

## ECONOMICS DEPARTMENT



### Contact

**Denise Laufer** Head Economics & Member Executive Committee

✉ [denise.laufer@swissholdings.ch](mailto:denise.laufer@swissholdings.ch)

☎ +41 (0)76 407 02 48

## Trade and Investment Policy

### Bilateral Relations between Switzerland and the EU



### Executive Summary

**Switzerland has a dense network of bilateral agreements with the EU. By updating five existing agreements with two new internal market agreements and based on cooperation in research, education, and health, the Swiss-EU relationship is to be further developed and stabilized. However, the EU has linked this further development of the network of agreements to a clarification of the institutional framework. The package approach is now to be used for this purpose. Instead of regulating institutional issues as a whole in a horizontal agreement, these issues are now to be resolved individually in each agreement on a sector-specific basis. SwissHoldings welcomes the Federal Council's efforts, based on a new package of agreements with the EU ("Bilaterals III"), to put existing relations on a solid and lasting footing. At the same time, the association believes it is important to work towards an even better understanding of the longer-term effects of the dynamic adoption of legislation on Switzerland as a business location before concluding an agreement with the EU.**



### Stance

At the end of December 2023, the Federal Council adopted the draft negotiating mandate with the EU for the so-called "Bilaterals III" and submitted it for domestic political consultation. At the heart of this mandate is a package approach. Instead of regulating institutional issues as a whole in a horizontal agreement, these issues are now to be resolved individually in each agreement on a sector-specific basis. SwissHoldings participated in the consultation process with its own submission. On Friday, March 8, 2024, the Federal Council formally adopted the final mandate for the EU negotiations.



### Position

SwissHoldings welcomes the Federal Council's efforts to continue to place existing relations on a solid and lasting footing based on a new package of agreements with the EU ("Bilaterals III"). The bilateral treaty relations between Switzerland and the EU, along with their significant achievements, have proven their worth for both sides. The conclusion of the planned negotiation package should have a direct positive impact on SwissHoldings member companies in various ways. The existing market access agreements can be consolidated, and further developed, and new market access agreements can be concluded. The dynamic adoption of evolving EU law, in combination with the introduction of an institutionally anchored dispute resolution mechanism, creates reliable and predictable framework conditions for Swiss companies but

may also entail further integration steps for Switzerland. However, there is a lack of reliable scenario analysis to assess how the newly planned institutional elements will affect the future shape of Swiss economic policy in general, also in the context of expected developments at a higher political level. SwissHoldings would welcome it if the Federal Council could present a corresponding report at the start of the negotiations to conduct the negotiations with a view to the longer-term effects on Switzerland's competitiveness as a business location. The assessment of the benefits of the treaty package must also take into account the necessary domestic political concessions.

## 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.***



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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 introduction of an investment review is intended to prevent takeovers of domestic companies by foreign investors if they jeopardize Switzerland's public security. On April 23, 2024, the WAK-N informed the [media](#) about its initial consultation on the draft bill. In contrast to the draft according to the Federal Council's dispatch, the committee believes that further tightening should be made to the bill, including the inclusion of non-state investors within the scope of the law.*



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The introduction of an investment review is intended to prevent takeovers of domestic companies by foreign investors if these takeovers endanger or threaten public order or security in Switzerland. To this end, takeovers of domestic companies operating in a particularly critical area by foreign state-controlled investors will be subject to an approval requirement. These areas include military equipment and goods for civilian and military use, electricity grids and production, water supply facilities and healthcare, telecommunications and transportation infrastructure. Small companies are generally exempt from the provisions.



### Stance

At its [meeting on May 18, 2022](#), the Federal Council published the [preliminary draft for a new Investment Control Act](#) and subsequently submitted it for consultation. Parliament had previously called for a corresponding legal basis by adopting [Motion 18.3021 Rieder](#). The proposal is to introduce 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 attention of Parliament. The draft bill was discussed by the WAK-N. The overall vote was postponed until June 24/25, 2024.







### Position

Foreign direct investment is of central importance for Switzerland, as it significantly promotes prosperity and competitiveness in our small and open economy. SwissHoldings advocates for a lean law that minimizes the burden on investors, while enabling the necessary controls to ensure integration into global markets. As part of the consultation process, the Federal Council presented a regulatory impact assessment on the preliminary draft, which reveals an unfavorable cost-benefit ratio for a new law. For this reason, the committee continues to oppose the introduction of an investment review, considering the existing legal framework to be sufficient. SwissHoldings supports this position. However, it should also be considered that the question of whether Switzerland should introduce an investment review cannot be assessed in isolation from international developments. If OECD member states introduce nationwide restrictions on certain foreign investments, 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.***



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As per the Federal Council's dispatch, the Class Action Bill entails the expansion of the existing class action, the establishment of a new class



action for asserting compensation claims, and the introduction of a new mechanism for court-declared binding settlements.



### Stance

The introduction of class actions has been under discussion in Switzerland for over ten years. The National Council's Legal Affairs Committee has been discussing the introduction of extended class actions and group settlements for two years. In April, the committee once again decided not to act on the bill. Instead, it has tasked the administration with clarifying how the bill should be viewed in light of the ECtHR ruling in favor of the Swiss "climate senior citizens" (see also [press release](#) from the Committee on Legal Affairs). The bill will therefore not be discussed by the National Council until the fall session at the earliest.



### Position

The business community clearly rejects the Federal Council's proposal for the introduction of extended representative actions and class settlements. This was also evident from [the recently published survey](#) conducted by the Sotomo Research Center under the direction of renowned political geographer Michael Hermann. It is unnecessary and dangerous. A look abroad confirms this. There is no reason to follow such undesirable developments in Switzerland. The proposal should therefore no longer be pursued. Efficient dispute resolution instruments exist for the efficient settlement of collective claims outside of civil proceedings and therefore outside of courtrooms. Especially in the wake of current technological developments, solutions are possible here, which are significantly superior to the Federal Council's ten-year-old proposal. Switzerland would do well to focus on the right technology instead of introducing outdated and obsolete instruments into our legal system.

## 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.***

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 **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.

