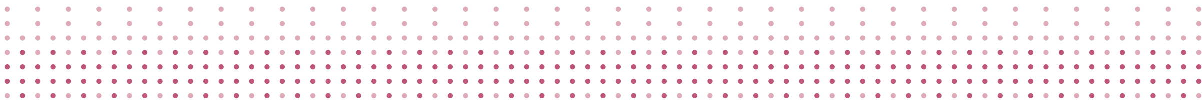
Overview (titles clickable)

Law Department 3
Competition Law 3
Revision of the Cartel Act 3
Popular initiative "Stop the high-price island - for fair prices" and indirect counter-proposal by the Federal Council 4
Corporate and capital market law 5
Covid 19 and General Assemblies 5
Completed revision to corporate law and upcoming minor revisions in corporate law 5
Amendment of the Money Laundering Act 7
Consultation on the regulations of ad hoc publicity and further adjustments 7
Compliance 8
Compliance Specialist Group as a platform for the exchange of experience among the member companies - in particular on compliance management systems 8
Revision of the Code of Civil Procedure - Collective redress – Legal professional privilege for in-house counsel 9
Data protection 10
Data protection law, ordinance law, the equivalence decision, and Schrems II 10
Taxation Department 11
Withholding Tax Reform 11
OECD/G20 project on taxation of the digital economy 13
Department of Economy 18
Trade and investment policy 18
Abolition of industrial tariffs 18
Free trade agreements 19

SwissHoldings

Investment Control 20
Corporate social responsibility 21
Corporate Responsibility Initiative 21
CSR Action Plans by the Federal Council 21
Accounting and reporting 22
Challenges relating to COVID-19 22
IFRS Standards 22
Developments on EU level 23
Capital Markets 23
Economic Policy in the Corona Crisis: Assessments by SwissHoldings 23
Sustainable Finance 24
Monetary Policy SNB 25

SwissHoldings, the association of industrial and service companies in Switzerland, comprises 59 of the largest groups in Switzerland, which together account for approximately 71 percent of the total market capitalization of the SIX Swiss Exchange. Our member companies employ around 1.7 million people globally, around 200,000 of whom work in Switzerland. Through the numerous service and supply contracts they award to SMEs, Switzerland's multinational companies employ - directly and indirectly - more than half of all employees in Switzerland.



Law Department

Competition Law

Revision of the Cartel Act

Current status	On 12 February 2020, the Federal Council instructed the Federal Department of Economic Affairs, Education and Research (WBF) to prepare a draft for public consultation. As far as it is known, several elements of the 2014 failed revision of the Cartel Act will be taken up again. The Federal Council's **main aim is to modernize merger control.** It states in detail that the change from the current qualified market dominance test to the Significant Impediment to Effective Competition Test (SIEC test) will adjust the test standard of the Competition Commission (COMCO) to international experience. The fundamental difference between the market dominance test applied in Switzerland and the SIEC test to be introduced is the level of the intervention hurdle. The SIEC test could prohibit mergers or impose appropriate conditions if they led to a significant obstacle for competition. Under the current test standard, this would only be possible if effective competition would completely be elimitated through a merger. Two studies commissioned by the State Secretariat for Economic Affairs (SECO) would show that positive effects on competition in Switzerland could be expected from such a change. Additionally, in accordance with the parliamentary decision of 5 March 2018, the Federal Council intends to include two requests of Motion Fournier 16.4094 "Improving the situation for SMEs in competitive processes" in the revision. The Federal Council states that, on the one hand, regulatory deadlines would be introduced for the competition authorities and courts in order to speed up administrative procedures. On the other hand, the Motion Fournier demands compensation for parties in all phases of the administrative procedure under competition law, and now also for proceedings before the Competition Commission (COMCO). According to the Federal Council, two further technical elements from the 2012 revision of the Cartel Act, which was rejected by parliament, are also to be dealt with. On the one hand, the civil anti-trust law should be strengthened and, on the other hand, the opposition procedure should be improved (see the media release including the mentioned studies in detail under the following link). However, the elements mentioned by the Federal Council do not include the following elements in particular, which were expected in the 2014 revision: institutional reform, compliance defense, individual sanctions.
Outlook	The **consultation process might**open **in the first quarter 2021**. SwissHoldings is currently reviewing the positioning and will participate in the upcoming consultation with the member companies.

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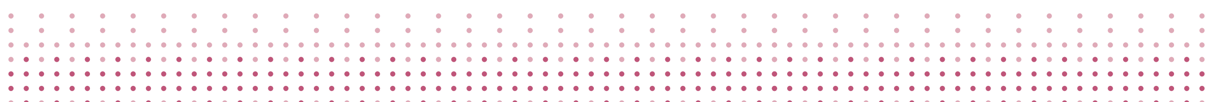
Popular initiative "Stop the high-price island - for fair prices" and indirect counter-proposal by the Federal Council

Current status	The **federal popular initiative "Stop the high-price island - for fair prices"** was formally launched in January 2018. It aims to incorporate various elements of previous parliamentary proposals to combat the so-called "price island of Switzerland" by means of competition law into the Constitution. These are to include measures to ensure the non-discriminatory procurement of goods and services abroad and to prevent restrictions of competition caused by unilateral behaviour by companies with strong market power. The Federal Council recommends that the initiative is rejected. In August 2018, the **Federal Council proposed that the "fair price" initiative** be confronted with **an indirect counter-proposal,** which is very similar to the initiative in the main aspects. Also after the review process, the Federal Council maintained its decision in favour of the indirect counterproposal already presented and adopted a corresponding dispatch on 29.5.2019. The National Council and the Council of States (the Council of States on 2 December 2020) have both discussed the bill. Both Councils recommend rejecting the initiative but have agreed to the counterproposal (the National Council with 161 votes to 27 and 2 abstentions and the Council of States with 30 votes to 11) and have accepted the proposal in the overall vote (National Council with 154 votes to 27 with 4 abstentions and Council of States with 30 votes to 12 with 2 abstentions). SwissHoldings opposes both the initiative and the counterproposal (in its various versions) and welcomes proposals that are aimed at defusing the counterproposal, in particular for the following reasons: The initiative and the counterproposal will not lower prices. At the same time, however, the fair price initiative and the counterproposal lead to significant negative effects. In particular, they lead to a disproportionate restriction of economic freedom and considerable legal uncertainties and therefore unnecessary (compliance) costs will arise. It is also doubtful whether the required regulation will be enforceable in practice. In general, the question also arises as to whether the initiative and the counterproposal are the right way forward in a high-wage country like Switzerland. These are just a few of the many reasons why the initiative and the counter-proposal are not the right choices.
Outlook	The bill will now go through the difference adjustment ("Differenzbereinigungsverfahren") and SwissHoldings will continue, also at this stage, to support the interests of the member companies.



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Corporate and capital market law

Covid 19 and General Assemblies

Current status / outlook	**General Assemblies 2020**: This year the Federal Council issued a ban on events due to the developments regarding Corona. This led to a conflict with the need for companies to hold their general meetings in the spring, namely, to allow the payment of dividends. In order to resolve the conflict, the Federal Council then **issued a regulation** for this year's General Meetings **by way of emergency law, according to which the organizer can order that the participants can exercise their rights exclusively: a) in writing or in electronic form; or b) through an independent proxy appointed by the organizer**. In addition, Q& A on the subject have been published on the website of the Federal Office of Justice. **General Assemblies 2021**: For the year 2021, the members of SwissHoldings depend on clear regulations and legal certainty. The General Assemblies require early planning. The first chargeable decisions will be made at the respective General Assemblies of various companies in the summer/end of the previous year. Accordingly, this summer the Federal Council extended the regulation of the 2020 General Assemblies to 2021 and the Covid 19 Act also created the basis for the Federal Council to have the authority to do so. We welcome this important decision.

Completed revision to corporate law and upcoming minor revisions in corporate law

Current status/	**Adoption of the revision of the company law:** After a lengthy history, the parliament passed the revision of the corporate law in the final vote on 19.6.2020. SwissHoldings welcomes the fact that the revision has been completet in the interest of legal certainty. After the now very extensive development period - which goes far back before the delivery of the message in 2016 - it is important that the bill has finally come to an end. This will allow for a calm return to the corporate law. The reform now contains few exciting changes; but creating a stir does not need to be the goal of a revision of company law. A central and very welcome aspect of this is that Parliament has deliberated relatively close to the regulation against excessive renumerations. This is important and it is noteworthy, because at some point in the deliberations of the parliament, a very substantial tightening of the regulation against excessive renumerations was discussed. This was led by Council Member Minder, a member of the preparatory commission of the Council of States. Another very welcome aspect is that it has been possible to improve the bill in various technical but practically relevant points. For example, the Federal Council's draft contained originally a provision that would have forced companies to hold general assemblies earlier in the year, which would have led to significant practical problems. In addition, a problematic provision was originally planned regarding the voting results in the General Assembly, which stated that the results should have been calculated based on the votes casted instead of the votes represented. This could have led to distorted voting results.

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	However, the bill also contains problematic parliamentary resolutions. For example, the parliament also decided in favor of a provision for the secrecy of the independent proxy; although this was at least in the context of the procedure for settling differences in the sense of a compromise watered down and formulated in a more practical manner, it was not completely dispensed with. **Effective Date:** Most of the provisions of the revision of the company law are expected to come into force in 2022. Art. 293a of the Debt collection and Bankruptcy Act included in the Corporate Law revision, which extends the provisional debt-restructuring moratorium from four to eight months, has already come into force (on 20 October 2020). In addition, the Federal Council has put the gender guidelines (with long transition periods) and the transparency provisions in the raw materials sector into force on January 1, 2021.
Outlook	Now that the corporate law revision has been completed, various other corporate law revisions are on the horizon. - **Commercial Register Ordinance:** Now that the revision of the law has been completed, the ordinances on the revision of the company law will be tackled. The focus here is on the Commercial Register Ordinance. - **Regulation on Proxy Advisors**: In the deliberations regarding the corporate law revision (and also already in the course of the revision of the SIX Directive on Information Relating to Corporate Governance), parliamentarians have repeatedly discussed a provision that wanted to regulate proxy advisors. The regulation under discussion wanted to regulate proxy advisors through transparency obligations for issuers. SwissHoldings opposed the regulation under discussion at the time, in particular because it would have meant that problems in connection with proxy advisors would have been regulated by a selective regulation, which would have been "on the back of the issuers/companies". In the end, the provision was not included in the revision of the stock corporation law, which we very much welcome. As a reaction to this, Motion 19.4122 (see link) was adopted, with the following wording: The Federal Council is instructed to present an amendment to the law (e.g. to the Financial Market Infrastructure Act) in order to disclose and avoid any conflicts of interest of proxy advisors in listed stock corporations. International developments are to be taken into account. A corresponding revision of the law can be expected accordingly. - **Possible regulation on loyalty shares**: Within the scope of the revision of Corporate law, a regulation was further discussed that would introduce so-called loyalty shares. In the end, it was not adopted. Instead, the Council of States submitted a postulate, according to which the Federal Council is instructed to present a report on the possible advantages and disadvantages as well as the effects of the proposed regulation discussed in the revision of the company law. According to the postulate, the report should also include a comparative legal analysis of the possible implementation options under Swiss company law and the extent to which action is required in this area (see the link to the postulate for details) This could lead to regulation in the future. - **Regulations in connection with the submission against bankruptcy abuse:** The aim of the law is to use various measures in the Code of Obligations, debt collection and bankruptcy law and criminal law to prevent the bankruptcy proceedings from being abused by debtors to discharge their obligations (see link to the documents on curiavista).

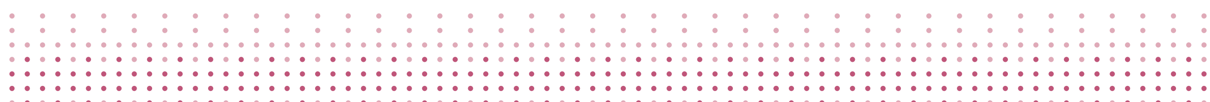
	Within this context, measures under stock corporation law are also under discussion. In particular, the Federal Council proposes to codify the decisions of the Federal Court on the trade in shell companies "Mantelhandel". Further proposals on stock corporation law could be incorporated into the bill: So far, only the preliminary commission of the Council of States has discussed the transaction and decided to examine in more detail whether the measures proposed by the Federal Council are sufficient enough to put a stop to bankruptcy abuse. The administration will now carry out the necessary clarifications and the commission will then continue its deliberations (only) in spring 2021. SwissHoldings follows the developments in these areas and continues to actively promote the interests of its member companies in the area of corporate law.

Amendment of the Money Laundering Act

Current status/ Outlook	On June 1, 2018, the Federal Council opened the consultation process on the amendment of the Money Laundering Act. On 26 July 2019, it then issued the dispatch (see link to media release and the relevant documents). Afterwards, the preparatory commission of the National Council as well as the National Council decided to reject the bill in the beginning (“Nichteintreten”). The preparatory commission of the Council of States and the Council of States agreed on the bill and discussed it. On October 9, the preparatory commission of the National Council then discussed the matter again; it has now accepted the bill and discussed the matter. In the end, however, it rejected the bill in the overall vote (“Ablehung in der Gesamtabstimmung”). The rejection in the overall vote is procedurally equivalent to rejecting the bill in the beginning (“Nichteintreten”). The question now is whether the National Council will follow its preparatory committee in the winter session. The aim of the proposal is to take into account the Federal Council's financial market policy strategy for a competitive Swiss financial center and the most important recommendations of the country report of the Financial Action Task Force (FATF)The part of the bill that is controversial in parliament concerns above all the point that various advisory service providers (e.g. lawyers) should also be covered by this law. The member companies of SwissHoldings are only marginally affected by the content of the bill. Accordingly, SwissHoldings had only submitted a brief consultation response as a part of the consultation process, whose specific concerns related to the Federal Council bill were largely taken into account by the Federal Council, and is now accompanying the bill from a distance

Consultation on the regulations of ad hoc publicity and further adjustments

Current status / outlook	In 2016, the SIX had already conducted a consultation on the revision of the regulations on ad hoc publicity, in which SwissHoldings had participated at the time. The SIX then contacted the participants in the consultation process at the time and provided the following information: "Due to political negotiations (i.a. re-

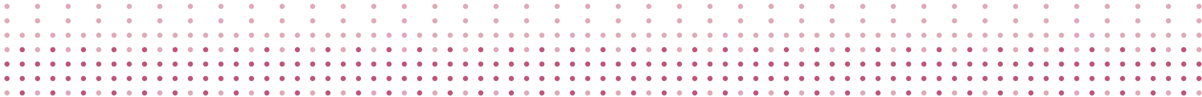


	garding exchange equivalence with the EU), dialogues with a range of regulatory bodies (mainly FINMA), and also, in particular, the complex legal and regulatory environment surrounding the ad hoc publicity regulations, further discussions and analyses have been taking place since that time, some of which pertain to recognized international standards" The participants in the consultation process at the time were consulted accordingly on various amendments to the Listing Rules, the Directive on Information Relating to Corporate Governance and the Directive on Ad Hoc Publicity. In our statement, we voiced that we continue to support the direction of the approach, which largely refrains from the concept of certain "per se" facts. We have also stated that the proposal still requires various adjustments and what these adjustments consist of (see link to the detailed opinion). The upcoming regulation remains to be seen.

Compliance

Compliance Specialist Group as a platform for the exchange of experience among the member companies - in particular on compliance management systems

Current status	The constantly increasing compliance burden, including non-financial companies, forces them to constantly expand their company-wide compliance systems and check their efficiency. In Working Group Meetings in English the various **Compliance Management Systems** of the different member companies are presented and an exchange takes place (most recently that of Novartis). **Other topics relevant to the member companies** (e.g. in the most recent meeting the topics of Compliance and Artificial Intelligence, or Whistleblower Hotlines and Data Protection or the upcoming meeting the counterproposal to the Reponsible Business Initiative and the role of the Compliance Officer) are also discussed.
Outlook	SwissHoldings will continue to promote the mutual exchange between the member companies.



SwissHoldings

Revision of the Code of Civil Procedure - Collective redress – Legal professional privilege for in-house counsel

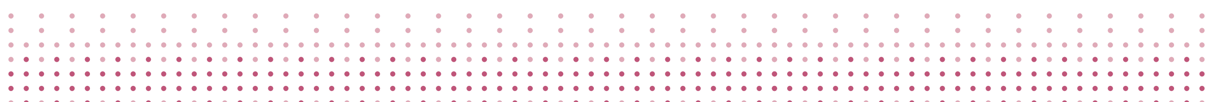
Current status	In 2018, a consultation on the amendment of the Code of Civil Procedure was held. It particularly concerned the dismantling of cost barriers, the introduction of instruments of **collective redress** and the implementation of the parliamentary initiative Markwalder (16,409) for a **legal professional privilege for in-house counsel.** The **Federal Council** then presented its dispatch on the revision of the Code of Civil Procedure on the 26th of February 2020 (see link to the media release as well as to the message and the Federal Council draft). It decided to remove the collective legal protection from the draft and to treat it separately. He also decided to retain the provision on the protection of professional secrecy for in-house counsel in the Federal Council's draft. Afterwards, the bill was submitted to the **preparatory commission of the Council of States**; this commission has decided to start the deliberations on the bill ("Eintreten auf die Vorlage") and welcomes the Federal Council's approach to address the issue of collective redress at a later date with a separate bill. SwissHoldings is **against the instruments of collective redress** and **explicitly and emphatically supports** the intended provision regarding the legal professional privilege for in-house counsel**.** SwissHoldings represented this position within the framework of the consultation process (see in detail the link to our response to the consultation) and is now also actively representing it within the framework of the parliamentary process as well as in a possible separate revision of the Code of Civil Procedure on collective redress at a later date.
Outlook	The preparatory commission of the Council of States will now continue the detailed discussion at its next meeting. SwissHoldings will continue to promote the interests of its member companies in line with our positioning.

SwissHoldings

Data protection

Data protection law, ordinance law, the equivalence decision, and Schrems II

Current status	**Data Protection Act:** In view of European developments, Switzerland too had to revise its data protection law. This was done on the one hand to meet international expectations in accordance with the future revised Council of Europe Convention 108, and on the other hand, to maintain the equivalence with the GDPR, which is very important for the economy. The revision was now adopted in the final vote in the last autumn session. We very much welcome this speedy conclusion because it paves the way for maintaining the recognition of equivalence. **Ordinances:** The adopted law is now followed by the enactment of the ordinance(s). **Equivalence decision by the EU**: The equivalence decision by the EU originally announced for the summer has not yet been made. It had announced that it wanted to wait for the Schrems II ruling of the European Court of Justice. However, the European Court of Justice has now delivered its ruling on 16 July 2020 (see also the following). The decision on equivalence by the EU remains to be awaited. **Schrems II decision**: The decision mainly determines the following: - EU-US Privacy Shield is void with immediate effect; - Standard contract clauses are still valid under increased conditions; The decision leads to legal uncertainty. A certain increased clarity could come from the updated standard contract clauses of the European Commission, which are expected to be issued at the end of January 2021.
Outlook	SwissHoldings follows the developments around the above mentioned topics and continues to promote the interests of the member firms in all these areas, in particular the maintenance of equivalence.



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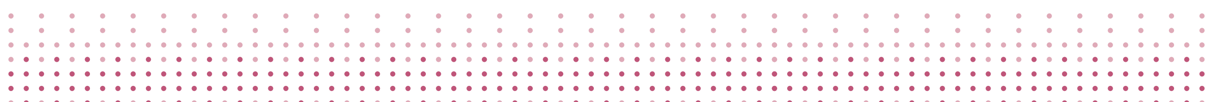
Taxation Department

Withholding Tax Reform

Current status	With the withholding tax reform, the Federal Council wants to strengthen the Swiss debt capital market and encourage Swiss groups (as well as foreign groups with important activities in Switzerland) to issue their bonds here if possible. In addition, the groups should reduce their foreign financing structures as much as possible and carry out the corresponding activities in Switzerland. According to the Federal Department of Finance, the reform has an "extremely advantageous cost-benefit ratio". Studies commissioned by the federal government promise not only advantages for the business location, but also substantial additional revenues for the Swiss tax authorities. The withholding tax reform is limited to the area of interest on debt capital. The withholding tax on dividends (equity capital), which is responsible for more than 98 percent of the withholding tax revenues (in 2019 without provisions), which now amount to almost 10 billion Swiss francs, remains unaffected by the reform. From April to mid-July, the Federal Council conducted the consultation process on the withholding tax reform. The bill contained widely accepted elements such as the goal of strengthening the Swiss capital market. The change from the debtor principle to the paying agent principle for directly held Swiss bonds and other Swiss interest-bearing securities also received broad support. On the other hand, the proposal on foreign funds and other foreign interest rate products were met with resistance from the financial industry. The main objection was that a tax deduction under the paying agent principle for foreign interest products is administratively very complex and therefore expensive or, that a deduction by the paying agents (i.e. the banks) cannot be made correctly in some cases. The costs incurred by the banks are several times higher than the tax revenues potentially protected from evasion. Given the low interest rates on debtcapital that currently (and in the foreseeable future) exist, such a costly security system is completely exaggerated. Moreover, such interest rate products are in any case not attractive for individuals - for whom security is necessary at all because of fiscal banking secrecy. In September, the Federal Council passed another key decision on the withholding tax reform. Somewhat surprisingly, it decided to completely waive tax protection for interest securities (domestic and foreign) with the exception of domestic bank accounts. The abolition of the debtor principle, which functions poorly in the interest area, will rightfully be maintained. Only if it is abolished can the Swiss capital market strengthen and generate considerable additional income for the Swiss tax authorities. Based on the input from the consultation process, the introduction of the paying agent principle for domestic and foreign interest products should be abandoned. The only exception is Swiss bank accounts, to which the paying agent principle is to be applied in the future. The fact that the Federal Council is foregoing tax protection for all other Swiss interest rate products (funds, structured products, bonds) is probably

	due to the fact that Swiss funds in particular would otherwise have a competitive disadvantage compared to foreign funds. The planned strengthening of the Swiss capital market could be hindered by this disadvantage. In addition, interest income is likely to be even lower in the coming years, which is why a tax hedge does not make any economic sense, (35 percent of zero is still zero). With its parameter decision, the Federal Council also rejected the possibility of providing automatic information exchange in the debt interest area. However, this alternative is not likely to be abandoned and will be raised again in the parliamentary debate. Since the quality of the data exchanged according to the international standard for automatic information exchange is often poor, it is currently impossible to assess if cantons will support such demands. In November, The Federal Council confirmed it will to move forward with the withholding tax reform. It put a temporary shortfall in revenue of CHF 160 million and CHF 25 million for the abolition of the sales tax on Swiss bonds and money market paper, as provided for in the package. The Federal Council also stated that it currently opposes the abolition of the other stamp duties (tax on share transfers and foreign bonds). The Federal Council only sees the abolition of the issuance tax on equity capital as sensible. It helps to overcome the economic consequences of the COVID-19 pandemic by making it easier to recapitalize troubled companies. The question is still open as to if, in the context of the withholding tax reform, the participation deduction for debt financing activities (debt interest transfer) will also be adjusted. In the future, groups will want to carry out their financing activities at the (Swiss) group headquarters or at the headquarters of the Swiss principal. This is also the easiest way for them to comply with the new OECD guidelines on financial transactions adopted in February 2020. Companies with numerous Group functions will be ideal. In many cases, these also have holdings in subsidiaries and are dependent on a well-functioning participation deduction. It is precisely here that the Swiss participation deduction has shortcomings in an international perspective. These deficiencies lead to double taxation (which the participation deduction should avoid). Due to the uncertainty about the financial consequences, the Federal Council has so far refrained from adjusting the participation deduction and eliminating the double taxation that arises in connection with financing activities. If it receives reliable information from the cantons about the financial consequences of the adjustment, the Federal Council could still adjust this decision and propose to the Federal Assembly that the participation deduction be improved. According to the latest information, the dispatch on the withholding tax reform should be adopted by the Federal Council at the beginning of the second quarter of 2021 (i.e. in April) and submitted to the Federal Parliament.
Outlook	The elimination of withholding tax obstacles for debt financing activities remains the most important internal Swiss tax project for member companies in the wake of the AHV tax bill. Due to the new OECD transfer pricing guidelines, the importance and urgency of the reform has increased significantly for Swiss corporations. For SwissHoldings, it is therefore essential that the reform is pushed forward rapidly. In order for the reform to succeed and to avoid protracted disputes, it is important that the business community adopts positions that are as aligned as possible and that are politically acceptable to a majority. SwissHoldings will work to ensure that the business community is as united as possible and that the cantons are behind the proposal. We will also work to ensure that the adjustment of the participation deduction for financing activities will also form part of the Federal Council package. To this end, it is essential that the cantons provide the federal government with estimates of



	the financial imact of an adjustment of the participation deduction. The cantons should not only consider the financial consequences of adjusting the participation deduction. If the Swiss corporations relocate their financing activities to Switzerland, the difference in the interest rate between active and passive loans in Switzerland will also no longer apply. For our companies, this will mean that the calculated income discrepancy from the adjustment of the participation deduction of CHF 15 million from the federal government should be more than compensated for after just one to two years. The withholding tax reform represents an opportunity for Switzerland as a business location to increase its international attractiveness in another area. SwissHoldings will strive to convince politicians from left to right of the advantages of the reform.

OECD/G20 project on taxation of the digital economy

Current status	The project on the taxation of the digital economy aims to reform international corporate taxation. Under Pillar 1, large consumer goods and digital groups are to tax a larger share of their profits in the sales countries. Under Pillar 2, large companies should be subject to a minimum taxation in all their countries of operation. The work is carried out by the OECD Secretariat. Decisions on the project will be taken by the "OECD/G20 Inclusive Framework on BEPS" (IF), which comprises around 140 countries. On October 8 and 9, the IF adopted the OECD report (Blueprint) with technical specifications for each of the two pillars. At the same time, a public hearing was scheduled to last until December 14. Contrary to the original timetable, however, the IF was unable to reach agreement on many technical points. There is also no agreement on the political points that are of real financial importance to the states and companies (e.g. the height of the minimum tax rate, Amount A parameters). The work of the OECD Secretariat will therefore be continued. According to the adjusted timetable, an agreement on the outstanding technical and political points should now be reached in mid-2021. In view of the numerous obstacles (e.g. Covid-19) and the great importance of the decisions still to be taken, the new timetable also appears extremely ambitious. Due to the divergent positions of numerous states, a failure of the project cannot be ruled out. Below is an overview of important interim results from the two blueprints: To Pillar 1: Pillar 1 (redistribution to market states) consists of three components: • A new right of taxation for market states on part of the residual profit to be calculated at the Group level (Amount A) • A fixed profit allocation key for certain basic marketing and sales functions physically carried out in market states (Amount B) • Procedures to improve legal certainty through effective dispute prevention and resolution mechanisms, primarily for Amount A Only large international groups (with sales of at least EUR 750 million) that provide Automated Digital Services (ADS, e.g. Google) or operate a Consumer Facing Business (CFB, e.g. Nestlé) are covered by the new Pillar 1 rules. For these groups, a definable residual profit is redistributed in favor of the market countries. The so-called “Amount A”. Amount A is charged to the Group companies that generate residual profits (e.g. CH Prinzipal). CFB groups will pay taxes on the Amount A in addition to the already incurred

taxes on profits in the market countries. ADS groups will pay only Amount A based taxes on profits in the market countries because they usually do not have any distribution companies there.

The starting point for the calculation of Amount A is the profit in the consolidated financial statement of the Group (profit before tax). In a first step, the income statement has to be broken down into the segments ADS, CFB and not Pillar 1 relevant profit. Subsequently, the calculation and allocation of Amount A for the relevant ADS and CFB segments under Amount A is done in three steps:

- Step 1: Determine the Group's residual profit for the relevant segment under Amount A. The residual profit should be the profit that exceeds a certain profit margin, e.g. 10%.
- Step 2: Determine the share of residual profit to be allocated as Amount A to the market countries, e.g. 20%.
- Step 3: Allocation to the individual market states in relation to the achieved turnover

Amount B is independent of the scope of Amount A and corresponds to a standardized compensation for Group companies that perform basic marketing and sales functions in a market. Amount B is strongly based on the arm's length principle currently in force. However, the exact nature and scope of the marketing and sales functions covered by Amount B is not yet final.

The measures to increase legal certainty provide for a dispute resolution mechanism to prevent disputes for the Amount A. This is optional. The tax administration of the state of the Group's headquarter assumes hereby a leading role. Decisions are made in two panels. The solution reached in the dispute resolution process is binding for all tax administrations concerned. The duration of the dispute resolution mechanism can be up to 3 years. During this time, the groups concerned would not yet have legal certainty; however, they would have to pay the taxes resulting from Amount A at the beginning of the process.

Implementation of Pillar 1 requires (i) a multilateral agreement, (ii) globally applicable detailed guidelines (OECD guidelines) and (iii) adjustments to national law. All these steps require several years of preparation and the measures must be introduced globally at the same time (e.g. 1 January 2025). In return for the additional tax payments to market states, unilateral measures such as the current Digital Service Taxes should be abolished.

To Pillar 2:
Pillar 2 (minimum taxation) provides for the introduction of a number of complementary rules for large international groups:

- Income inclusion rule (IIR)
- Undertaxed payments rule (UPR)
- Subject to tax rule (STTR)

Together, these so-called Global Anti-Base Erosion Rules (GloBE) are intended to ensure that all covered groups (at least 750 million euros turnover) pay a minimum level of profit tax in all countries. The states are not obliged to comply with a certain minimum tax rate in their tax laws. If a group company has a lower Effective Tax Rate (ETR) in one state, another state (e.g. the head office state) can tax the difference to the minimum tax rate either

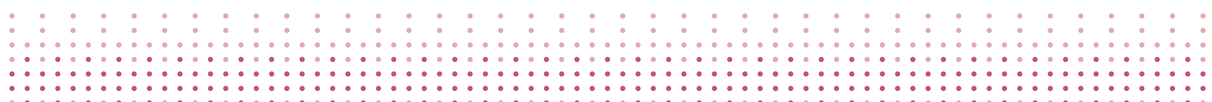
by applying the IIR or the UPR. If the ETR in the Headquarters State is too low, the UPR is applied, according to which many other States with subsidiaries and economic relations between subsidiaries and affiliates may tax the difference to the minimum tax rate in the Headquarters State (so-called top-up tax). Although not included in the Blueprint, a minimum tax rate of 12.5% is mentioned in discussions as a minimum rate that is acceptable to the majority. This minimum tax rate would thus be higher than most cantonal minimum profit tax rates and would thus de facto lead to a tax increase for groups and group companies' residing in Switzerland.

Since a minimum taxation concept has already been introduced in the USA in the form of the GILTI rules as part of the US tax reform, US groups are exempted - probably for a limited period of time - from applying the GloBE rules. This special treatment for the USA is controversial but will probably be accepted as a concession to the USA. While GloBE provides for jurisdictional blending, in which the minimum taxation test takes place at country level, US GILTI is a global blending, i.e. a global test.

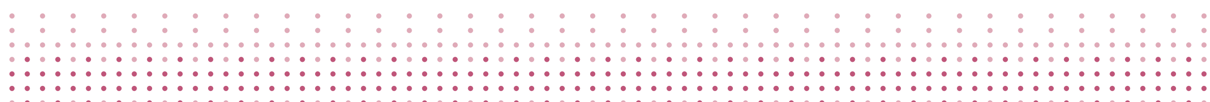
The starting point for the ETR calculation at national level is the aggregation of all financial statements of the companies in a given country. This is not based on the statutory individual financial statements of a national company, but on the consolidated financial statements of the respective national company in accordance with the accounting standard that the Group uses for its consolidated financial statements. Taxes on capital are also likely to be included in the tax base. The accounting standard accepted for GloBE purposes is in principle any accounting standard recognized as acceptable by the authorities at the Group's headquarters, provided that its application does not lead to a material impediment to competition. IFRS and US GAAP are defined as an appropriate accounting standard. Swiss GAAP FER, on the other hand, will probably not be recognized as adequate without further adjustments. Certain permanent differences between the profit according to (local) tax assessment rules and the profit according to (global) financial accounting standards have to be eliminated (e.g. dividends, gains and losses from the sale of investments). Other adjustments to the accounting rules or the planned simplifications are not elaborated further in this paper.

The minimum tax rate can be undercut by the amount of a carve-out. This carve-out takes into account personnel costs and tangible assets in the country of the national company. This is intended to create incentives for groups with physical substance. However, intangible assets such as self-created product patents are not taken into account. The effectiveness of this carve-out according to current plans is limited and does not even release the profit for routine activities. A carve-out for research and development costs or for the patent box is not foreseen and does not appear to be capable of gaining a majority. This at least calls into question the measures implemented as part of the Swiss tax reform.

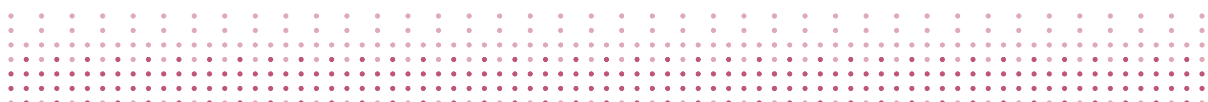
The STTR applies to payments based on a DTA and allows the source state to take countermeasures in case the payments are taxed below a certain level in the recipient state. The minimum level is expected to be between 7-9%. With the introduction of tax proposal 17, the STTR should no longer be a major obstacle for Switzerland. The STTR is primarily a concession to developing countries.



	Pillar 2 leads to a restriction of international tax competition. Particularly affected are offshore states, states with tax holidays, patent boxes or particularly advantageous tax regimes that allow effective tax rates below the minimum tax rate. US corporations will probably not be affected by these new rules - at least in the initial phase - because of the acceptance of the GILTI rules as a similar minimum taxation regime. They can continue to benefit from very low tax rates (e.g. 0-5%) in selected countries (as long as the GILTI rules of the US are complied with). Overall, other (less transparent) factors (e.g. subsidies) are gaining in importance in the competition for companies. The central rules of Pillar 2 do not in principle constitute a breach of the applicable provisions in the DTAs, so no multilateral agreement appears necessary for implementation. Moreover, the GlobBE rules are outside the applicable legal security mechanisms and can therefore be introduced unilaterally by states. This means that Pillar 2 could be implemented much more rapidly than Pillar 1.
Outlook	Both the USA and the EU are threatening unilateral measures in the form of trade barriers (e.g. customs duties) or so-called Digital Services Taxes, which provide for the taxation of the sales of digitally operating groups, if the project fails. The Swiss economy and Switzerland have no interest in the failure of the taxation of the digitalized economy project. We are dependent on our companies being able to supply their products and services to a large number of countries with as few restrictions as possible. Swiss corporations are also becoming increasingly digital. If the project fails, the introduction of Digital Service Taxes and/or unilateral minimum taxation rules - possibly with withholding taxes - in a large number of countries is imminent. The Digital Service Taxes, which differ greatly in material terms, will initially affect primarily the US digital groups and the USA. Even under President Biden, the USA will not accept this and will take countermeasures. Currently, It is not yet known how the Biden administration will position itself. The fact that France wants to apply the Digital Service Tax as early as 2020 could soon lead to the first discrepancies. This could have a significant impact on global trade and make it difficult for the Swiss economy to quickly recooperate from the corona recession. The main concern for Switzerland in the coming months is therefore to limit the scope of harmful new rules and their economic consequences as far as possible, and to reduce the administrative burden on companies to a tolerable level. There is also still considerable potential for improvement in the measures to improve legal certainty. In the event of global support for this reform package, Switzerland must adapt quickly to the new rules and take advantage of the opportunities they present. In other words, we must act in a similar way as to the BEPS project, which was completed in 2015. However, we are likely to have less time for decision-making. Thanks to the AHV Tax reform with the new special measures (patent box, input deduction) and the parallel cantonal profit tax cuts, the BEPS project, has brought Switzerland more advantages than disadvantages. With regard to Pillar 1, it is of central importance for Switzerland which companies are considered to be digitally or consumer oriented. Switzerland should press for these new rules to apply primarily to digital companies. The OECD draft specifically addresses the pharmaceutical industry, which is a strong economic sector in Switzerland. Switzerland should therefore try to influence the definition of companies covered by Pillar 1 in its favor.



	As an innovation-oriented country with a strong research and development base, Swiss corporations and group companies are likely to generate residual profits more frequently, which according to Pillar 1 must be shared with large sales market countries. In the interest of Switzerland as a research location, a moderate redistribution in favor of the markets should be targeted. For the Pillar 2 work, it is crucial that the minimum tax rate is moderate. If US companies are allowed to apply GILTI (tax rate 13.125%, from 2026 16.4%), the GloBE minimum tax rate may not exceed 12%. If a higher minimum tax rate is adopted despite jurisdictional blending, an effective carve-out is essential. This is currently not the case. From the point of view of the companies, the administrative effort is also central. Should the IF States take a decision for Pillar 2, Switzerland should adopt the Pillar 2 rules. In addition, voluntary additional taxation at cantonal level for Swiss corporations should be examined in order to prevent the application of the UPR. Otherwise, a further tax reform seems unavoidable if Switzerland wants to keep the tax base in Switzerland. Even if Switzerland's attractiveness as a business location will suffer with the introduction of Pillar 2, there is no alternative to implementing these rules for both Switzerland and Swiss companies. Standing aside would have serious financial and competitive disadvantages. Depending on the level and calculation of the minimum tax rate, it may be necessary to carry out an analysis of how Switzerland should react to the changed conditions of international tax competition. At the very least, the abolition of the emissions levy and certain minor improvements in the participation deduction should be envisaged. With a minimum tax rate of 13% or more, further measures to maintain the attractiveness of the location should be targeted (e.g. abolition of the turnover tax). If Switzerland behaves cleverly, it could benefit financially and economically from the reform. Both pillar 1 and pillar 2 are enormously costly for the companies. The simplifications planned so far are insufficient and must be improved in the coming months. The additional compliance requirements will result in considerable additional costs for corporations, which should be reduced to a minimum. The planned measures for legal certainty are welcome, but if they take up to 3 years, enormous legal uncertainty will remain over this period. Here, Switzerland should insist on pragmatic and simplified regulations that lead to simple processes in implementation and rapid legal certainty. Given the importance of the project for the member companies and Switzerland, SwissHoldings continues to actively support the work on the project. Of course, SwissHoldings will also participate in the ongoing consultation process.



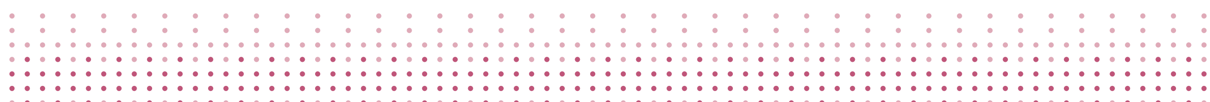
SwissHoldings

Department of Economy

Trade and investment policy

Abolition of industrial tariffs

Current status	The present revision of the Customs Tariff Act is intended to set customs duties on industrial products at zero as of 1 January 2022. For the purposes of this proposal, the term “industrial products” covers all goods with the exception of agricultural products (including animal feed) and fishery products. In addition to abolishing customs duties, the bill also aims to simplify the tariff structure for industrial products. The planned simplification of the customs tariff structure will reduce the number of tariff headings in the industrial sector from the current 6172 to 4592. The proposal is part of the package of "import facilitation" measures, in the fight against Switzerland as a high-price island. On 27 November 2019, the Federal Council approved the dispatch on the Customs Tariff Act for the attention of parliament. The National Council, as the first chamber of parliament, rejected the bill by 108 votes to 83 in the 2020 summer session. In the autumn session, the Council of States approved the bill by 29 votes to 14. The WAK-S followed the draft of the Federal Council in in its detailed consultation. The Council of States followed on 2 December in the overall vote with 28 to 14 votes with one abstention the Commission’s decision. The proposal now goes back to the National Council.
Outlook	Swiss customs duties have grown historically and were introduced in order to protect industry. Today, the Swiss industry no longer needs these protective tariffs. Rather, local companies are dependent on being able to import on good terms. With an average tariff rate of 1.8%, the majority of the tariffs can be considered a “nuisance tariff” in accordance with the 3% limit used during the Uruguay Round of the WTO. For many of the tariff headings, tariffs are too low to have a protective effect and the administrative costs often exceed the revenue. The historically developed tariff structure for industrial tariffs is also extremely complex. It comprises 6172 tariff numbers. This makes companies’ customs declarations very costly and time-consuming. Simplification can hardly be achieved without abolishing industrial tariffs, as new tariffs would have to be established for all merged tariff headings and, if necessary, negotiated with the WTO. SwissHoldings welcomes import facilitation and the further opening of the Swiss market, because the member companies of SwissHoldings are strongly intertwined with the global value chains and depend on imports from abroad. A liberal trade policy with the greatest possible renunciation of restrictions on the free movement of goods is essential for the prosperity of our economy as



	a whole. Our association will closely monitor the bill in the further parliamentary process.

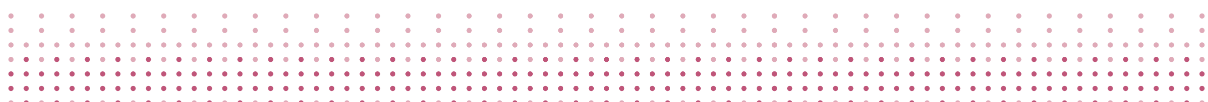
Free trade agreements

Current status	The Swiss economy has a strong global orientation and is therefore dependent on international trade and international investment activities. The constant improvement of access to foreign markets has therefore been and still is a focus of Swiss foreign policy. This is achieved, among other things, by free trade agreements with third countries. Switzerland has a network of 31 free trade agreements with 41 partners worldwide. Switzerland is currently negotiating 7 free trade agreements, namely with Chile, India, Malaysia, Mercosur, Mexico, SACU, and Vietnam. In addition, Parliament approved the Free Trade Agreement with Indonesia in December 2019. In recent years, the criticism over globalization has become louder and free trade agreements are increasingly criticized. In particular, concerns relating to sustainable development goals (SGDs) and climate targets have further fueled protectionist tendencies. In light of these developments, discussions about the sustainability of free trade agreements have increased. As a part of this discussion, a referendum was aimed for against the Free Trade Agreement with Indonesia. This could be achieved by 1 July 2020. The vote on the agreement will take place on 7 March 2021.
Outlook	The expansion of the free trade network is important for the export-oriented Swiss economy and the member companies of SwissHoldings. Free trade agreements provide privileged access to important markets and lead to more growth and prosperity in Switzerland. They also ensure that Swiss companies are not at a competitive disadvantage compared to companies in other countries. SwissHoldings thus supports the Federal Council's strategy of expanding and modernizing the network of free trade agreements and particularly welcomes the conclusion of the agreement with Indonesia. Of course, SwissHoldings recognizes that sustainability aspects must be taken into account when considering free trade agreements. The chapter on "Sustainability and Trade" in the agreements provides a solid foundation for the promotion of sustainable development. More generally, it should not be neglected that intensified trade relations are themselves an important factor in promoting sustainable development. In addition to significant economic aspects, the improvement of the labor market and the associated social progress as well as the transfer of knowledge and technology play an important role. SwissHoldings will continue to support the important expansion of the Swiss network of free trade agreements.

SwissHoldings

Investment Control

Current status	In Switzerland, it is being discussed whether foreign direct investments in Swiss companies pose a threat. The Federal Council has already dealt with this question in detail in the "Cross-border investments and investment controls" report. The body opines that the introduction of an official control of direct investments at the present time would not bring any added value. Regardless of this position, both chambers of parliament voted in favour of the Motion Rieder. The motion instructs the Federal Council to draft a bill for investment control of foreign direct investments in Swiss companies - among other things by appointing a licensing authority for the transactions subject to investment control. The focus is particularly on acquisitions and investments by companies from the dynamically growing emerging countries in infrastructures such as energy, transport, telecommunications, data storage, and financial infrastructure. A "tailor-made solution", as promised by the proponents of the bill during the Council debate, will probably be difficult to find in practice. A further motion (20.3461) of the UREK-NR instructs the Federal Council to draw up a legal basis for investment control in critical infrastructure, provided that foreign direct investments in Swiss companies lead to de facto control of the company. It will be dealt with in the National Council as first chamber in winter 2020. Switzerland is one of the largest direct investors in the world. In 2018, Swiss companies held CHF 1,466 billion in foreign capital. The counterpart is the stock of CHF 1,296 billion of foreign direct investment in Switzerland. Additionally, complex questions arise regarding the concrete technical implementation: According to what criteria should the authority decide whether a foreign investment is "in Switzerland's interest"? Furthermore, it will be challenging to clearly distinguish the "strategically important sectors" from other economic sectors. SwissHoldings will closely monitor the preparation of the concrete draft legislation. Confidence in Switzerland as an open - but already not barrier-free - investment location and in liberal economic policy must be maintained



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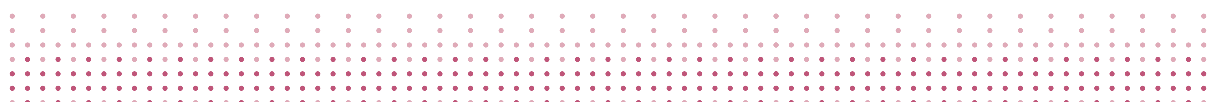
Corporate social responsibility

Corporate Responsibility Initiative

Current status	This popular initiative has been in discussion in parliament since fall 2017. In this year's summer session, the difference adjustment has been completed. Following the Federal Council and the Council of States, the National Council also recommended that the extreme corporate responsibility initiative be rejected. In addition, Parliament approved an indirect counterproposal in the final vote. The counterproposal creates stricter requirements for companies to respect human rights and the environmental standards within the supply chain but protects companies from abusive and extortionate claims. The business associations support this compromise because it relies on internationally proven solutions and does not lead to a Switzerland solo effort. The popular initiative was put to the vote on November 29, 2020. The lead of the business campaign was held by economiesuisse. SwissHoldings took accompanying measures to support the campaign. The initiative achieved a very narrow popular majority (50.7% of votes in favor) - but the bill was rejected thanks to having clearly missed the majority of Cantons (Cantonal vote results: 14.5 NO, 8.5 YES) with an average turnout of 46%. This paves the way for the indirect counterproposal to come into force - should the referendum not be called within the next 100 days. As a next step, the Federal Council will open a consultation procedure for the ordinance, which will specify the outstanding points of the counterproposal.
Outlook	SwissHoldings is relieved to note the rejection of the initiative. The objective remains unchanged, namely, to ensure a targeted and internationally coordinated regulation regarding "Corporate Social Responsibility" for Switzerland. The entering into force of the counterproposal represents an important step in this direction. The Association will closely monitor the drafting of the regulation implementing the counterproposal.

CSR Action Plans by the Federal Council

Current status	SwissHoldings is committed to appropriate regulation in the area of corporate social responsibility. With its focus on international standards and best practices, the Federal Council's National Action Plan "Business and Human Rights" (NAP) and SECO's "CSR Position Paper" point in the right direction. On the important issue of corporate social responsibility, only an internationally coordinated approach can achieve the desired results. On 15 January 2020, The Federal Council approved the revised Action Plans 2020 - 2023 on corporate social responsibility and business and human rights. As early as December, the committee announced the content and thrust of the revision of the NAP. The Federal Council is building on the results achieved so far and will continue to support the companies with effective measures. This particularly includes the creation of support measures for the implementation of human rights due diligence (tools, guidelines, etc.) and cooperation with multi-stakeholder initiatives that can support SMEs in particular. The Federal Council has also revised its position paper and action plan on



	corporate social and environmental responsibility. From a new strategic perspective, the directions have been adapted in such a way that stakeholder dialogue is strengthened and the focus has shifted towards reviewing the implementation of CSR instruments and digitalization. From the perspective of SwissHoldings, these action plans of The Federal Council are also of great importance.

Accounting and reporting

Challenges relating to COVID-19

Current status	The outbreak of "COVID-19" at the beginning of 2020 has significant economic consequences. It is no longer only the companies that maintain significant business relationships abroad who have been affected. For many companies, the question arises as to whether and in what form the effects of COVID-19 should be taken into account in their financial statements. Particular attention should be paid to the standards "Financial Instruments, IFRS 9", "Leases, IFRS 16". "Asset Impairment, IAS 36" as well as the other topics "Government grants and assistance, IAS 20" such as "Provisions related to COVID-19, IAS 37".
Outlook	SwissHoldings fostered exchange on these issues among member companies and will follow further discussions.

IFRS Standards

Current status	In the area of IFRS standards, the IASB did not adopt any new standards in the last quarter. Instead, the committee published numerous draft amendments for consultation. In addition to minor adjustments to standards, the draft with the proposed changes to the presentation and structure of financial statements should be highlighted in this context. For a long time, the IASB has been endeavouring to fundamentally reorganise the presentation of the main components of IFRS annual financial statements (balance sheet, income statement, and cash flow statement). Further proposals for revision concern the area of "Goodwill and Impairment". It is being examined if there are alternatives to the existing impairment model and whether the disclosures in the notes should be expanded. With regard to "Rate Regulated Activities", a new model is being developed, which should provide more detailed information on the practice determining a company's rate regulation. Last but not least, the two standards "Business Models under Common Control" and "Management Commentary" are also under discussion. Furthermore, the IFRS Foundation has published a consultation paper to consider whether the IASB should play a more active role in the development of global sustainability standards in the future. Particularly, the creation of a separate Sustainability Standards Board (SSB) is being discussed in this context.
Outlook	SwissHoldings will continue to actively follow the IFRS accounting developments. Our association continuously participates in the IASB consultations on

	draft standards. For example, a comment letter on "General Presentation and Disclosures" was submitted at the end of September, an information event took place on November 3, at which representatives of SwissHoldings discussed the "Goodwill and Impairment" project with representatives of the IASB addition and an exchange on Sustainable Reporting /Sustainable Finance is planned.

Developments on EU level

Current status	At the EU level, the issue of sustainability is at the centre of public debate. As part of this debate, the European Commission has launched various initiatives. This includes the possible review of the non-financial reporting directive, on which the European Commission launched a public consultation in spring 2020. The focus is on whether an audit requirement should be introduced, whether the existing scope for selecting ESG aspects should be retained, to what extent a more detailed examination of climate and environment related factors should be required in future and whether the scope of the legislation should be enlarged to additional enterprises. Mandatory standards for non-financial reporting are a likely outcome of this review. A legislative proposal is expected by beginning of 2021. Additionally, the European Commission is currently looking into possible regulation in the area of sustainable corporate governance. It opened a consultation on this at the end of October 2020.
Outlook	SwissHoldings will continue to follow this issue in particular through its participation in the relevant working group at BusinessEurope.

Capital Markets

Economic Policy in the Corona Crisis: Assessments by SwissHoldings

Current status	The fight against the coronavirus pandemic has considerable impacts on the economy. The fight against the first wave has already presented the economy with enormous challenges. Initial estimates suggest that the GDP in Switzerland has fallen by 3.8 percentage points in the current year. Without the broad-based support services provided by the federal government and the cantons, the slump would have been much more severe. The second wave in October and November hit Switzerland hard. However, a second lockdown has so far been avoided. Figures from the State Secretariat for Economic Affairs (Seco) suggest that there has been no decline in economic activity despite more strict measures.
Outlook	SwissHoldings closely observes current developments and is in close contact with its member companies as well as with representatives of parliament, the federal administration and other public institutions.

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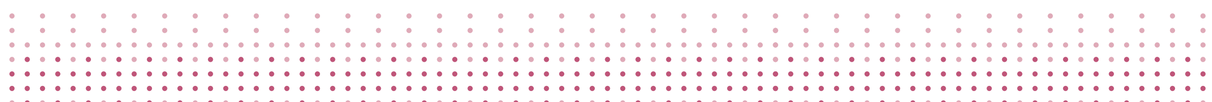
	In addition, the association has taken a stand on the COVID-19 Solidarity Guarantee Act in July 2020 (https://swissholdings.ch/stellungnahme-von-swissholdings-zum-covid-19-solidarbuergschaftsgesetz/)

Sustainable Finance

Current status	The topic of "sustainable finance" gained importance alongside sustainable corporate management. Especially in the discourse surrounding the Paris Agreement, it became clear that private investors must play an important role in stopping climate change. According to these considerations, the participation of private investors should ensure that market mechanisms support the most promising sustainable investments and thus allocate resources most effectively. In reality, sustainable financing has long reached the financial markets. The number of sustainable financial products has increased massively in recent years. A study by Swiss Sustainable Finance has shown that at the end of 2018, CHF 717 billion was invested in sustainable financial products - an increase of 83% compared with 2017. The issue has also reached the political level. As early as June 2019, the Federal Council set up an internal working group under the leadership of the State Secretariat for Financial Affairs on the topic of sustainable finance. On 24th of June 2020, The Federal Council has agreed on a report and guidelines on sustainability in the financial sector. The declared goal is to foster competitiveness of the Swiss financial market and contribute to sustainability. Based on the report, focus areas are: the systematic disclosure of relevant and comparable climate and environmental information of financial products, increasing legal certainty regarding fiduciary obligations respectively regarding the consideration of climate and environmental risks and effects, strengthening the awareness for climate and environmental risks and effects on issues relating to financial market stability and the observation of developments on international and particularly on EU level. The federal government wants to tackle these issues in collaboration with industry and additional interest groups. Various parliamentary initiatives have also been taken on the subject. These come from all parties except the SVP. While the FDP is increasingly committed to strengthening the Swiss financial center in the area of sustainable finance, the center-left parties are focusing more on the aspects of climate protection and how the sector can be regulated to promote sustainable investments. Sustainable Finance is also high on the agenda at EU level. The European Commission has presented an action plan for financing sustainable growth which has already resulted in several legislative initiatives, including the Taxonomy. In addition, an update of the Sustainable Finance Strategy and of the regulation on non-financial reporting is currently being considered. At international level, a large number of organizations have emerged to promote the development and standardization of the field. Developments in the area of sustainable financing also affect companies outside the financial sector. It is becoming increasingly important to demonstrate



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	to investors that sustainability criteria are being met. If satisfaction cannot be achieved, there is a long-term risk of high capital costs.
Outlook	SwissHoldings welcomes the new role assigned to the economy in the area of climate protection and sustainable development. Markets distribute resources effectively so that the marginal benefit for ESG factors can be maximized. The association will follow the current developments in this area and accompany corresponding regulatory initiatives.

Monetary Policy SNB

Current status	In these extraordinary times due to the "COVID 19" challenges, the Swiss National Bank (SNB) is increasingly coming into focus. At parliamentary level, various proposals were discussed with the aim of tying SNB distributions to certain purposes. In particular, the motion by National Councilor Alfred Heer aiming to allocate the income from negative interest rates directly to the AHV. The key to the distribution of profits - two-thirds for the cantons and one-third for the Confederation - is to be retained accordingly, but the negative interest is to be redistributed over the years from the Confederation's share at the expense of the AHV. This would reduce the federal share by the amount of the negative interest charged. Another motion by the WAK-N demands that this federal share of future SNB distributions be used directly to reduce the resulting Covid-19 debt. Both motions were accepted by the National Council. However, they still have to clear the hurdle in the Council of States.
Outlook	SwissHoldings will closely monitor ongoing developments. From the Association's point of view, the National Bank's distribution practice to date has proven its worth. The organization is critical of any "politicization" or further earmarking of SNB profits.