributions to specific purposes. Additionally, recent proposals have surfaced advocating for a reform of the SNB's governance structure. Ensuring the bank's ability to operate independently of political interests is of paramount importance. The Swiss National Bank (SNB) operates under a distinct mandate: to uphold price stability, a critical factor in our prosperity.

**Stance**

SwissHoldings will diligently monitor ongoing developments. From the association's standpoint, the SNB's current trajectory has proven effective. The organization is wary of any potential "politicization" or additional earmarking of the SNB's profits.

