SwissHoldings

SwissHoldings Update

November 2021

Overview (titles clickable)

SwissHoldings, the association of industrial and service companies in Switzerland, comprises 60 of the largest groups in Switzerland, which together account for approximately 69 percent of the total market capitalization of the SIX Swiss Exchange. Our member companies employ around 1.6 million people globally, around 202,000 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.

SwissHoldings

Law Department

Competition law

Revision of the Cartel Act

Current Status	On February 12, 2020, the Federal Council instructed the Federal Department of Economic Affairs, Education and Research (EAER) to prepare a consultation draft. As far as can be seen/known already, several elements of the revision of the Cartel Act, which failed in 2014, will be taken up again. Above all, the Federal Council would like to modernize merger control. Specifically, it states that by changing from the current qualified market dominance test to the Significant Impediment to Effective Competition test (SIEC test), the standard of review of the Competition Commission (WEKO) will be adapted to international experience. The fundamental difference between the market dominance test applied in Switzerland and the SIEC test to be introduced lies with the intervention hurdle. With the SIEC test, mergers could be prohibited or subject to appropriate conditions if they lead to a significant impediment to competition. Under the current standard of review, this would only be possible if a merger eliminated effective competition. Two studies commissioned by the State Secretariat for Economic Affairs (SECO) would show that such a change could be expected to have positive effects on competition in Switzerland. In addition, in accordance with the decision of Parliament of March 5, 2018, the Federal Council intends to include two requirements of Motion Fournier 16.4094 "Improving the situation of SMEs in competition proceedings" in the revision work. The Federal Council states that, on the one hand, regulatory deadlines would be introduced for the competition authorities and courts to speed up administrative proceedings. On the other hand, the Fournier motion calls for compensation for the parties in all phases of administrative antitrust proceedings, including proceedings before the Competition Commission (WEKO). Furthermore, according to the Federal Council, two additional technical elements from the 2012 revision of the Cartel Act, which was rejected by Parliament, should also be addressed. On the one hand, the civil antitrust law is to be strengthened and on the other hand, the opposition procedure is to be improved (cf. in detail the media release including the studies mentioned under the following link). However, the elements mentioned by the Federal Council do not include the following elements, which were envisaged in the 2014 revision: Institutional Reform, Compliance Defense.
Outlook	The consultation is expected to be opened towards the end of 2021 or 2022. SwissHoldings is accompanying the bill and will participate in the consultation process.

Motion Français 18.4282

Current Status / Outlook	The motion Français 18.4282 (cf. link) demands the following: "In order to make the legislation in the field of competition more effective and to reduce the uncertainties regarding its application, the Federal Council is requested to clarify Article 5 of the Antitrust Act. This amendment should make it possible to determine the facts of the unlawful competition agreement, considering both qualitative and quantitative criteria." SwissHoldings spoke and speaks in favor of the motion. We accordingly welcome the fact that the Council of States adopted the motion on December 15, 2020, and the National Council on June 1, 2021. SwissHoldings will accompany the draft amendment of the law (be it in or outside the revision of the Antitrust Act) and will continue to advocate for this concern.

Corporate and capital market law

Completed revision of stock corporation law and current and upcoming revisions in stock corporation law

Current Status	**Adoption of the revision of the Stock Corporation Act**: After a very long lead-up, the revision of the Stock Corporation Act was completed in the summer of 2020. An essential part of the same was the transfer of the Ordinance against Excessive Compensation into the Code of Obligations; furthermore, it contains various technical adjustments. **Entry into force:** The majority of the provisions of the revision of the Stock Corporation Act are expected to enter into force at the beginning of or even in the course of 2023. Art. 293a SchKG of the company law revision, which extends the provisional moratorium from four to eight months, has already come into force (on October 20, 2020). Furthermore, the Federal Council has brought the gender guidelines into force (with long transition periods) and the transparency provisions in the commodities sector as of January 1, 2021.
Outlook	**At the regulatory level,** now that the revision of the Stock Corporation Act has been completed, there are various ongoing or upcoming revisions of provisions in the Stock Corporation Act: - **Commercial Register Ordinance:** After completion of the revision of company law, the ordinance provisions on the new provisions of the revision of company law are still needed. In this regard, the Federal Council has (so far) only planned amendments to the Commercial Register Ordinance. It has carried out a corresponding consultation from February to May 2021 (see link to the corresponding media release incl. consultation documents). The consultation draft mainly contains provisions on the formation and capital regulations as well as on share capital in foreign currency. - SwissHoldings has participated in the consultation process: The bill is, like the revision of the Stock Corporation Act, a technical bill and contains few sensational changes. SwissHoldings welcomes the consultation draft and its thrust and submitted mainly

selective, technical amendment concerns in the consultation (see link to consultation response).

- **Consultations on ordinances on the counterproposal to the Corporate Responsibility Initiative and TCFD:** The counter-proposal to the Corporate Responsibility Initiative also still needs the implementing ordinances, which are now being drafted, and the Federal Council is planning a binding implementation of the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) for Swiss companies. To achieve this, the Federal Council has already conducted one consultation and is planning another:

- **The consultation on the Ordinance on Due Diligence and Transparency in the Areas of Minerals and Metals from Conflict Regions and Child Labor (VSoTr):** The consultation took place between April 14, 2021, and July 14, 2021 (see link to the consultation documents). SwissHoldings participated in the consultation in an inter-association statement (see link).

- **The planned consultation on benchmarks for mandatory climate reporting for large Swiss companies.** The Federal Council announced such in a media release dated August 18, 2021 (cf. link to the corresponding media release).
  At SwissHoldings, the topic is being looked after and examined from a cross-divisional CSR and accounting perspective **(cf. in particular the comments in the Economics section)** and from a legal perspective.

- **Regulation in connection with the bill against abusive bankruptcies:** The bill aims to use various measures in the Code of Obligations, debt enforcement and bankruptcy law, and criminal law to prevent debtors from abusing bankruptcy proceedings to discharge their obligations (bankruptcy riding) (see link to documents on curia vista). The bill also includes measures under company law, namely on shell company trading and audit law. So far, the bill has been discussed once by the National Council and once by the Council of States (and their preliminary advisory committees). It will now go back to the preliminary committee of the Council of States, which will discuss it on November 11, 2021. SwissHoldings positions itself as follows: The Federal Council's provisions - including those relating to stock corporation law - only marginally affect the members of SwissHoldings. For SwissHoldings, it is important above all those problematic provisions for SwissHoldings members are not included in the parliamentary process.

- **Future bill on the regulation of proxy advisors:** In the context of the deliberations on the revision of the Stock Corporation Act (and already in the context 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 via transparency obligations for issuers. SwissHoldings opposed the regulation under discussion at that time because it would have meant that one wanted to regulate

(existing problems in connection with proxy advisors) via a selective regulation "on the hump of the issuers/companies". In the end, the provision was not included in the revision of the Stock Corporation Act, which we very much welcome.
In response, a motion 19.4122 (cf. link) was adopted with the following wording: "The Federal Council is instructed to submit an amendment to the law (e.g., the Financial Market Infrastructure Act) to disclose and avoid conflicts of interest of proxy advisors at listed stock corporations. In doing so, it considers international developments." It contains no reference, or at least no explicit reference, to regulating via duties of issuers. We welcome this missing reference.
The corresponding revision of the law will now come.

- **Future regulation of loyalty shares:** In the context of the share revision, a regulation was further discussed which wanted to introduce so-called loyalty shares. In the end, it was not adopted. Instead, the Council of States has submitted a postulate instructing the Federal Council to draw up a report on the possible advantages and disadvantages as well as the effects of the proposed regulation discussed in the revision of stock corporation law. According to the postulate, the report should also provide a comparative legal description of possible implementation variants in Swiss stock corporation law and the extent to which there is a need for action in this area (cf. in detail the link to the postulate). This could lead to a regulation in the future.

- **Proposals concerning bearer shares and beneficial owners:** In the future, as in the past, there are likely to be regulatory efforts in connection with the recommendations of the "Global Forum on Transparency and Exchange of Information for Tax Purposes" and the "Financial Action Task Force on Money Laundering (FATF)". SwissHoldings' position in these areas is essentially as follows: It is important to ensure that Switzerland is not blacklisted from such entities. At the same time, unnecessary restrictions on freedom of action as well as unnecessary bureaucracy for (listed) companies must be avoided.
In concrete terms, the following two developments are currently worth mentioning:

- **Revision of FATF Recommendation 24 on transparency and beneficial owners of legal entities:** The FATF conducted a public consultation from June 23 to August 27, 2021. The focus was on the possible introduction of a central register for beneficial owners as well as possible tightening of bearer shares. SwissHoldings participated in the consultation process in a joint submission with economiesuisse, SwissBanking, the Swiss Insurance Association and the Forum SRO. The opinion states that exceptions for listed companies are necessary in this area (in the case of an introduction of central registers as well as tightening up on bearer shares).

- **Postulate 19.3634 (cf. link):** The postulate instructs the Federal Council to submit a status report by the end of 2021 on the implementation of Bill 18.082, "Implementation of the recommenda-

	tions of the Global Forum on Transparency and Exchange of Information for Tax Purposes". If necessary, the Federal Council is to submit proposals for amendments. Any regulation could follow, if necessary. SwissHoldings is monitoring developments in these areas and continues to actively advocate for the interests of member companies in stock corporation law.

Covid-19 und General Assemblies 2022

Current Status / Outlook	For the **2020 and 2021 General Meetings**, the question had arisen at the time as to how companies could hold their General Meetings when event bans were in place. The Federal Council had adopted a sensible regulation for these two years, which allowed shareholders to exercise their rights exclusively through an independent proxy designated by the organizer. For the year 2022, the issue looks somewhat different, as it is likely that event bans will no longer apply as in 2020 and 2021, but that **General Meetings with Covid certificate can be held. In addition, however, the regulation on the General Meeting on the independent proxy, which applied in 2020 and 2021, is also likely to be extended for 2022, which we welcome.** The legal basis for this has already been created (see also the link to the FAQ of the Federal Office of Justice). However, the ordinance, which effectively states that a GM is possible via the independent proxy, must now be extended.

Art. 24 FinfraV and the self-regulation concerning stock exchange

Current Status	As part of the revision to the Ordinance to the Federal Act on the Adaptation of Federal Law to Developments in the Technology of Distributed Electronic Registers, the Federal Council decided on a very problematic amendment to Art. 24 FinfraV and put it into effect on August 1, 2021. **Specifically, it calls for the complete independence of the management of the trading venue and a majority independence from the participants and the issuers.** This would effectively mean the partial end of self-regulation by the Regulatory Board, as it would now have to be independent of the participants and issuers in terms of personnel and organization. The same would probably apply to the Issuers Committee. **From SwissHoldings' point of view, the regulation is extremely problematic** – On the one hand, this is true in terms of content: The self-regulation of the stock exchange is strongly anchored in the consciousness of the local banks and issuers and allows for sensible regulation, which is issued by persons with the necessary practical experience and the corresponding expertise. This also leads to acceptance of the regulations. – On the other hand, this also applies procedurally: It is extremely problematic if such far-reaching changes are adopted in an ordinance and not in a law, for example, despite negative consultation results. Also thematically, the ordinance to the Federal Act on the Adaptation of Federal Law to Developments in the Technology of Distributed Electronic Registers is not necessarily the

	right place. Thus, this regulation was adopted without serious political debate. **Accordingly, it is central that a suitable solution is found here in the sense of the deletion of the decided regulation.**

Revision SER regulations on ad hoc publicity

Current Status / Outlook	In 2016, the Six Exchange Regulation (SER) had already conducted a consultation on the revision of the rules on ad hoc publicity, in which SwissHoldings had participated at that time. SER then contacted the participants of the consultation at that time last year with a new consultation on the topic, in which SwissHoldings again participated. The proposal concerns various amendments to the Listing Rules, the Directive on Information Relating to Corporate Governance and the Directive on Ad hoc Publicity. SER (resp. the Regulatory Board of SER) has now published the various corresponding amendments this year, as well as a FAQ (cf. in detail the information on the page of SIX Exchange Regulation; Link). - The fundamental changes were put into effect as of July 1, 2021. - Further amendments to the new obligation to use the Connexor Reporting platform for the transmission of ad hoc disclosures to SER came into force on October 1, 2021 (with a transition period; see in detail Regulatory Board Communication No. 5/2021 of August 18, 2021; Link). - Finally, SER plans to revise the Commentary on the Directive on Ad hoc Publicity (RLAhP) by the end of the year 2021 and to publish it on the SER website thereafter. SwissHoldings accompanies the draft and advocates for the interests of its members.

Consultation on the regulation of special purpose acquisition companies (SPACs)

Current Status / Outlook	From June 3 to June 23, 2021, the SER Issuers Committee conducted a consultation on the regulation of special purpose acquisition companies (SPACs). The background was that Finma had expressed concerns that the current provisions of the SIX Listing Rules would not provide a sufficient basis for the admission of a SPAC. Accordingly, the Issuers Committee decided to revise the Listing Rules and to issue a new Directive SPACs. SwissHoldings participated in the consultation process with a short statement due to the limited scope of its involvement. (Link to statement). It now remains to be seen how SER will proceed.

Exchange equivalence - extension of the exchange protection measure

Current Status / Outlook	As this has been known for some time, the EU granted Switzerland stock exchange equivalence only until the end of June 2019, but then did not extend it. Therefore, Switzerland had activated the measure to protect the Swiss stock exchange infrastructure on July 1, 2019. Thus, since January 1, 2019, foreign trading venues are subject to a recognition obligation if they admit certain shares of Swiss companies to trading or enable trading in such shares (for the whole and also further on the developments with the UK, cf. the following Link to the information provided by the State Secretariat for International Financial Matters, SIF). **The ordinance regulating the exchange protection measure (Link to Ordinance) is based on Art. 184 para. 3 of the Federal Constitution and is accordingly limited until December 31, 2021. The Federal Council must now ask itself whether and how it will extend the stock exchange protection measure beyond 31 December 2021.** Pursuant to Art. 7c para. 3 RVOG, the Federal Council may extend the period of validity of such an ordinance once; in this case, the ordinance will cease to be in force six months after the entry into force of its extension if, by that time, the Federal Council does not submit to the Federal Assembly a draft legal basis for the content of the ordinance. Thus, should the Federal Council decide to extend the stock exchange protection measure, it will probably also open the consultation on the corresponding law towards the end of 2021 and adopt the dispatch before mid-2022. **SwissHoldings is monitoring the proposal on an interdisciplinary basis and is advocating the interests of its member companies. Regarding the question of the extension of the stock exchange protection measure, SwissHoldings is clearly in favor of such an extension.**

Lex Koller

Current Status / Outlook	**In the context of the regulation around Covid-19, there have been several calls for the introduction of a permit requirement for the purchase for business site properties:** The Committee for Legal Affairs of the National Council had drawn up a parliamentary initiative to this effect. The content of the initiative also found its way into the draft for the revision of the Covid 19 Act via a motion in the National Council's preliminary advisory committee (Committee for Economic Affairs and Taxation of the National Council (WAK-N). SwissHoldings (as well as many other associations) decidedly opposed the initiative as well as the proposal, which was identical in essential elements, and fought it (see our position in detail under the following link). Both proposals were approved by an "unholy" broad alliance of the SP and parts of the SVP. **In the end, however, a broad middle class spoke out against them, and these proposals are now off the table.** **Subsequently, however, Motion 21.3598 was submitted as a further initiative, instructing the Federal Council to "submit the "Amendment to the Federal Act on the Acquisition of Real Estate by Persons Abroad", which it put out for consultation on March 10, 2017, to the Federal Assembly in the form of a dispatch." SwissHoldings is also opposed to this motion.** It should be noted that the 2017 consultation draft was widely rejected by the business community. It should also be considered that it would be extremely problematic if the motion were to reintroduce the requirements for the mandatory licensing of business premises.

Compliance

Compliance specialist group as a platform for the exchange of experience among member companies - namely on compliance management systems

Current Status	The ever-increasing compliance burden, also for non-financial companies, forces them to constantly expand their company-wide compliance systems and to review their efficiency. In working group meetings in English, the various **compliance management systems** of the different member companies are presented and exchanged. Other **topics relevant to member companies** (such as China's recent "blocking statute" or the whistleblowing directive and problematic obligation to set up whistleblowing systems and investigative bodies in each EU country) will also be discussed.
Outlook	The office will continue to promote mutual exchange between the member companies on a sustained basis.

Whistleblowing Directive and problematic obligation to set up whistleblowing systems and investigative bodies in every EU country

Current Status / Outlook	A problematic development is emerging in the context of the implementation of the Whistleblower Directive in the European member states: There is a risk that the Directive will have to be interpreted and implemented in such a way that local whistleblower systems and investigative bodies will have to be set up in every EU country by companies that have more than 50 employees there. This would be problematic in two respects: On the one hand, whistleblowers would not be better protected by local whistleblower systems, and on the other hand, this would lead to a large and unnecessary bureaucratic burden. Accordingly, various actors, namely various European and foreign associations as well as SwissHoldings from Switzerland, have lobbied and are lobbying with letters and discussions for the Commission to make/prescribe a different interpretation in this regard. In addition, various foreign business associations are lobbying their national legislators to achieve the same goal. Unfortunately, these broad-based efforts by the many associations have not yet been successful. The Commission is sticking to its interpretation of the directive. The next activity on the part of the associations is a roundtable, which Business Europe is organizing with various responsible ministers/attachés from the member states. To what extent the various activities of the various associations and SwissHoldings will (be able to) ultimately lead to the goal remains to be seen.

SwissHoldings

ZPO-Revision - Collective legal protection - Professional secrecy protection for in-house counsel

Current Status	In 2018, a **consultation** on the amendment of the Code of Civil Procedure was carried out. It concerned the reduction of cost barriers, collective legal protection, and the implementation of the parliamentary initiative Markwalder (16.409) for a right to testify and refuse to disclose information for employees in in-house legal services. On February 26, 2020, the **Federal Council** presented its message on the revision of the CCP (see link to the media release as well as to the message and the Federal Council draft). **In doing so, it decided to separate the collective legal protection from the draft and to deal with it separately at a later stage. It also decided to retain the provision on the protection of professional secrecy for in-house counsel in the Federal Council's draft.** The bill then went to the **preliminary advisory committee of the Council of States and the Council of States, which discussed the bill on June 16, 2021.** Regarding the protection of professional secrecy for in-house lawyers, they, like the Federal Council, have spoken in favor of a provision that seeks to introduce professional secrecy protection for in-house lawyers. However, they narrowed it down further, namely by introducing a provision according to which the protection of professional secrecy only applies "if the opposing party is also entitled to refuse under this provision or, if it has a foreign domicile or registered office, has a comparable right of refusal **under the law of that country".** **Finally, the bill went to the National Council's preliminary advisory committee**, which is currently still debating the bill. Accordingly, the flag with the resolutions in detail has not yet been published. **SwissHoldings** positions itself as follows: • **Concerning collective legal protection:** The Association is opposed to the instruments of collective legal protection and will maintain this position when this topic is discussed in a separate bill. **Regarding the protection of professional secrecy of in-house lawyers:** The association has been working for a long time and also very actively in the current consultation for the protection of **professional secrecy of in-house lawyers explicitly and emphatically supports the right to refuse to testify and refuse to issue for employees in internal legal services provided for in the Federal Council's draft** (see for our positioning in detail link to our consultation response).
Outlook	The preliminary advisory committee of the National Council will now discuss the bill and then the bill will go to the National Council. SwissHoldings will study the flag of the preliminary advisory committee of the National Council as soon as it is available and formulate the position regarding the deliberation in the National Council.

Data Protection Privacy

Data Protection Act, Ordinance Law, The Equivalence Decision and Schrems II

Current Status	**Data Protection Act:** In view of European developments, Switzerland also had to revise its data protection law. On the one hand, this is in order to meet international expectations in accordance with the future revised Council of Europe Convention 108 and, on the other hand, to preserve the equivalence with the EU GDPR, which is very important for the economy. The revision was adopted in the final vote in the autumn session 2020. We very much welcome this swift conclusion because it clears the way for the preservation of recognition of equivalence. **Right to ordinance:** The adopted law is followed by the enactment of the law on ordinances. The consultation took place from 23 June 2021 to 14 October 2021. SwissHoldings participated in the consultation (cf. Link). **Equivalence decision by the** EU: The equivalence decision by the EU, originally announced for summer 2020, has not yet been made. She had announced that she wanted to wait for the so-called Schrems II judgment of the European Court of Justice. The latter delivered the judgment on 16 July 2020 (see here immediately). The decision on equivalence by the EU remains to be seen. **Schrems II** ruling: The ruling mainly determines the following: The EU-US Privacy Shield is void with immediate effect. Standard contractual clauses are still valid under increased conditions. The ruling leads to increased legal uncertainty.
Outlook	SwissHoldings follows the developments around the above-mentioned topics and continues to support the interests of the member companies in all these areas for the maintenance of equivalence.

Further

Consultations on the Relief Act and the Regulatory Brake

Current Status / Outlook	From 28 April 2021 to 18 August, the Federal Council carried out consultations on a relief law and the regulatory brake. With the Relief Act, the Federal Council wants to consistently examine existing regulations and new proposals for relief potential. With the regulatory brake, he wants to subject regulations that place a particularly heavy burden on companies in parliament subject to a qualified majority (see in detail the Federal Council's press release of 28 April 2021 including the corresponding consultation documents under the following link). SwissHoldings welcomes the thrust of the proposals and has participated in the consultation with a statement (see link to the statement). The further steps of the Federal Council must now be awaited.

Taxation Department

Withholding Tax Reform

Current status	On 15 April, the Federal Council passed the bill on the withholding tax reform on interest on debt capital. The bill essentially provides that, to strengthen the Swiss debt capital market, the levying of withholding tax on Swiss bonds is to be waived. Only interest on Swiss bank accounts held by natural persons domiciled in Switzerland should continue to be subject to withholding tax. The static revenue shortfall of the reform amounts to CHF 170 million (federal government and cantons). In addition, to strengthen the Swiss capital market, the levying of transaction stamp duty on Swiss bonds will be waived, which will result in a static revenue shortfall of CHF 25 million, which will accrue exclusively to the Confederation. For the Confederation, the revenue shortfall should be offset within five years. For the cantons and communes, additional revenue should result much sooner (dispatch, p. 3). There is a temporary effect of CHF 1 billion that has no impact on the budget, but for which provisions had to be made long ago. In other words, the Confederation and the cantons could not simply save a billion francs by abandoning the reform. Overall, the Federal Council believes that the reform has an attractive cost-benefit ratio. According to the latest calculations, the Confederation, cantons, and municipalities could save up to CHF 200 million per year due to the lower bond interest rates resulting from the reform (new FTA calculations, were not considered in the dispatch). The dispatch does not include SwissHoldings' request to correct the error in the participation deduction for financing activities. The matter will be further addressed in a motion (18.3718). On 28 September, the National Council was the first to deal with the reform. Referrals for review to strengthen tax safeguards were clearly rejected (122 to 66). The smaller amendments proposed by the Commission to improve the bill were all adopted during the detailed consideration. In the overall vote, the bill was again clearly adopted by 122 votes to 68 (Media release National Council). On 28 October, the Committee for Economic Affairs and Taxation of the Council of States will deal with the reform. This means that the reform could be discussed by the plenum of the Council of States already in the winter session of 2021 followed by the final vote of the two chambers. The withholding tax reform is a reform for medium-sized and large Swiss industrial companies. Insurance companies and other service providers also benefit directly from the reform. Swiss banks benefit only indirectly from the bill, which is why they prefer other reforms such as the abolition of the turnover tax. Unlike most other tax reforms supported by the business community, the withholding tax reform is not a tax cut bill. SwissHoldings member companies will not pay less profit, capital or other taxes in Switzerland as a result of the reform. On the contrary, our companies, which are already the most important taxpayers in Switzerland, will pay more taxes domestically as a result of the reform. They will move activities from abroad, especially from the Netherlands, Belgium and Luxembourg, to Switzerland and pay the associated taxes in Switzerland in the future. If, on the other hand, the reform fails, companies will in all likelihood have to strengthen the substance (personnel, functions,

capital) at their foreign finance companies due to the OECD BEPS requirements. In many cases, this will be at the expense of their Swiss assets. These circumstances make the withholding tax reform currently the most important internal tax proposal for the industrial and service companies of SwissHoldings.

Why companies need the reform: Bonds issued directly by Swiss companies in Switzerland or abroad have the withholding tax deduction of 35% on the interest. International investors hardly ever buy bonds where only 65% of the interest is transferred immediately and the remaining 35% must be reclaimed via a laborious and lengthy procedure. The current legal situation and the resulting insignificant Swiss capital market are forcing the larger Swiss companies to raise foreign capital abroad. For this reason, Swiss companies must set up subsidiaries abroad (usually finance companies) and issue bonds through them. In return, the Swiss parent company provides a guarantee to the foreign finance company. The funds raised are then passed on by the foreign finance company to the other operating subsidiaries. Swiss companies and thus Swiss jobs may only be marginally financed with funds from such foreign bonds. In principle, foreign bonds may only finance jobs and activities abroad, but not those in Switzerland.

The issuance of foreign bonds through foreign finance companies is becoming less and less accepted internationally (OECD BEPS). Insubstantial foreign finance companies with guarantees are met with skepticism by individual countries. If the withholding tax reform succeeds, Swiss companies will quickly relocate their financing activities to their Swiss headquarters and in the future, issue their bonds primarily from Switzerland. The funds raised will then be passed on by the Swiss company in the form of loans to the company's domestic and foreign operating subsidiaries. It goes without saying that there are certainly (taxable) profits associated with such activity.

The strengthening of the Swiss capital market is helping various sections of the economy: Thanks to the reform, Swiss companies can offer international investors bonds without the 35% deduction on the interest. In the future, medium-sized Swiss companies will also be able to issue bonds without the tax deduction, making their bonds more attractive to international investors and lower interest rates. Propitious bonds will become more attractive for medium-sized companies compared to more expensive bank loans (US model). When issuing bonds, Swiss industrial companies are supported by Swiss banks, which is why they also benefit. The federal government, cantons, and municipalities can also offer their bonds to international investors without the tax deduction and benefit from lower interest rates (see the new FTA estimate mentioned above). The Swiss capital market will therefore be massively strengthened, and the Swiss economy will grow (approx. 0.5 %). The withholding tax reform therefore stands for economic growth, additional revenues, as well as reduced expenditures for the federal government, cantons, and municipalities. Compared to other tax reforms, the reform has an excellent cost-benefit ratio.

No risk to high withholding tax revenues: Withholding tax is an important source of revenue for the federal government (approx. 10 bn in 2019; only 5.2 bn in 2020 due to Corona special effects). 98% of the revenue comes from withholding tax on dividends (mainly from foreign shareholders of large Swiss corporations). The reform exclusively deals with withholding tax on interest on debt, which is why the high revenues remain unaffected by the reform. The fact that withholding tax on interest hardly generates any revenue for the Confederation is due to the fact that Swiss bonds are mainly purchased by taxpayers who declare the interest in their tax return and take on the costly refund

	procedure. Other taxpayers buy foreign bonds without tax deductions. In other words, the current tax security in the interest rate domain is useless. The hurdle of the reform: Despite the rejection of corresponding proposals in the WAK/EATC of the National Council, the safeguard function of the withholding tax is likely to remain the bone of contention of the reform. In the consultation draft, the Federal Council presented a proposal that, in addition to economic growth, also provided for a marked improvement in tax security and thus in combating tax evasion of investment income. At the same time, the proposal respected financial privacy and fiscal banking secrecy. On closer examination, however, it emerged that the proposal not only had significant technical shortcomings, but also accrued major costs. The costs of the proposed tax security would have been many times higher for the banks, who would have had to carry out safeguard measures, than the safeguarded tax revenues of the treasury. Apart from normal bank accounts, the Dispatch waived additional tax security measures. Should a safeguard be desired politically, various options are available. However, all the solutions (of the many developed and tested by the administration and the economy) have considerable problems. Comprehensive deduction systems, such as that of the consultation draft, are associated with enormously high costs in relation to the potential loss of revenue for the Confederation of CHF 10 million (Dispatch p. 39) and should only be economically justified if the interest on borrowed capital is significantly higher. With the introduction of a comprehensive automatic exchange of bank information on domestic banking data, the withholding tax on dividends would lose its raison- d'être. After all, Switzerland does not need two backup security systems, namely a reporting procedure (AEOI) and a withholding procedure. Particularly, the withholding tax on foreign dividends would have to be reduced in this case from 35% to the ordinary DTA residual rate of 15%. However, this would result in a reduction in revenue for the Confederation (90%) and the cantons (10%) totaling CHF 1.6 billion. This revenue comes almost exclusively from foreign shareholders of major Swiss companies such as Nestlé, Novartis, Roche, and others (Dispatch p. 14). An AEOI restricted to the interest area would bring complicated delimitation problems.
Outlook	The elimination of withholding tax obstacles for debt financing activities is currently the most important Swiss tax project for our member companies. Due to the transfer pricing guidelines for financing activities presented by the OECD in 2020, the importance and urgency of the reform has even increased for Swiss groups. For SwissHoldings, it is therefore crucial that the reform is to be swiftly driven forward. It would be ideal if the reform would pass before the end of 2021 and enter into force as early as the beginning of 2023. If the reform can be adopted by the National Council in the autumn session and by the Council of States in the winter session, then this would be possible. However, this presupposes that the left renounces a referendum against the reform. The hurdle of the reform is likely to be tax security. The Council of States may also want to again closely look at all the safeguard options, such as a deduction on domestic and foreign bonds or a reporting procedure. The business community should support these efforts. The discussion about fiscal banking secrecy and financial privacy protection, could also pick up speed again. Whether the Council of States decides in favor of a reporting procedure, or a deduction system should not be of concern to SwissHoldings. As legal entities, our member companies must upon request, hand over all the supporting documents and information necessary for correct assessment to the Swiss tax authorities (including bank records). In AEOI countries, our companies'

	bank details are already reported to the tax authorities, which does not pose a problem for the companies. We need to focus our concern on removing the withholding tax obstacles for debt financing activities. It would have been important for us to eliminate the shortfall in the participation deduction. However, it is becoming apparent that this request will not find support due to the shortfall in revenue from the Confederation (CHF 80 million) and the cantons (CHF 50 million). For the too-big-to-fail banks, this shortcoming was eliminated by parliament in 2018. At best, improvements can be achieved for the benefit of the industry in other areas during the political process, such as the transaction stamp duty (e.g. Elimination of problems discovered in the meantime, which arise for treasury activities newly carried out in Switzerland). Since the abolition of the turnover tax as part of the stamp duties will have a very difficult stand politically and is unlikely to be abolished during the next fifteen years, the obstacles of this Swiss financial transaction tax that are really important for the industry can be addressed (exception for long-term, business-related share purchases; switch to digital procedure without the antiquated blue card). The withholding tax reform on interest on borrowed capital represents an opportunity for Switzerland as a business location to increase its international attractiveness in another area and to eliminate one of its most important disadvantages as a headquarters location. Against the backdrop of the loss of attractiveness of Switzerland as a business location due to the OECD digital taxation project, the withholding tax reform is a welcome countermeasure. SwissHoldings will endeavor to convince politicians from left to right of the benefits of the reform. At the same time, however, it should be noted that the real winner of the reform will be the Swiss treasury (Confederation, cantons, and municipalities). Firstly, it will be able to tax the profits from the financing activities of Swiss corporations in Switzerland in future. Because of the OECD minimum taxation, the profits can even be taxed at a higher rate.

OECD/G20 project on taxation of the digital economy

Current status	The project for the taxation of the digital economy is based on two pillars and aims to adapt international corporate taxation. In Pillar 1, large digital and other corporations are to pay tax on a larger share of their profits in the countries where they sell their products. This is done through the so-called Amount A. In Pillar 2, large corporations are to be subject to minimum taxation in all their operating states. The work is being led by the OECD Secretariat on behalf of the G7 and G20. The project is decided by the "OECD/G20 Inclusive Framework on BEPS" (IF), which comprises around 140 countries. On October 7-8, 2021, 136 out of 140 IF countries adopted a statement with policy parameters on the two pillars (IF Statement). These were officially endorsed by the G20 Finance Ministers on 14 October. The following parameters were adopted: • The world's largest companies (at least EUR 20 billion in sales) must pay tax in the countries of sale on 25% of the group profit that exceeds a 10% profit margin (Amount A of Pillar 1). The tax is paid by the group companies that have profit margins above 10%. • In return all "digital service taxes" and similar unilateral instruments should be abolished. • International companies that are required to prepare a country-by-country report, i.e., have a turnover of at least EUR 750 million, must

comply with a minimum tax rate of 15% in each country (Pillar 2). The calculation of the minimum tax is based on a tax base determined according to accounting principles (e.g. IFRS) that is largely standardized internationally.

- The redistribution by means of Pillar 1 Amount A will take place from 2023 and is based on a multilateral agreement to be submitted next year and subsequently ratified. After seven years (2030), the turnover limit will be reduced from EUR 20 billion to EUR 10 billion, which will significantly increase the number of companies affected. Pillar 2 (minimum taxation) represents a so-called "common approach", is "voluntary" and will apply from 2023 (Income Inclusion rule) or 2024 (Undertaxed Payments rule).

It should be noted, however, that there are still differences of opinion between the IF states involved regarding the details. The Pillar 2 Model Rules and the corresponding technical explanations are due to be published at the end of November 2021. Until then, at least for Pillar 2, important differences of opinion on the technical details still need to be resolved. The publication of the technical details on Amount A is expected to take place even later. For the Swiss legislative process, the extremely ambitious implementation timetable represents a major challenge.

The global tax reform is taking place in parallel with a US reform. As part of this, the Biden administration wants to significantly increase corporate taxes in the US and eliminate numerous business-friendly special rules (Bipartisan Infrastructure Framework [BIF] and Build Back Better Act [BBB]) to finance improvements to US infrastructure and various new social projects. For the Biden Administration, global reform is likely to serve to advance U.S. reform and move it in the desired direction. For example, the U.S. has managed to ensure that Amount A eliminates the focus on digital corporations, which are important taxpayers for the U.S., and requires the elimination of Digital Service Taxes that many states have planned (e.g., EU Digital Levy) or already implemented. This means that the majority of Amount A is likely to come from traditional industrial groups, which already make substantial tax payments via their distribution companies in the market states. These naturally include Swiss corporations such as Nestlé, Novartis, or Roche, but also numerous other European corporations such as SAP or the French luxury goods groups. Whether the US will participate in Pillar 1 at all will probably not be known until spring 2022. The US is also likely to be granted special rules for Pillar 2. With GILTI, for example, the US will apply a different minimum tax calculation system with different rules (minimum tax rate, tax base, etc.). According to the IF statement, it remains to be seen whether this system, the content of which has not yet been determined, will ultimately be regarded as equivalent.

In order to not maneuver oneself economically into the sidelines with the tax increases and thus endanger the necessary parliamentary majority in the US Congress, the international requirements of Pillar 1 and Pillar 2 must be aligned with the US plans. Most important for this is the introduction of the highest possible international minimum tax rate. This could encourage US and European or Asian companies to set up more factories and research facilities in the US again as part of the "America first" strategy. In the competition between locations, factors other than attractive corporate taxes must be decisive. The factors used by the US in this regard include, in particular, a wide variety of aid/subsidies for the creation and maintenance of research and production jobs or the waiving of government claims (e.g., social security contri-

butions). In contrast, such instruments are largely frowned upon in Switzerland and are used little, although they are also used to a considerable extent by important European countries such as France and the UK.

Technical explanations for Pillar 2:

Pillar 2 provides for the introduction of a set of complementary rules for affected companies:

- Income Inclusion Rule (IIR)
- Undertaxed Payments Rule (UTPR)
- Subject To Tax Rule (STTR)

Together, these so-called Global Anti-Base Erosion rules (GloBE) are intended to ensure that all affected companies (with a minimum turnover of 750 million euros) pay at least 15% in profit and capital taxes in all states. The states are not obliged to comply with the minimum tax rate. The introduction of Pillar 2 is voluntary (common approach). If a group company has an Effective Tax Rate (ETR) lower than 15% in one state, another state (e.g., the head office state) can tax the difference to the minimum tax rate by applying the IIR. If the head office state has an ETR that is too low, the UTPR applies, according to which many other states with subsidiaries and economic relationships between subsidiaries and group companies in the head office state may tax the difference at the minimum tax rate (so-called top-up tax).

The starting point for the ETR calculation at country level is the aggregation of all income statements of the companies included in the consolidated financial statements in each country. This is not based on the individual statutory financial statements of a country company, but on the financial statements for the consolidated financial statements of the country company concerned in accordance with the accounting standard used by the Group for its consolidated financial statements. Capital taxes are presumably also included in the tax base. The accounting standard accepted for GloBE purposes is generally any accounting standard recognized as acceptable by the authority of the Group's domicile, provided that its application does not result in a material impediment to competition. IFRS and US GAAP are defined as an adequate accounting standard. Swiss GAAP FER could recently also be recognized as adequate. Certain permanent differences between the profit according to (local) tax assessment rules and the profit according to (global) financial accounting rules must be eliminated (e.g., dividends, gains and losses from sales of participations).

The minimum tax rate can be undercut by the amount of a carve-out. This carve-out considers personnel costs and depreciation on tangible assets in the state of the national company. According to the IF-Statement, the carve-out amounts to 5% (i.e., the deductible personnel expenses do not amount to 100% but to 105%). A higher carve-out is possible during a transitional period of 10 years. This instrument is intended to create incentives for companies with physical substance. The effectiveness of the carve-out according to the IF statement is limited. Intangible assets such as self-created product patents are not considered. This calls into question, for example, the measures implemented as part of the Swiss tax reform, to say the least.

The STTR applies to payments based on a DTA (interest, royalties, and similar payments). It enables the source state to take countermeasures should

	the payments be taxed at below 9% in the recipient state. With the introduction of Tax Bill 17, the STTR should no longer represent a major obstacle for Switzerland.
Outlook	With the IF Statement of October 2021, which has now also been endorsed by countries such as Ireland, the OECD has taken a huge step forward in this project. It is not impossible that the reform will still fail, but it is now highly unlikely. At most, the US Congress can still seriously jeopardize the reform of the taxation of the digital economy, especially if no qualified majority can be found in Congress for the state treaty on Pillar 1. Switzerland's international efforts in the coming months: At the international level, Switzerland will need to ensure that its legitimate interests are considered in the coming months. Numerous important questions (ETR calculation, marketing, and distribution profits safe harbor, etc.) are still open, particularly regarding the technical details. These are decisive in determining how much Switzerland, as a typical domiciliary state of large international companies, must surrender to market states. A market state may receive a significantly lower share of profits for taxation compared to the home state with its central R&D, management and other core functions that are indispensable for the success of the company. Especially in the case of traditional industrial groups that produce and sell high-quality goods, market states often already receive considerable compensation (e.g., pharmaceuticals). Significant additional compensation at the expense of the home state could lead to a situation where high expenditure in the education sector is no longer worthwhile. A reduction in education expenditure, particularly in the university sector, because it is not sufficiently rewarded in tax terms, would be disadvantageous in terms of solving global challenges (e.g., global warming, hunger, pandemics). It is also important to limit the administrative burden. Business expenditure to meet administrative tax requirements is and remains unproductive and should therefore be kept as low as possible. There is also considerable potential for improvement in measures to improve legal certainty. Assessment of the consequences for Switzerland and further action: The requirements of the OECD digital taxation project are not in Switzerland's interest. Pillar 1, for example, envisages a shift in the taxation of the profits of large, profitable groups to the sales states. The group companies that generate the highest value added are to relinquish the income. Switzerland is a business location where Swiss and foreign companies carry out activities with particularly high added value. As a result, Switzerland will have to relinquish significantly more tax substrate from domestic and foreign companies than other industrialized countries. At the same time, Switzerland is an insignificant sales market in global terms. It will therefore hardly be able to compensate for the shortfall in revenue described above with new tax substrate that it receives as a market state. Overall, Switzerland is therefore likely to be one of the losers in Pillar 1. This is likely to become even more pronounced from 2030, when the thresholds for redistribution will be significantly lowered. The situation is similar for Pillar 2 (minimum taxation). Low taxes on profits are an important reason why international companies carry out activities with high value added and high profits in Switzerland. The low taxes partially compensate for the very high Swiss wages by international standards. If other countries succeed in achieving the OECD minimum tax rate of 15% through

tax measures (e.g., patent box), Switzerland will lose the important locational advantage of taxes. It should be borne in mind that the OECD tax base will in all probability be broader than the current Swiss profit and capital tax base, i.e., the OECD tax rate of 15% corresponds to a Swiss tax rate of over 15%. If other countries also have lower wage and other costs than Switzerland, and if they grant additional non-fiscal incentives, Switzerland will probably have a much tougher time competing internationally as a business location. At risk are the particularly lucrative value-added activities (research, management, and other so-called principal functions). These activities are not only particularly lucrative for corporate profit taxes, but also for personal income taxes (taxation of employees).

Nevertheless, it is imperative that Switzerland adopts the requirements of the OECD digital taxation project. If Switzerland were to refuse to implement the minimum taxation requirements, for example, this would do more harm than good to the Swiss economy and the Swiss treasury. The additional tax substrate from minimum taxation would simply flow abroad instead of into Switzerland, and Swiss companies would be exposed to constant conflicts with foreign tax authorities. If Switzerland did not implement the Pillar 1 requirements, Swiss companies would have to consider whether they could maintain their Swiss headquarters. In other words, Switzerland must now do everything in its power to implement the international requirements in good time (Pillar 1 by 2023 and Pillar 2 by 2024).

The effects of the OECD digital taxation in Switzerland are therefore greater than generally assumed. If Switzerland does not take countermeasures and invest the additional tax revenues from Pillar 2 (minimum taxation), it is likely to become massively less attractive.

The simplest countermeasure would, of course, be for those cantons that receive additional tax revenue from affected companies because of the OECD minimum taxation to simply refund the additional revenue "tel quel" to the companies concerned. This approach would even be required under Swiss constitutional law, as it would prevent companies affected by the OECD minimum taxation from being treated less favorably than other Swiss companies. However, such a refund is inadmissible under international law. Since only internationally permissible measures can be considered for the Swiss economy, which is very active internationally, the federal government and the cantons must find other instruments. Furthermore, they must ensure that only internationally permissible instruments are used by the authorities (control function).

One important area for Switzerland is research. The patent box, the generally low tax rates and the cantonal optional R&D deduction are tax measures that make a significant contribution to international companies carrying out significant research and development activities in Switzerland. Tax incentives for research in their current form will only be possible to a very limited extent in the future due to the OECD minimum taxation. Even in the Canton of Zurich, a patent box could in many cases lead to effective taxation that is too low. Therefore, the still permissible tax incentives for research must be adjusted so that they comply with the new international requirements. Permissible according to the OECD guidelines is an R&D subsidy that provides for a reduction in the amount of tax and is independent of the level of profit taxes (paras. 230ff. Blueprint II). To ensure that Switzerland does not lose ground internationally in terms of fiscal research promotion, OECD-compliant research promotion must be greatly expanded.

	Numerous Swiss companies affected by the OECD minimum tax and large Swiss subsidiaries of foreign companies do not carry out research activities, but rather management, purchasing and other principal activities in Switzerland. Switzerland should also provide instruments for them so that they can continue their value-added activities here and continue to hand over substantial profits to the Swiss tax authorities. The OECD's timetable for implementing the new requirements is extremely ambitious. Switzerland cannot therefore wait until the final details of the new requirements are known. It must start the legislative process with vigor now, so that when the new requirements are approved, Switzerland can already begin the consultation process. The first important preliminary work has already begun. This work must be continued in a targeted manner with the involvement of the economy. For example, the EU will have prepared a detailed draft of an implementation directive on Pillar 2 by December 2021 and will submit it to the member states for approval. Regarding the Swiss implementation, SwissHoldings is of the opinion that existing structures that have proven themselves over many years should not be adapted without necessity. For example, SwissHoldings is skeptical that the assessment of the minimum tax should be transferred from the cantons to the federal government. The assessment of the profit tax is the task of the cantons. The cantons should therefore continue to be in the lead regarding the minimum tax. Nor should the cantons' tax autonomy or competition among the cantons be abolished under the guise of GloBE requirements. The additional revenues from the minimum tax therefore belong to the cantons and not to the Confederation. Those cantons should receive a share of the additional revenue from the minimum tax whose companies have also paid it. Redistributions in favor of the Canton of Berne, for example, and at the expense of the Canton of Zug should be avoided. Redistributions between the cantons must take place via the intercantonal financial equalization system. In general, the following aspects are central to Swiss implementation: • International acceptance • Simple legislative and administrative implementation • Securing the attractiveness of the location • Compliance with international timelines • High flexibility • Recognition of minimum taxation, particularly from a US tax perspective

SwissHoldings

Economy Department

Trade and investment policy

Bilateral relations Switzerland / EU

Current status	The European Union (EU) is by far Switzerland's most important trading partner. At the same time, Switzerland is one of the biggest export and import markets for the EU. 70% of Swiss imports come from the EU and 52% of Swiss exports go to the EU. SwissHoldings member companies are also strongly interconnected with the EU. At the end of 2019, member companies' direct investments in the EU amounted to CHF 236 billion. This represents 53% of all direct investments abroad by SwissHoldings member companies. Accordingly, the relationship between Switzerland and the EU is important for the Swiss economy. Switzerland is pursuing a bilateral approach. Starting with the free trade agreement concluded in 1972, Switzerland has established a dense and constantly evolving network of agreements with the EU. Particularly significant are the Bilateral agreements I and II, which grant the contracting parties' non-discriminatory access to each other's markets and establish close cooperation in various areas between Switzerland and the EU. This bilateral approach has brought our country numerous advantages. However, the EU has made the further development of the network of agreements conditional on clarification of the institutional framework. At the meeting on 26 May 2021, the Federal Council decided not to sign the institutional framework agreement (InstA) and to end the negotiations with the EU. Nevertheless, he would like to continue bilateral cooperation and develop a common agenda on further cooperation with the EU. At EU level, the Committee on Foreign Affairs is currently working on a report evaluating bilateral relations between Switzerland and the EU, which is to be presented to the public in autumn 2021 and serve as the basis for a fundamental debate in Parliament on relations with Switzerland. In addition, the Commission is also working on a report on bilateral relations. In addition, Switzerland has been assigned a new contact person within the European Commission, Vice-President Maroš Šefčovič. In the meantime, the Federal Council has been seeking a rapid de-blocking of the cohesion contribution. The amount was released by parliament in the autumn session 2021. The failure of the Framework Agreement has led to the EU allowing Switzerland to participate in research cooperations under the "Horizon Europe" framework program for research and innovation for 2021 only as a non-associated third country. At the 'Tag der Wirtschaft' in September 2021, Federal Councilor Ignazio Cassis presented a three-step strategy to guide Switzerland's activities:

	1. In the short term: intensification of the relationship and unblocking the contribution to cohesion and enlargement 2. Medium-term: structured political dialogue with the EU and internally in Switzerland 3. In the long term: renewed discussion about an institutional arrangement.
Outlook	Orderly and secure relations between the European Union and Switzerland are essential for both sides. For the foreseeable future, the EU member states will remain extremely important trading partners for the highly export-oriented Swiss economy. It must therefore remain a priority that the bilateral path can be continued. SwissHoldings welcomes the fact that the Federal Council is aiming to develop a common agenda on further cooperation with the EU to ensure that the bilateral agreements are applied as smoothly as possible, even without the conclusion of the InstA. In this context, it is also considered appropriate that the Federal Council has instructed the Federal Department of Justice and Police (FDJP), in cooperation with the other departments, to examine the possibility of independent adjustments in national law with the aim of stabilizing bilateral relations. From the Association's point of view, it is important to ensure the competitiveness of our country by pursuing all possibilities to strengthen the framework conditions that Switzerland can implement unilaterally.

Abolition of industrial tariffs

Current status	The draft revision of the Customs Tariff Act is intended to set customs duties on industrial products at zero. For the purposes of this bill, the term "industrial products" covers all goods except agricultural products (including animal feed) and fishery products. In addition to the elimination of tariffs, the bill also seeks to simplify the tariff structure for industrial products. The planned simplification of the customs tariff structure will reduce the number of tariff numbers in the industrial sector from 6172 today to 4592. The bill is part of the "import facilitation" package of measures in the fight against the high price island of Switzerland. The Federal Council adopted the dispatch on the Customs Tariff Act on 27 November 2019 for the attention of parliament. As the first Council, the National Council rejected the bill in the 2020 summer session by 108 votes to 83. The Council of States voted 29 to 14 in favor of the bill in the autumn session and on 2 December voted 28 to 14 with one abstention in favor of the Federal Council's draft. Due to the differing positions of the two councils, the WAK-N demanded further clarification from the administration, including questions on the partial abolition of industrial tariffs and border adjustment systems. At the subsequent meeting of the WAK-N, the body decided to accept the bill by 16 votes to 7 and to approve it unchanged by 15 votes to 7 with one abstention. A motion for the graduated abolition of industrial tariffs will be brought before the National Council as a minority motion. In the 2021 summer session, the matter was dismissed at short notice and postponed to the autumn session. This decision has been taken in order to discuss the file together with Motion 21.3602 "Swiss participation in the EU border adjustment system". In the autumn session, the National Council

	adopted the bill in a second attempt by 106 votes to 75. The debate focused particularly on the question of whether customs duties should be abolished in stages or in one swoop. A motion calling for a staggered approach was narrowly defeated, with the President of the National Council (Andreas Aebi, SVP) casting the deciding vote. In the final vote, both Councils approved the business. The bill is subject to an optional referendum. If the condition for a referendum cannot be fulfilled within 100 days of publication in the Federal Gazette, the revised Customs Tariff Act is expected to enter into force on 1 January 2024.
Outlook	Swiss customs duties have grown historically and were introduced 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%, most 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 supports 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. Our association welcomes the Parliament's decision to adopt the revision of the Customs Tariff Act.

Free trade agreements

Current status	The Swiss economy has a strong global orientation and is therefore dependent on cross-border trade and international investment activities. Thus, the constant improvement of access to foreign markets was and is a focus of Swiss foreign policy. This is achieved, among other things, through free trade agreements with third countries. In addition to the EFTA Convention and the free trade agreement with the European Union (EU), Switzerland has a network of 32 free trade agreements with 42 partners worldwide. Added to this is the newly negotiated free trade agreement with Indonesia, which was approved by the population in March 2021 and will enter into force on 1 November 2021. Switzerland, together with the other EFTA states, is currently negotiating free trade agreements with seven new partner states, namely India, Kosovo, Malaysia, Mercosur, Moldova, Thailand and Vietnam, as well as the modernization of various existing agreements. In recent years, criticism of globalization has become louder and free trade agreements are increasingly viewed critically. Concerns regarding negative impacts on the Sustainable Development Goals (SDGs) and climate targets are fueling protectionist tendencies. In the context of these developments, discussions about the sustainability of free trade agreements have increased.

	Following the narrow approval of the free trade agreement with Indonesia in March 2021, the focus will now increasingly be on the free trade agreement with Mercosur. Negotiations between EFTA and the Mercosur states were substantially concluded in Buenos Aires in August 2019. Currently, the legal review is underway, which has been delayed due to Covid. In addition, the legal review revealed that different interpretations on some substantive points still need to be clarified. Regarding this free trade agreement, two Cantonal initiatives, one from the Jura and the other from Geneva, were dealt with in the National Council during the last summer session. The first mentioned initiative demanded the exclusion of agricultural products from the Mercosur agreement and the other that the free trade agreement with Mercosur should be subject to an optional referendum. For both initiatives, the National Council followed the Council of States and did not approve them. In the autumn session, the Council of States also rejected an initiative from Neuchâtel, the content of which coincides with that of Geneva. Nevertheless, in accordance with Federal Council practice, an optional referendum is to be expected.
Outlook	Especially against the backdrop of trade conflicts, the blockade of the World Trade Organization (WTO) and growing protectionism, the expansion of the network of free trade agreements is important for the export-oriented Swiss economy and the member companies of SwissHoldings. Free trade agreements allow privileged access to important markets and lead overall 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. Increasingly, concerns are being raised about sustainable development in relation to global trade. Of course, SwissHoldings recognizes and supports the need for sustainability aspects to be taken duly into account when considering free trade agreements. The chapter on "sustainability and trade" in the agreements forms a solid foundation for promoting sustainable development. Moreover, 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, consequently, social progress as well as knowledge and technology transfer play an important role. SwissHoldings will continue to advocate the important expansion of the Swiss network of free trade agreements.

Investment Control

Current status	In Switzerland, it is currently being discussed whether foreign direct investment in Swiss companies poses a threat to the country. The Federal Council examined this issue in detail in the report "Cross-border investments and investment controls" and came to the conclusion that the introduction of official control of direct investments would not bring any added value at the present time. Notwithstanding this position, both chambers of parliament have voted in favor of the Rieder motion. This mandates the Federal Council to draft a bill for investment control of foreign direct investments in Swiss companies, among other things, by establishing an approval authority for transactions subject to investment control. The focus is

	particularly on takeovers and investments by companies from the dynamically growing emerging markets in infrastructures such as energy, transport, telecommunications, data storage and financial infrastructure. On 25 August 2021, the Federal Council defined the parameters for a foreign investment control system to implement the Rieder motion. The consultation draft is expected at the end of March 2022.
Outlook	Switzerland is one of the largest direct investors in the world. Swiss companies had a capital stock of CHF 1.445 billion abroad in 2019. The counterpart to this is the stock of CHF 1.370 billion of foreign direct investment in Switzerland. SwissHoldings member companies are important direct investors. Their capital stock amounted to CHF 444 billion at the end of 2019. Accordingly, it is a key concern of SwissHoldings that investment activity is maintained, and that Switzerland is not weakened as an investment location. This is of particular importance given that Covid-19 is likely to have triggered a sharp drop in foreign direct investment inflows last year, according to initial estimates. At the same time, competition for investment from abroad is intensifying. However, Switzerland is dependent on foreign investment for its growth and prosperity. The basic principle is that the investment control mechanism must be targeted (i.e., focused on clearly defined objectives), efficient in its implementation and administratively lean. An unnecessary administrative burden on companies should be avoided. Investors should also be granted the highest possible degree of transparency and legal certainty. SwissHoldings will actively accompany the preparation of the draft legislation. Confidence in Switzerland as an open - but already not barrier-free - investment location and in liberal economic policy must be maintained.

Corporate social responsibility

Responsible Business Initiative

Current status	The popular initiative was put to the vote on 29 November 2020. economiesuisse was in the lead for the business campaign. SwissHoldings was carrying out a complementary campaign. The initiative narrowly won the majority of the popular vote (50.7% in favor) - but the bill was rejected thanks to a clear failure to win a majority of the cantons (cantons: 14.5 NO, 8.5 YES). This paves the way for the entry into force of the indirect counterproposal. SwissHoldings has drafted the cross-association statement **on the Ordinance on Due Diligence and Transparency regarding Minerals and Metals from Conflict Areas and Child Labour (VSoTr)** (link tothe statement), which defines the outstanding points of the counter-proposal. According to the current timetable, the Federal Council will adopt the implementing provisions on due diligence this year and put the respective ordinance into effect. The law then grants companies one year to adapt to the new obligations (2022). The new obligations would thus first apply to the 2023 financial year (i.e., publication of the first reports in 2024).

Outlook	From SwissHoldings' perspective, the goal of ensuring targeted and internationally coordinated regulation about "corporate social responsibility" for Switzerland remains unchanged. The entry into force of the counterproposal represents an important step in this direction. The association welcomes the draft ordinance on the implementation of the counterproposal. With the proposed instruments Switzerland has a future-proof solution that considers the most important concerns of the economy. However, the associated new obligations are challenging, particularly regarding child labor. There is a need for adaptation of individual, technical points, to give companies more clarity with regard to the expectations of the legislator. In addition, it must be ensured that the requirements for companies regarding child labor are implementable and that open questions on non-financial reporting are regulated.

Sustainable Development Strategy 2030 / CSR Action Plans by the Federal Council

Current status	With the "Sustainable Development 2030" strategy, the Federal Council shows how it intends to implement the 2030 Agenda for Sustainable Development over the next ten years. The strategy is now designed for ten years instead of the previous four. In doing so, the Federal Council anchors the goal of sustainable development as an important requirement for all federal policy areas. The Federal Council has defined the three priority themes of "sustainable consumption and production", "climate, energy, biodiversity" and "equal opportunities" as strategic directions for federal policy. The strategy also sets out how the economy, the financial market and the area of education, research and innovation can drive sustainable development forward and what framework conditions are necessary to achieve this. At its meeting on 4 November 2020, the Federal Council opened a consultation on the strategywhich lasted until 18 February 2021. SwissHoldings submitted a statement as part of this consultation. The Strategy 2030 and the associated Action Plan 2021-2023 were adopted by the Federal Council on 23 June 2021. SwissHoldings advocates for a balanced regulation in the area corporate social responsibility. In Switzerland, the Federal Council's National Action Plan on Business and Human Rights (NAP) and SECO's CSR Position Paper point in the right direction by focusing on international standards and best practices. On this issue, 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. On 14 September 2021, the Swiss Forum on Business and Human Rights was held, which included a multi-stakeholder exchange on best practices. The Federal Council has also revised its position paper and action plan on corporate responsibility for society and the environment. From a strategic perspective, the stakeholder dialogue has been strengthened and the review of the implementation of CSR instruments has been expanded. In addition, greater emphasis was placed on the topic of digitalization.
Outlook	The Federal Council's action plans are currently being implemented. SwissHoldings supports the work of the Confederation in this area within the framework of the Federal Commission to Advise the NCP (NCP Advisory Council)

	and the Support Group for the National Action Plan "Business and Human Rights".

Accounting and reporting

IFRS Standards

Current status	Regarding IFRS standard setting, specific emphasis should be placed on the IASB-agenda-consultation currently underway. The IASB opened a consultation on its proposals for the 2022- 2026 work program. The IASB conducts this process on a regular basis to align its work activities with stakeholder priorities and capacities. One focus area is sustainability reporting, which is becoming increasingly important for the IFRS Foundation. In addition, no fewer than five additional IASB consultations are currently underway. Among these, the pilot project on disclosure requirements (Disclosure Initiative) is probably the most important: a new concept on the type and scope of disclosures in the notes is being proposed and tested using the example of two standards (IFRS 13, IAS 19); these principles are to be used as a basis for the other IFRSs later. The aim is to find a good balance between information richness and materiality. The IFRS held a consultation at the end of 2020 (link to SwissHoldings' statement) to clarify whether there is demand for an extension of IFRS activities to non-financial reporting. Based on the consultation responses, the IFRS Foundation Trustees have published a statement clearly showing the desire for IFRS activities in sustainability reporting. At the same time, a draft was published that amends the IFRS Foundation Constitution to allow for the establishment of an International Sustainability Standard Board. The new body will take care of the development of standards in sustainable corporate governance. The draft amendment to the IFRS Foundation Constitution was consulted on until 29 July 2021.
Outlook	SwissHoldings will continue to actively follow the development of IFRS accounting and participate in relevant consultations.

Developments on EU level

Current status	At EU level, the issue of sustainability is at the center of public debate. In the context of this discussion, the European Commission has become active through various initiatives. In the area of reporting, the focus is primarily on three regulations. On the one hand, there is Regulation 2019/2088 on sustainability-related disclosure requirements in the financial services sector, which, as the name implies, is

	aimed at financial services providers. On the other hand, the taxonomy regulation and the directive on non-financial reporting (NFRD) impose requirements on companies from the real economy. The Taxonomy Regulation introduces a classification system for environmentally sustainable economic activities. This system aims to promote sustainable investment and minimize greenwashing. Companies that fall under the scope of the NFRD must disclose the extent to which their activities are considered environmentally sustainable under the Taxonomy. More information on the status of the proposal can be found in the subsection "Sustainable Finance". In addition, the directive on non-financial reporting is currently being revised. The European Commission carried out a consultation on this in spring 2020 (link to the SwissHoldings statement). On 21 April 2021, the European Commission has now published the draft revised NFRD under the new name Corporate Sustainability Reporting Directive (CSRD). This includes the following key values: • The scope of application is extended to all large as well as all listed companies. • Companies are required to prepare their non-financial reports in accordance with a binding EU standard. • Audit of non-financial information by independent third party becomes mandatory. • The information must be published in electronic format together with the annual report. The draft CSRD is currently being processed by the European Parliament and the European Council. In addition, the European Commission is currently considering possible regulation in sustainable corporate governance / due diligence. It opened a consultation on this at the end of October 2020. A draft regulation is expected in Q3 2021.
Outlook	SwissHoldings welcomes the initiatives for improved transparency of ESG risks and consolidation of the requirements for companies in this regard. However, it is important to bear in mind that companies already report extensively on their sustainability efforts as part of their financial and non-financial reporting. This is associated with considerable expense. A possible expansion of the requirements should be sufficiently flexible, practicable and internationally coordinated and must not lead to competitive disadvantages for companies. SwissHoldings is following ongoing developments and continues to provide support, particularly within the framework of the working group of the umbrella organizations at European level.

Capital Markets

Sustainable Finance

Current status	The topic of "sustainable finance" has gained importance in parallel with sustainable corporate governance. Particularly in the discourse surrounding the Paris Agreement, it has become clear that private investors have an important role to play in combating climate change. The subject of these considerations is that the participation of private investors ensures that market mechanisms can perform their important guidance function and resources flow towards the most promising sustainable investment assets. Sustainable finance has long since reached the financial markets. The number of sustainable financial products has increased massively in recent years. A study by Swiss Sustainable Finance showed that CHF 1,520.2 billion was invested in sustainable financial products at the end of 2020 - an increase of 31% compared to 2019. The topic has also arrived at 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 24 June 2020, the Federal Council adopted a report and guidelines on sustainability in the financial sector. The aim is to strengthen the competitiveness of the Swiss financial market in this area and to make an effective contribution to sustainability. The report defines following priorities • The systematic disclosure of relevant and comparable climate and environmental information for financial products, • strengthening legal certainty in relation to fiduciary duties or in relation to the consideration of climate/environmental risks and impacts, • strengthening the consideration of climate/environmental risks and impacts in financial stability issues; and • monitoring developments at international and EU level. The Federal Council intends to address these in cooperation with the industry and other interest groups. The four pillars were further specified in December 2020 and the Federal Council adopted the following measures: • Development of a binding implementation of the recommendations of the Task Force for Climate-related Financial Disclosures (TCFD) - whereby the Federal Council adopted the key parameters for future binding climate reporting by large Swiss companies on 18 August 2021. The Federal Department of Finance is to prepare a consultation draft by summer 2022. • Proposal to adapt financial market law to avoid greenwashing by autumn 2021. • Recommendations to financial market actors to publish methods and strategies on how climate and environmental risks are considered. The extent to which this recommendation has been complied with will be reviewed at the end of 2022. • Expansion of Switzerland's involvement in international environmental conferences and initiatives. SwissHoldings is closely following the work on the binding implementation of TCFD. From the association's point of view, a principle-based approach is

	essential, which also gives companies the necessary leeway in implementation via the "comply or explain" principle. In line with the Federal Council's objectives, the Green Fintech Network presented an action plan for a green and innovative Swiss financial center in April 2021. This includes 16 proposals ranging from the establishment of a platform for sustainability data and the launch of an Innovation Challenge for green fintech startups to the promotion of open finance or the expansion of financing opportunities for green fintechs. The action plan calls for improved non-financial reporting by companies and actively supports the implementation of the TCFD and the development of Nature-related Financial Disclosures (TNFD). 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 Regulation, which is particularly relevant for companies. The regulation, which came into force in 2020, provides a framework for assessing the environmental sustainability of economic activities and obliges companies affected by the regulation to report on it. The regulation is guided by six environmental goals: Climate change mitigation, climate adaptation, conservation and protection of water and marine resources, transition to a circular economy, prevention and control of pollution, and conservation of biodiversity and ecosystems. The delegated acts further specifying the information to be disclosed and the methodology for its preparation were adopted by the European Commission on 6 July and will now be sent to the European Parliament and the European Council for review within four months. Non-financial companies will have to disclose turnover, capital and operating expenses related to environmentally sustainable economic activities under Taxonomy regulation, the delegated acts on climate targets and future delegated acts on the other targets. The timetable requires initial qualitative information and information on the proportion of activities covered by the Taxonomy to be disclosed for the 2021 reporting period as early as 1 January 2022. Companies must prepare the first full report for the 2023 reporting period. In addition, discussions are already taking place on how the Taxonomy could be extended to the area of social sustainability. Also on 6 July, the European Commission published the revised Sustainable-Finance Strategy, which is specifically designed to finance the transition to a sustainable economy. It proposes measures in the four areas of: Transition Finance, Inclusivity, Resilience and Contribution to the Financial System and Global Ambition. The European Commission will report on progress in implementation in 2023. Developments in sustainable financing and the regulatory innovations also affect companies outside the financial sector.
Outlook	SwissHoldings welcomes the new role assigned to business in climate protection and sustainable development. Markets allocate resources effectively so that the marginal benefit for ESG factors can be maximized. For SwissHoldings, it is therefore important that investors continue to be able to use their discretion regarding corporate financing to determine which companies or technologies they consider to be particularly fit for the future. The overriding goal must be to give all companies the opportunity to adapt their business model and transform towards greater sustainability.

	The association will follow current developments in this area and monitor relevant transactions.

Stock market equivalence - extension of the exchange protection measure

Current status / outlook	The EU granted Switzerland **stock market equivalence** until the end of June 2019, but did not extend it. For this reason, **Switzerland activated the measure to protect the Swiss stock exchange infrastructure on 1 July 2019**. Since 1 January 2019, foreign trading venues have been subject to a recognition obligation if they admit certain shares of Swiss companies to trading or enable trading in such shares (see also link). The ordinance governing the stock exchange protection measure (cf. link to the ordinance) is based exclusively on the Federal Constitution (Art. 184 para. 3 BV) and is therefore limited in time (until 31 December 2021). **The Federal Council must now ask itself whether and how it will extend the stock exchange protection measure beyond 31 December 2021.** SwissHoldings is monitoring the proposal on an interdisciplinary basis and is defending the interests of its member companies. SwissHoldings is strongly in favor of extending the stock exchange protection measure.

Monetary Policy SNB

Current status	In the current extraordinary times resulting from the "COVID 19" challenges, the Swiss National Bank (SNB) is increasingly in the spotlight. At parliamentary level, various proposals have been discussed with the aim of tying the SNB's distributions to certain purposes. Specifically, there is a motion by National Councilor Alfred Heer, which would like to allocate the income from negative interest directly to the AHV. The profit distribution key - two-thirds for the cantons and one-third for the Confederation - is to be left as it is, but the negative interest is to be redistributed over the years from the Confederation's share to the first pillar of the Swiss pension scheme. In this way, the federal share is to be reduced by the amount of negative interest levied. This motion was adopted in the National Council but rejected in the Council of States in the last summer session. Another WAK-N motion calls for the federal share of future SNB distributions to be used directly to reduce the debt caused by the pandemic. This motion was also adopted in the National Council. However, they still must clear the hurdle in the Council of States.
Outlook	SwissHoldings will closely monitor ongoing developments. From the association's perspective, the SNB's distribution practice to date has proven its worth. The organization takes a critical view of the "politicization" or further earmarking of the SNB's profits.