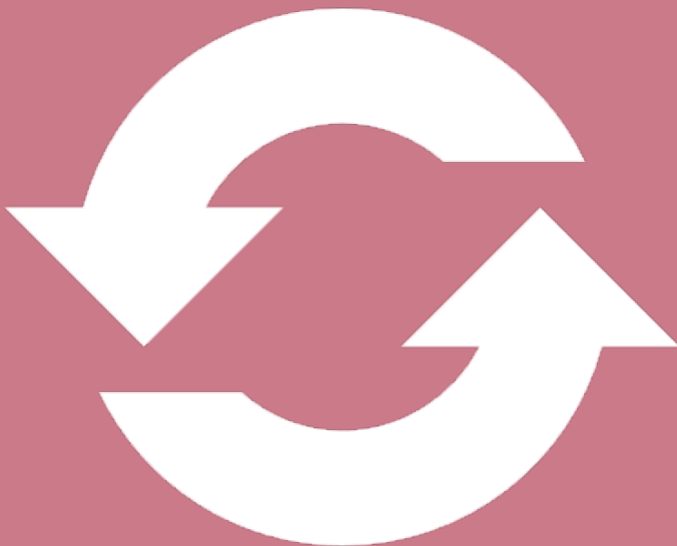


Update

December 2024



LAW DEPARTMENT



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Capital Market Law

Draft Register of Beneficial Owners



Executive Summary

The bill for a Federal Law on the Transparency of Legal Entities aims to further strengthen the integrity of Switzerland as a financial and business location. Measures are to be introduced, including the creation of a Federal Register of Beneficial Owners and other targeted steps to enhance the fight against money laundering and white-collar crime. The proposed measures will also comply with the international standards set by the Financial Action Task Force and the Global Forum on Transparency and Exchange of Information for Tax Purposes.



Contents

The [bill](#) has two main objectives: Firstly, the transparency of legal entities is to be increased in order to enable authorities to identify beneficial owners more efficiently. To this end, a Federal Register of Beneficial Owners is to be introduced, and certain advisory activities will be subject to the Anti-Money Laundering Act with corresponding due diligence obligations in the future. Secondly, the bill contains legislative amendments to improve the effectiveness of the fight against money laundering, including revising supervisory regulations and introducing additional measures in specific sectors such as real estate and precious metals trading.



State

On May 22, 2024, the Federal Council adopted the dispatch on strengthening the fight against money laundering (see [press release](#)). According to the press release, the bill is particularly intended to introduce a central register for identifying beneficial owners and impose due diligence obligations for high-risk activities in the legal professions. The Legal Affairs Committee of the Council of States (LAC-S) held hearings in June and decided on August 26 to support the proposal. However, the LAC-S remains skeptical about the new due diligence obligations for advisory activities. The LAC-S is of the opinion that these due diligence obligations, in their current form, would impose a disproportionate additional burden on the persons subject to them and are not risk-based. Consequently, the Committee has decided to discuss the draft in two parts and transfer the partial revision of the Anti-Money Laundering Act to Draft 2. In addition, they will also plan to send the part on the transparency register (draft 1) to the Council of States for discussion in the winter session.



Outlook

The Council of States will discuss the transparency register (draft 1) on December 18. The LAC-S is expected to discuss the partial revision of the Anti-Money Laundering Act (draft 2) on February 25, 2025.



Position

SwissHoldings, in principle, supports the deal but is critical of its division into Draft 1, concerning the Transparency Register, and Draft 2, addressing Due Diligence Obligations in advisory activities, particularly in light of the upcoming OECD Country Audit in 2027. In

this context, SwissHoldings advocates for the business to be consolidated and addressed comprehensively. We identify a significant need for adjustments regarding the following points:

- **Full Exemptions for Listed Companies and Their Subsidiaries:** The Association is committed to ensuring that listed companies and their subsidiaries receive full exemptions from specific regulations. These companies already adhere to effective reporting and disclosure obligations for shareholders and beneficial owners, which come into effect when a threshold of 3 percent of the share capital or voting rights is reached. Furthermore, the accounting standards and reporting obligations of the SIX Swiss Exchange, applicable to listed companies, impose a disclosure obligation for subsidiaries, thereby enhancing transparency.
- **Limitation of Access to Beneficial Owner (BO) Information:** SwissHoldings demands that access to information regarding beneficial owners be restricted to the relevant authorities engaged in combating money laundering and terrorist financing. Consequently, the register should not be made publicly accessible.
- **Negligent Breach of the Duty to Report and Provide Information:** A negligent breach of the duty to report and provide information should not be subject to the criminal provisions outlined in Art. 41 of the Anti-Money Laundering Act (AMLA). In our view, it is also essential that negligence concerning a breach of the reporting obligation under Art. 37 AMLA is not subject to criminal prosecution. The submitted dispatch appropriately omits sanctions for negligent violations.

Revision of the Financial Market Infrastructure Act (FMIA)



Executive Summary

According to a report by the Federal Department of Finance (FDF), the Financial Market Infrastructure Act (FMIA) has largely proven effective to date. The Federal Council is subjecting the Act to a periodic and general review. In particular, transparency and legal certainty in certain regulatory areas are to be strengthened. The consultation on this matter was opened on June 19, 2024, and will remain open until October 11, 2024.



Contents

The Financial Market Infrastructure Act (FMIA) regulates the licensing and obligations of financial infrastructures, as well as the conduct obligations of financial market participants in securities and derivatives trading. Even before it came into effect in January 2016, the Federal Council announced that the Federal Department of Finance (FDF) would subject the FMIA to a general review and prepare a report.



State

In this [report](#), the Federal Department of Finance (FDF) concludes that the Financial Market Infrastructure Act (FMIA) has largely proven its value since coming into effect. However, it is necessary to further strengthen transparency and legal certainty in certain regulatory areas. Additionally, the Federal Council has decided to implement the reporting obligation for small non-financial counterparties regarding derivatives transactions, which will come into force on January 1, 2028.



SwissHoldings submitted its response for consultation on October 4, 2024. The FDF is currently evaluating the consultation responses.



Outlook

The dispatch on the revision of the FMIA is scheduled to be published before summer 2025.



Position

The proposed amendments to derivatives regulation represent an improvement in principle and are, therefore, to be welcomed. However, we firmly reject the proposed transfer of ad hoc notifications of holdings from self-regulation to state regulation under the supervision of FINMA. Self-regulation has demonstrated its effectiveness and should not be abandoned without compelling necessity; instead, it should be preserved as a competitive locational advantage. SwissHoldings has expressed this position accordingly during the consultation process.

Competition Law & Policy

Amendment of the Cartel Act: Partial Revision



Executive Summary

On May 24, 2023, the Federal Council adopted the [dispatch](#) on the partial revision of the Cartel Act ([23.047](#)). This revision aims, in particular, to modernize Swiss merger control and align it with international standards. Additionally, it seeks to strengthen Civil Antitrust Law and make the objection procedure more practicable. In this context, the Federal Council has directed the Federal Department of Economic Affairs, Education, and Research (EAER) to submit a proposal for institutional reform in the first quarter of 2024. The Council of States completed its deliberations on the partial revision of the Cartel Act in the second quarter of 2024. The National Council's Economic Affairs and Taxation Committee (WAK-N) is expected to discuss the partial revision at the beginning of October 2024. SwissHoldings expressly welcomes the inclusion of the long-requested institutional reform as part of this revision.



Contents

The change from the Qualified Market Dominance Test to the Significant Impediment to Effective Competition Test (SIEC Test) aims to align the practices of the Competition Commission (COMCO) with international standards. According to [the report by the State Secretariat for Economic Affairs \(SECO\)](#), the proposed changes should enable targeted prohibitions or approval of mergers in cases of significant impairment of competition. The proposal also includes a simplified notification requirement for mergers at the European level and a regulation on the extension of deadlines in the review process. Another component of the legislative amendment is the strengthening of Civil Antitrust Law, with an extension of the right to bring an action. Additionally, the opposition procedure is set to be made more practicable by removing the direct risk of sanctions if an investigation is not initiated within the shortened deadline.



State

As part of the preparation of the dispatch on the partial revision of the Cartel Act (Cartel Act), the Federal Council integrated two demands from [Motion 16.4094 Fournier](#) aimed at improving the position of small and medium-sized enterprises (SMEs) in competition proceedings. These include the introduction of time limits and party compensation for first-instance proceedings before the Competition Commission (COMCO). Additionally, the preliminary draft includes a proposal for

the implementation of [Motion 18.4282 Français](#), adopted in June 2021, which takes both qualitative and quantitative criteria into account. Lastly, the draft includes provisions on the principle of investigation, the presumption of innocence, and the burden of proof, in order to implement the requirements of [Motion 21.4189 Wicki](#). Further information can be found [in the press release and the consultation documents](#).

The Council of States discussed the matter during the summer session and rejected the obligation for the competition authorities to demonstrate harmfulness. On October 8, 2024, the WAK-N conducted hearings on the matter, identified a need for clarification on several provisions and proposals, and consequently commissioned the WBF to prepare a supplementary report. The report focuses on the implementation of Motion 18.4282 Français, target prices in the health insurance sector, and an exemption for professional sports operations.



Outlook

The WAK-N is expected to discuss the matter further in January 2025 once the report is available.



Position

In particular, SwissHoldings expects the strict implementation of the Français and Wicki Motions. Both Motions require that authorities and courts must once again consider the actual effects of an agreement or conduct and demonstrate its harmfulness to competition. The WAK-S proposal aligns with these expectations and also introduces the necessary compliance defense (refer to the [SwissHoldings position paper to the WAK-S](#)). The Council of States, however, opposes the requirement for the competition authority to assess the actual impact of an agreement or practice on a case-by-case basis.

Amendment of the Cartel Act: Institutional Reform



Executive Summary

As part of the revision of the Cartel Act, the reform of the competition authorities will be addressed in a separate procedure, as requested by various parties during the consultation process. This approach aims to ensure that the revision of the Cartel Act does not fail once again due to obstacles. The EAER, which was tasked by the Federal Council, drafted more specific implementation proposals for the reform on March 15, 2024. Based on the final report of the Expert Commission, the Federal Council has instructed the EAER to submit a consultation draft by mid-2025.



Contents

Parallel to the ongoing partial revision of the Cartel Act, the Federal Council is advancing a separate [revision of the competition authorities](#) (hereinafter referred to as "institutional reform"). This is no longer part of the proposed Cartel Act revision but is being handled independently. This approach stems from lessons learned after the failure of the 2012 Cartel Act revision, which was rejected twice in the National Council. The institutional reform is aimed at addressing issues in administrative proceedings, particularly the separation of decision-making and investigative authorities. Back in 2012, the Federal Council proposed the creation of a Competition Authorities Act (CAA) in its dispatch on the Cartel Act (see Cartel Act revision above). This would involve reorganizing the prosecution process so that a competition authority investigates a case and then submits an application to a competition

court of first instance. This reorganization forms the core of the proposed institutional reform.



State

An independent Commission of Experts was established to make proposals for implementation. [The final report was published by the commission of experts](#), which was chaired by former Federal Judge Hansjörg Seiler, and concluded that **COMCO** generally functions well and does not display any constitutional deficiencies. Therefore, a change of system was not deemed necessary. Despite the efforts already initiated by the Federal Council concerning a reform of the competition authorities, on November 14, 2024, the WAK-S supported the objectives of Motion 23.3224 Français, *Institutional Reform of the Competition Authority*, and consequently requested its adoption. In particular, the WAK-S emphasized its commitment to addressing the issue of institutional separation between the investigating and decision-making authorities, as well as the prolonged duration of proceedings.



Outlook

[On March 15, 2024](#), the Federal Council instructed the EAER to submit a consultation draft on the reform by mid-2025, based on the final report. The reform aims to make the separation of roles more effective by ensuring that the Secretariat conducts investigations independently, without the involvement of COMCO, while COMCO retains its status as a militia authority. Additionally, it is under consideration whether COMCO could be supported by a dedicated person responsible for managing proceedings. Furthermore, the Federal Council seeks to strengthen the appeals procedure of the Federal Administrative Court by appointing part-time specialist judges. In these efforts, the Federal Council is adhering to the recommendations of the Commission of Experts. The Council of States is scheduled to discuss Motion 23.3224 Français on December 19, 2024.



Position

SwissHoldings welcomes the fact that the much-demanded institutional reform is now being addressed in parallel with the ongoing revision of the Cartel Act. The organization supports a critical debate and thorough examination of institutional reform. The proposed changes demonstrate a clear commitment to modernizing and strengthening the existing institutional structures in the field of Antitrust Law. However, it will be essential to assess whether the proposed changes, particularly a systemic shift, are truly effective and appropriate. SwissHoldings will actively participate in the consultation process, advocating for a clear separation between the investigative and decision-making authorities. Accordingly, SwissHoldings supports Motion 23.3224 Français. A corresponding position paper is currently being prepared.



TAX DEPARTMENT



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International Tax Law

OECD/G20 Project on the Taxation of the Digitalized Economy



Executive Summary

The OECD project on the taxation of the digitalized economy continues to face major challenges. It seems increasingly unrealistic that the technical differences of opinion in Pillar 1 will be resolved. There is some hope in the side project of Amount B. Pillar 2 (minimum taxation) continues to be implemented by European countries, but not by major economies such as the US, China, Brazil or India. The US elections and the resulting changes are likely to lead to significant adjustments to the existing rules. President Trump and the US Republicans are likely to influence the rules so that they do not affect US companies. By contrast, Switzerland will not be able to escape the minimum tax. It should immediately abandon the existing incentives in the competition for business locations and turn its attention to the new competition requirements as soon as they have been adopted. Otherwise, the federal government's current financial problems can only be solved with a truly painful austerity programme.



Contents

The OECD project on the taxation of the digitalised economy is based on two pillars and is intended to improve the acceptance of international corporate taxation. The work is being carried out by the OECD Secretariat. The new tax rules are formally adopted by the 'OECD/G20 Inclusive Framework on BEPS' (hereinafter: IF), which comprises more than 140 states. In October 2021, the IF countries adopted the political parameters for the two pillars. Since then, intensive work has been ongoing on the technical implementing provisions. In the case of Pillar 1, a multilateral agreement is to be submitted to the states for signing and subsequent ratification before the end of 2024. Pillar 2 will not be implemented by means of a multilateral agreement, but rather through the uniform implementation of the rules that have been jointly developed but individually adopted by the states ([common approach](#)).



State

The future of the G20-initiated project to tax the digital economy remains uncertain. The initial euphoria has completely evaporated. The last technical differences of opinion regarding Pillar 1 should have been resolved long ago so that the multilateral convention can be signed and subsequently ratified. The signing process should have started at the end of June 2024, but in mid-December there is still no date. This increases the likelihood that work on a multilateral convention will fail. The only hope of progress remains on a side issue (Amount B). Furthermore, there are serious doubts as to whether the rules of the convention will ever come into force, as the US is unlikely to ratify the agreement. Without the US, the redistribution of tax base cannot start.



The situation regarding the OECD minimum taxation (Pillar 2) appears somewhat better: by the beginning of 2024, almost all European countries have started implementing it. However, the US, China, Brazil, India and the majority of IF member states are still not showing any signs of introducing the minimum tax, which is why it is currently seen as primarily a European project (to weaken the attractiveness of their own locations; [letter from US Congress members 17 September 2024](#)).



Outlook

Many states would like to support industrial companies and attract additional investment instead of creating tax obstacles. The global competition to attract successful industrial companies, their attractive jobs and high tax payments is raging harder than ever before.

Whether the minimum tax will be implemented globally or remain a regional project will likely depend to a large extent on the demands of the new US administration under Donald Trump, which cannot be foreseen at present. The aim of the USA will be to strengthen its own competitiveness and to ensure that the minimum tax does not stand in the way of this, neither domestically nor, preferably, for US corporations, abroad. If other states voluntarily choose to make themselves less competitive by means of the minimum tax, this will probably be just what the US wants. China, too, is likely to look after itself first and, in view of its economic situation, will not decide on any measures that would place a burden on its own internationally active companies. At the end of 2025, the protective effect of the transitional UTPR safe harbour will end for many states and their companies. This means that from 2026, UTPR states such as Germany could also access US profits that are taxed too low, such as those of many US corporations like Google, Microsoft, etc. However, the US or China will never allow this. Therefore, the year 2025 could still bring substantial changes to the OECD minimum tax.

The economically successful small state of Switzerland will have to fight hard to prevent unfair rules from being adopted at the expense of Switzerland and in favor of EU states or the USA or China. In doing so, Switzerland must prepare itself for a very tough economic war waged with unfair means. Disadvantages for Switzerland as a business location are likely to have a financial impact on the federal government and the cantons in the near future.



Position

Despite the aforementioned uncertainty regarding the global spread of minimum taxation, SwissHoldings supports the Federal Council's decision of 4 September to introduce the foreign supplementary tax IIR at the beginning of 2025. Switzerland is not the USA or China, which can escape minimum taxation. Nor can we influence the rules in such a way that special exceptions are made for Switzerland internationally. In view of the uncertainty, it is important that Switzerland reacts flexibly to changes in the framework conditions for minimum taxation and restores or secures its attractiveness as a business location in the best possible way. To this end, Switzerland must vehemently oppose discriminatory regulations at the international level. It is not acceptable for the IF to retrospectively tighten minimum taxation rules significantly

by means of administrative guidelines or to decide on important exceptions for major powers.

Since the competition between locations is fiercer than ever and the willingness of states to face up to the competition is being closely monitored by international companies, the federal government and cantons cannot simply stand aside. Otherwise, the abundant tax revenues of international companies are likely to decrease rapidly. Without these revenues, it will be extremely difficult for the federal government in particular to overcome its current financial problems without resorting to painful austerity programmes. The federal government and the cantons should therefore immediately adapt to the adjusted competition between locations and develop new, internationally accepted instruments, as well as generally improve their attractiveness as business locations in the area of digitalisation and many other areas. The problem, however, is that the rules for what internationally permissible location measures should look like are only now being developed. Until these rules are fully developed, there is always a risk that the cantons' plans will be thwarted.



Scan QR code
or click.

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



ECONOMICS DEPARTEMENT



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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 strengthening cooperation in research, education, and health, the Swiss-EU relationship is to be further developed and stabilized. However, the EU has conditioned this further development of the network of agreements on the clarification of the institutional framework. A package approach is now being used for this purpose. Rather than addressing institutional issues in a single horizontal agreement, these issues will 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 place existing relations on a solid and lasting foundation. At the same time, the association emphasizes the importance of gaining a deeper understanding of the longer-term effects of the dynamic adoption of EU legislation on Switzerland as a business location before concluding a treaty with the EU.



State

On March 8, 2024, the Federal Council formally adopted the final mandate for the EU negotiations, following extensive consultations with stakeholders in Switzerland. SwissHoldings participated in the consultation process with its own submission. At the core of this mandate is a package approach. Rather than addressing institutional issues as a whole in a horizontal agreement, these issues will now be resolved individually in each agreement on a sector-specific basis.



Position

SwissHoldings welcomes the Federal Council's efforts to continue placing existing relations on a solid and lasting foundation through 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 beneficial for both sides. The conclusion of the planned negotiation package should have a direct positive impact on SwissHoldings member companies in various ways. Existing market access agreements can be consolidated and further developed, while new market access agreements can be negotiated. The dynamic adoption of evolving EU law, combined with the introduction of an institutionally anchored dispute resolution mechanism, will create reliable and predictable framework conditions for Swiss companies. However, this may also lead to further integration steps for Switzerland. Nevertheless, there is a lack of reliable scenario analyses to assess how the newly planned institutional elements will affect the future direction of Swiss economic policy, particularly in the context of expected developments at the political level.

In light of this, the Association supports SR Burkart's interpellation. The evaluation of the benefits of the treaty package must also consider the necessary domestic political concessions.

Free Trade Agreement



Executive Summary

The Swiss economy has a strong international focus, engaging extensively in cross-border trade and investment activities. Enhancing access to foreign markets, including through free trade agreements, is therefore a key priority of Swiss foreign policy.



Contents

In addition to its trade relations with the EU, the highly export-oriented Swiss economy relies on an extensive network of free trade agreements (FTAs), which has been continuously expanded. Notably, the FTA with India, signed on March 10, 2024, represents an important milestone in Switzerland's trade policy after 16 years of negotiations.

At the same time, China and Switzerland have agreed to begin discussions on expanding their existing free trade agreement. This development further underscores the significance of free trade, particularly in light of the export volume of CHF 40.6 billion in 2023.



State

The Swiss economy has a strong international focus and engages in extensive cross-border trade and investment activities. A central objective of Swiss foreign policy is to improve access to foreign markets through free trade agreements. In addition to the EFTA Convention and the agreement with the EU, Switzerland has 33 free trade agreements with 43 partners worldwide.

Switzerland is currently negotiating with six new partners, including Kosovo, Malaysia, Mercosur, Thailand, and Vietnam, and is modernizing existing agreements with countries such as Chile, Mexico, and the South African Customs Union. China and Switzerland have also agreed to expand their free trade agreement.

Furthermore, the Federal Council recently adopted the dispatch for the free trade agreement between the EFTA states and India for submission to Parliament. The Council of States subsequently approved the FTA with India in the winter session, with 41 votes in favor and only three abstentions.



Position

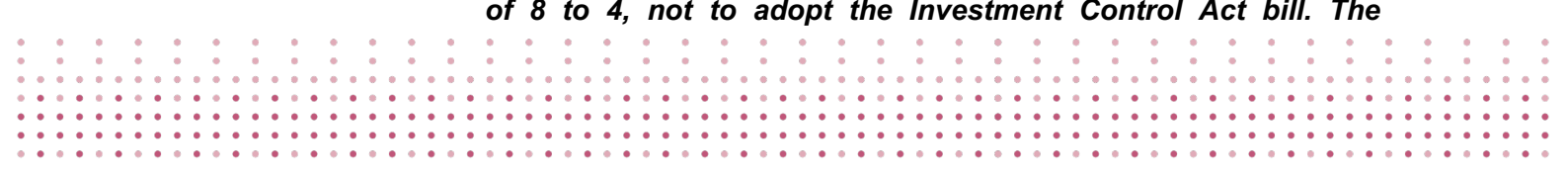
Particularly against the backdrop of growing trade conflicts worldwide, the declining influence of the World Trade Organization (WTO), and the rise of protectionism in general, the expansion of the network of free trade agreements is extremely important for Switzerland's export-oriented economy and, consequently, for the member companies of SwissHoldings.

Investment Controls



Executive Summary

The introduction of an investment review was intended to prevent takeovers of domestic companies by foreign investors that could endanger public safety. However, the WAK-S decided, by a vote of 8 to 4, not to adopt the Investment Control Act bill. The



committee's majority argued that the bill would undermine the attractiveness of Switzerland as a business location and reduce legal certainty, while offering limited benefits, as critical infrastructures are already adequately protected. Additionally, the extensions proposed by the National Council were criticized for creating unnecessary bureaucracy without delivering significant added value.



Contents

The introduction of an investment review aims to prevent foreign investors from taking over domestic companies if such takeovers threaten public order or security in Switzerland.



State

In December 2023, the Federal Council submitted the dispatch on the Investment Protection Act (IPA) to Parliament. Following significant amendments by the National Council, the bill was reviewed by the WAK-S on October 22, 2024. During this session, the committee conducted hearings with SwissHoldings and other associations to assess the impact of the National Council's extensions to the bill.

On November 14, 2024, the WAK-S decided, by a vote of 8 to 4, not to adopt the bill. In balancing security and economic policy interests, the majority of the committee concluded that the disadvantages of introducing an investment review outweighed the potential advantages (see also [the committee's press release](#)): As a small and open economy, Switzerland would face significant challenges, including a reduced attractiveness as a business location and diminished legal certainty. Additionally, strategically unobjectionable yet vital foreign direct investments would be unnecessarily impeded. The majority also expressed concerns that Switzerland could face retaliatory measures from other countries.

The committee noted that critical infrastructures are largely under public ownership, minimizing the risk of strategically undesirable takeovers. Furthermore, the majority viewed the National Council's extensions as an excessive encroachment on cantonal competencies. However, a minority supported the adoption of the bill, arguing that investment controls are necessary in light of the current geopolitical context and the absence of effective protection mechanisms.

The Council of States is scheduled to discuss the bill during its 2025 spring session.



Position

Foreign direct investment is of central importance to Switzerland, as it significantly contributes to the country's prosperity and competitiveness as a small and open economy. SwissHoldings supports a streamlined legal framework that minimizes the burden on investors while ensuring the necessary controls to facilitate integration into global markets.

The proposed expansion of the Investment Control Act would unnecessarily increase bureaucracy and weaken Switzerland's attractiveness as a business location without delivering meaningful added value. A regulatory impact assessment also revealed an unfavorable cost-benefit ratio.



SwissHoldings welcomes the WAK-S's decision not to adopt the bill, emphasizing that critical infrastructures are already adequately protected and that the benefits of additional controls remain limited. A reliable business location must inspire investor confidence and should not be undermined by excessive state intervention.

Investment Protection Agreement



Executive Summary

SwissHoldings closely monitors developments regarding investment agreements and emphasizes their significant importance for Switzerland as a business hub. With over 111 bilateral investment protection agreements, Switzerland boasts the third-largest network of such agreements globally. Due to a recent change in practice by the Federal Council, Investment State Agreements (ISAs) are now also subject to an optional state treaty referendum, in addition to free trade agreements. The first ISA to be submitted for consultation under this new framework is the agreement with Indonesia.



Contents

Switzerland has a network of 111 bilateral investment protection agreements (BITs). According to UNCTAD, this gives Switzerland the third-largest network of such agreements worldwide, following Germany and China. By concluding Investment State Agreements (ISAs), Switzerland enhances the framework conditions for international investments, thereby strengthening its attractiveness as a destination for global investors.



State

Due to a change in practice by the Federal Council, Investment State Agreements (ISAs) are now subject to an optional state treaty referendum, in addition to free trade agreements. The first ISA to undergo this consultation process is the new agreement with Indonesia, which fills the contractual gap that has existed since the previous agreement expired in 2016. SwissHoldings will continue to closely monitor regulatory developments surrounding these investment agreements and underscore the critical importance of ISAs and international arbitration for Swiss companies and Switzerland as a competitive business location.

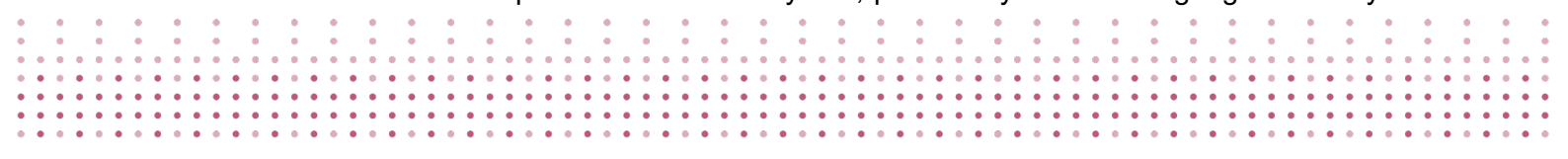


Position

Direct investments are vital to Switzerland: the prosperity of its population and the competitiveness of its companies in the small and open Swiss economy depend heavily on integration into global value chains. In this context, investment promotion and protection agreements are of critical importance. Foreign investments carry not only economic risks for companies but also political risks, underscoring the importance of treaties between states to safeguard and encourage foreign investment activity.

Effective investment protection hinges on the presence of an investor-state arbitration mechanism. Investor-state dispute settlement (ISDS) procedures have proven effective for both Switzerland and Swiss companies. These mechanisms rely on established international frameworks, such as ICSID and UNCITRAL, and facilitate the resolution of disputes in a timely, objective, and politically independent manner.

The structure of investment protection has undergone continuous improvement in recent years, particularly in enhancing legal certainty



and safeguarding against misuse. The association has consistently supported efforts to further develop the dispute resolution system.

CORPORATE SOCIAL RESPONSIBILITY

Corporate Responsibility



Executive Summary

Regulatory developments in the area of sustainability have been highly dynamic worldwide, particularly within the EU. The Federal Council is currently assessing how these EU regulations might be implemented in Switzerland. However, the process is marked by significant uncertainty. Meanwhile, the EU Commission has announced plans to simplify existing regulations to alleviate the regulatory burden on companies.



Contents

Global developments, particularly within the OECD and the EU, have advanced significantly in recent years in the areas of non-financial reporting and due diligence obligations, the latter following intense political debate. As part of its Green Deal, the EU has adopted numerous regulations aimed at establishing itself as a global standard-setter.

The Federal Council is currently assessing the extent to which Switzerland should adopt the EU's regulatory approaches. However, this process is marked by considerable uncertainty, particularly in light of recent developments within the EU. The EU Commission has set a key course for more efficient regulation, announcing plans to develop an "omnibus" regulation that consolidates ESG reporting obligations under existing frameworks, such as the CSRD, taxonomy, CSDDD, and, where applicable, the SFDR and EUDR.

The proposed regulation aims to streamline reporting by reducing the number of required data points, thereby enhancing reporting efficiency. A draft is expected in 2025. These measures have the potential to significantly reduce the regulatory burden while strengthening the competitiveness of European companies.



State

The Federal Council's consultation on expanding sustainability reporting rules in Switzerland concluded in mid-October. During the preparation of the preliminary draft, the Federal Administration evaluated several options for the expansion: 1. **Full implementation** of the EU Corporate Sustainability Reporting Directive (CSRD), 2. **Partial implementation** of the CSRD, and 3. Retention of the **status quo**.

The committee ultimately opted for the partial implementation of the EU Directive and incorporated this approach into the preliminary draft. SwissHoldings actively participated in the consultation process (see the [association's response](#) to the consultation for further details). The Federal Council is expected to provide an update on its strategy concerning the new EU Corporate Sustainability Due Diligence Directive (CSDDD) shortly. It has announced plans to commission an

external study to assess the directive's impact on Swiss companies before deciding on the next steps.

Position

Many Swiss companies have recently made significant efforts to implement the new due diligence and reporting obligations introduced under the counter-proposal to the Responsible Business Initiative. The first reports are set to be published this year. The business community has urged the Federal Government to ensure cross-departmental coordination in upcoming work in this area and, importantly, to avoid overburdening companies.

Global developments in sustainability regulation, particularly in the EU, have gained considerable momentum. Given the international scope of Swiss companies, Switzerland must consider this evolving regulatory landscape. SwissHoldings welcomes the Federal Council's review of existing sustainability rules but emphasizes the importance of Switzerland developing an independent regulatory approach to remain competitive in global markets. While alignment with EU regulations is important, a broader, global perspective is crucial since over 50% of member companies' exports are directed to non-EU countries.

It is important that Swiss legislators do not impose requirements on the content of the report that differ from the EU regulatory approach, in order to avoid duplicating companies' implementation processes. At the same time, simplifications should be made to reduce implementation costs as much as possible. Switzerland should keep the regulatory burden within reasonable limits. In the area of reporting, the association rejects an extension of the new provisions to small and medium-sized enterprises and recommends generally dispensing with an audit requirement for sustainability reports. In addition, the proven 'comply or explain' principle should be retained so that companies only have to disclose relevant information.

SwissHoldings questions the near-direct adoption of EU regulations as the right strategy for Switzerland. The EU's Green Deal has resulted in over 168 legislative initiatives to promote sustainable business practices, with 76 already in force. These include the Corporate Sustainability Reporting Directive (CSRD), Supply Chain Act, Taxonomy Regulation, Sustainable Finance Disclosure Regulation (SFDR), and Carbon Border Adjustment Scheme (CBAM). This regulatory approach, a hallmark of the first von der Leyen Commission, has faced sharp criticism, particularly from business associations in major EU economies and experts like Mario Draghi. Draghi's recent report on strengthening EU competitiveness highlighted the detrimental impact of excessive and detailed regulations on the EU's ability to innovate and compete globally.

By extensively adopting EU regulations, Switzerland is importing these negative effects and weakening its economy and companies in terms of international competition, while a rethinking is slowly taking place in the EU.



Collective Legal Protection



Executive Summary

Switzerland is currently evaluating whether to expand its existing collective redress mechanisms. In December 2021, the Federal Council submitted a dispatch to Parliament on this matter. However, the business community has expressed concerns about these efforts. The Federal Council's proposal, which focuses solely on a specific instrument in Procedural Law, is seen as too narrow in scope. It overlooks recent developments abroad, the potential offered by new technologies, and alternatives to class actions in court proceedings. The business community advocates for a more comprehensive approach that considers these factors to ensure effective and balanced dispute resolution.



Contents

According to the Federal Council's dispatch, the proposed Class Action Bill includes several key provisions. It aims to expand the existing class action framework, introduce a new class action specifically for asserting claims for compensation, and establish a new option for settlements that would be declared binding by the courts.



State

The introduction of class actions in Switzerland has been a matter of contention for more than ten years. The National Council's Legal Commission (RK-N) has already dealt with the Federal Council's bill several times in recent years, requesting additional clarifications from the administration. On 17 October 2024, it decided by 14 votes to 10, with one abstention, not to consider the bill. The National Council is scheduled to discuss the bill during the 2025 spring session.



Position

The business community strongly rejects the Federal Council's proposal to introduce extended representative actions and class settlements. This stance is clearly reflected [in a recent survey](#) conducted by the Sotomo research center under the guidance of renowned political geographer Michael Hermann. The proposal is deemed unnecessary and risky. A review of developments abroad confirms that there is no compelling reason for Switzerland to follow such undesirable trends. Therefore, this proposal should not be pursued further. Efficient dispute resolution mechanisms already exist for the effective settlement of collective claims outside civil proceedings and, thus, outside the courtroom. Particularly in light of current technological advancements, there are solutions available that are far superior to the Federal Council's decade-old proposal. Switzerland would be better served by focusing on the right technologies rather than introducing outdated and obsolete instruments into our legal system.

Accounting and Reporting

IFRS Standardization



Executive Summary

SwissHoldings closely follows developments in the area of IFRS standardization. For its internationally oriented members, a globally recognized reporting standard is of central importance, as a basis for their own reporting. Following the convergence process with the US standard US GAAP, developments regarding the revision of the standards have flattened out somewhat. In this context, it should also be noted that the IFRS Foundation's new focus - ESG reporting - is playing an increasingly important role in the organization's work.



Contents

The IFRS Foundation is a non-profit organization dedicated to developing high-quality global accounting standards. Its objectives include promoting the use and application of these standards and facilitating the convergence of national accounting standards with international standards. The Foundation oversees the work of both the IASB (i.e. the Board that issues the financial standards) and the ISSB (i.e. the Board that issues the non-financial standards).



State

The IASB has recently issued two new standards. IFRS 18 fundamentally reorganizes the regulations for presentation and disclosure within the IFRS and will replace IAS 1 in the future. IFRS 19, on the other hand, introduces reduced disclosure requirements for companies without public accountability for the first time. Both standards are mandatory from 2027. In addition, three IASB consultation processes are currently underway. The work of the partner standard-setter ISSB is also progressing in relation to sustainability reporting. On the basis of research projects, the ISSB is currently examining the extent to which the standard-setter could include the two topics of 'biodiversity' and 'human capital' in the future. In addition, the ISSB is increasingly addressing the topic of 'interoperability' and has further expanded its cooperation with EFRAG and the GRI in this context.



Position

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

CAPITAL MARKETS

Initial Situation in Switzerland as a Financial Center



Executive Summary

The merger between Credit Suisse and UBS, finalized in March last year, has reshaped Switzerland's financial sector. While it was necessary due to the crisis, there are concerns that it could reduce competition. If this leads to fewer options or higher costs for financial services, it would harm Swiss businesses and the economy. It is crucial to ensure that the merger does not result in market distortions or reduced competition.



Contents

FINMA had already informed the Competition Commission (COMCO) prior to the publication of the merger between the two banks that it would assume responsibility for the competition law assessment, as required by law. However, it subsequently invited COMCO to issue a statement evaluating the impact of the merger on the effectiveness of competition, based on market clarifications and statements from competitors, associations, and specific clients



State

In mid-June 2024, FINMA announced in a [statement](#) that it had concluded the antitrust control procedure for the merger between UBS and Crédit Suisse without conditions, requirements or further reviews. In its control proceedings, the authority came to the conclusion that the merger between UBS and Crédit Suisse would not eliminate effective competition in any market segment, even though UBS was able to strengthen its market position in certain sub-segments. The legal requirements for intervention under merger control law were therefore not met.



Position

Our association has closely examined the effects of the merger between Credit Suisse and UBS on the Swiss financial market. The

office initiated an early exchange with members to understand their views on the new competitive landscape in the Swiss financial center and to assess whether they anticipate future gaps in certain services or business areas. This was conducted in parallel with the COMCO proceedings, which identified various challenges. However, it should be noted that developments remain dynamic: the integration of the two big banks is still in its early stages – until recently, the two banks UBS and CS have largely appeared as two different banks in the market. Furthermore, it is still unclear to what extent foreign banks can and want to establish themselves in the Swiss market.

