SwissHoldings

SwissHoldings Update

March 2022

Overview (Clickable Titles)

SwissHoldings is the association of industrial and service companies throughout Switzerland. Accounting for approximately 69 percent of the total market capitalization within the SIX Swiss Exchange. SwissHoldings is comprised of 61 of the largest groups in Switzerland, employing roughly 1.6 million globally, of which 202,000 work in Switzerland. Through the numerous services and supply contracts provided to SMEs by SwissHoldings, 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 & Outlook	On November 24, 2021, the Federal Council **opened a consultation on the partial revision of the Cartel Act (KG). Essentially, the Federal Council proposed the following elements:** – The core element of the partial revision to the Cartel Act (KG) is the modernization of Swiss merger control. By changing from the current Qualified Market Dominance Test to the Significant Impediment to Effective Competition test (SIEC test); the review standards for the Competition Commission (WEKO) will be adapted to international practice according to the Federal Council. – The Federal Council also stated that in addition to modernizing merger control, the proposed elements of the consultation draft also intend to improve civil antitrust law and opposition proceedings. – Moreover, the Federal Council has included two demands in the partial revision of Motion 16.4094 Fournier, which called for "Improvement of the Situation of SMEs in Competition Proceedings". These two demands relate to the administrative proceedings under antitrust law. Firstly, the administrative proceedings should be accelerated by introducing time limits. Secondly, a party compensation for the first instance proceedings before the Competition Commission is to be introduced. – Finally, the Federal Council makes a proposal for the implementation of the Français Motion adopted in June 2021 "The revision of the Cartel Act must take into account both qualitative and quantitative criteria to assess the inadmissibility of a competition agreement ". (cf. in detail the link to the Federal Council's media release and to the consultation documents). **The consultation period will be open until March 11, 2022.** **SwissHoldings will participate in the consultation process and in particular advocate the inclusion of an institutional reform and the element of the compliance defense. The consultation response with the position of SwissHoldings in detail can be found on the SwissHoldings website after the consultation period has expired.**

Corporate and Capital Market Law

Revision of Stock Corporation Law

Current Status & Outlook	**Adoption of the Revision for 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 this revision was the transfer of the Ordinance against Excessive Compensation into the Code of Obligations, which contained various technical adjustments. **Entry into Effect:** The Federal Council enacted the provisions of the stock corporation law revision in a staggered manner. - In 2020, the Gender Benchmarks (with long transition periods) and the Transparency Provisions in the commodities sector have already been put into effect as of January 1, 2021 (see link to media release). - Furthermore, Art. 293a SchKG, which extends the provisional moratorium from four to eight months, was also put into effect on October 20, 2020 (see link to media release). - On February 2, 2022, the Federal Council has now enacted the remaining provisions that make up the bulk of the revision of stock corporation law. These are the majority of the provisions of the revision of the Stock Corporation Act and in particular also the provisions relating to the transfer of the Ordinance against Excessive Compensation. Accordingly, the Federal Council has also decided to repeal the Ordinance against Excessive Excessive Compensation at the same time as the provisions regarding the stock corporation law enter into force (see link to media release). As a result, all provisions that have not already been entered into effect will enter into effect as of January 1, 2023. **SwissHoldings has closely followed the draft over the years and we are pleased it has been completed within the interest of legal certainty.**

Revision of the Commercial Register Ordinance

Current Status & Outlook	After completion of the revision to the Stock Corporation Act, the Ordinance provisions were still required. In this regard, the Federal Council had planned amendments to the Commercial Register Ordinance. It had carried out a corresponding consultation from February to May 2021 (see link to the corresponding media release including consultation documents), in which SwissHoldings had participated. The association welcomed the consultation draft and submitted mainly selective, technical amendments in the consultation (cf. link to the consultation response). On February 2, 2022, the Federal Council put the Revised Commercial Register Ordinance into effect as of February 1, 2023 (see link to the corresponding media release). **SwissHoldings welcomes the revision and subsequent entry into force of the Commercial Register Ordinance.**

Revisions in Stock Corporation Law in Connection with the Corporate Responsibility Initiative, CSR and ESG

Current Status & Outlook	On December 3, the Federal Council put the provisions on the counter-proposal for the Corporate Responsibility Initiative into effect as of January 1, 2022 (see link to media release). This also needed and still needs implementing ordinances. - VSoTr: The Federal Council has already decided on the largest part in the Ordinance on Due Diligence and Transparency in the Areas of Minerals and Metals from Conflict Areas, as well as Child Labor (VSoTr). This was put into effect on January 1, 2022, which included the provisions in the CO on the counter-proposal for the Corporate Responsibility Initiative (see link to media release). - The planned consultation on benchmarks for mandatory climate reporting towards large Swiss companies/TCFD. The Federal Council announced this in a media release on August 18, 2021 (cf. link to the corresponding media release). **cf. regarding this topic also in particular the comments in the section of the Departement of Economy.**

Regulations in Connection with the Bill Against Abusive Bankruptcies

Current Status & Outlook	**Regulation in Connection with the Bill Against Abusive Bankruptcies:** The bill aims to use various measures in the Code of Obligations, Debt Enforcement, Bankruptcy Law, and Criminal Law to prevent debtors from abusing bankruptcy proceedings and exonerating them from their obligations (bankruptcy riding) (see link to documents on curia vista). The bill also includes measures under stock corporation law, namely on shell company trading and Audit Law. The bill has been discussed once by the National Council and one instance by the Council of States (in addition to their preparatory committees). However, it is now in the process of being amended. **SwissHoldings positions itself as follows**: The Federal Council's provisions - including those relating to stock corporation law - affects the members of SwissHoldings only marginally. For SwissHoldings, the most important thing in the parliamentary process is to avoid including provisions that are problematic for our member companies.

Future Proxy Advisor Regulation

Current Status & Outlook	Within the **framework regarding the revision to the Stock Corporation Act** (as well as the revision for the SIX Directive on Information Relating to Corporate Governance), Parliament repeatedly discussed a provision that wanted to regulate proxy advisors. The regulation under consideration wanted to regulate proxy advisors via transparency obligations for Issuers. **SwissHoldings opposed the regulation because it would have meant regulating (certainly 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 was a very favorable outcome from our perspective. In response, **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), in order to disclose and avoid conflicts of interest for proxy advisors within listed public companies. In doing so, it takes into account

	international developments." **It contains no reference, or at least no explicit reference, to regulating via Issuers Obligation. Therefore, we are also pleased by the omission of this reference.** The corresponding revision of the law is now imminent.

Future Possible Regulations of Loyalty Shares

Current Status & Outlook	In the context of the revision of the Stock Corporation act, a regulation was discussed, which intended to introduce so-called Loyalty Shares. In the end, it was not adopted. Instead, the Council of States submitted a postulate instructing the Federal Council to develop a report on the possible advantages and disadvantages; as well as the effects of the proposed regulations stipulated in the revision of stock corporation law. According to the postulate, the report should also provide a comparative legal description of possible implemented 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 future regulations. **In the context of the revision of stock corporation law, SwissHoldings had supported the original provision as an "optional" provision and is continuing to follow all further developments.**

Regulation concerning Beneficial Owners (IG. Central Register) and Bearer Shares

Current Status & Outlook	In the future, as has been the case in the past, regulatory efforts on a national level under stock corporation law are likely to arise 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). In these areas, SwissHoldings' general concern is to ensure that Switzerland does not end up on blacklists with such entities because it does not sufficiently implement their recommendations. At the same time, unnecessary restrictions on the freedom of action as well as unnecessary bureaucracy for the (listed) companies must be avoided. In concrete terms, the following two developments are currently worth mentioning: 1. **Postulate 19.3634 and Status Report Global Forum** (cf. link)*:* Within the report, the Federal Council has been instructed to submit a status report on the implementation of the proposal 18.082, "Implementation of the Recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes." by the end of 2021. In this report, it states, among other things, that international developments at FATF, EU and OECD level would show an increased trend towards increasing restrictions on corporate transparency obligations. In light of this, Switzerland would, in due course, conduct an analysis of its national legislative framework and its effectiveness in order to implement appropriate options as an objective of the Federal Council's financial market policy in the area of integrity and international positioning (see link to status report). 2. **Revision of FATF Recommendation 24 on Transparency and Beneficial Owners of Legal Entities:** This mainly concerns the issue of beneficial owners and the possible introduction of a central register for beneficial owners, as well as possible restrictions on bearer shares. The

	revision to Recommendation 24 at the international level has been ongoing for some time and the FATF is expected to formally adopt the revised recommendation on March 4, 2022, then from March 2022 to March 2023 develop a Guidance moving forward. The FATF held two public consultations in summer and winter of 2021, which SwissHoldings participated in both (for our **position, see detailed link to our statement on the 2nd public consultation**). The adoption of Recommendation 24 at the international level will be followed by work at the national level to implement the recommendations in national law.

Covid-19 and General Meetings 2022

Current Status & Outlook	For the General Meetings in 2020 and 2021, the question had arisen regarding how companies could hold their General Meetings when event bans applied. The Federal Council had adopted a regulation for these two years, which allowed shareholders to exercise their rights exclusively through an independent proxy designated by the organizer. Last year, the Federal Council extended this regulation for the year of 2022 until the new Stock Corporation Act comes into effect (January 1, 2023). SwissHoldings welcomes the extension. Our members must be able to plan the course of their general meetings with sufficiently advanced notice.

Stock Exchange Equivalence - Extension of the Stock Exchange Protection Measure and Transfer of the Same to Ordinary Law

Current Status & Outlook	On 30 November 2018, the Federal Council issued an Ordinance directly based on Art. 184 para. 3 of the Swiss Federal Constitution to protect the Swiss stock exchange infrastructure (safeguard measure) after the European Commission had not extended Switzerland's EU stock exchange equivalence. The safeguard measure ensures that EU securities firms can continue to trade Swiss equities on Swiss trading venues even without EU stock exchange equivalence. The Federal Council's Ordinance on the stock exchange protection measure was set to expire on December 31, 2021, and can only be extended once by the Federal Council. After that, it must be converted into ordinary law in order to continue to apply. Since the EU has not yet extended the EU stock exchange equivalence, the Federal Council has now extended the Ordinance. Concurrently, it is proposing the transfer of the Ordinance on the protective measure to the Financial Infrastructure Act (FinfraG) (cf. link media release regarding extension and consultation draft). **SwissHoldings participated in the consultation process (see Link to the SwissHoldings positioning in the SwissHoldings consultation response).**

Art. 24 FinfraV and the Self-Regulation Concerning The Stock Exchange

Current Status & Outlook	As part of the revision to the Ordinance on the Federal Act for the Adaptation into Federal Law; specifically pertaining to the 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. **It calls for complete independence for the management of the trading venue and a majority independence for 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:** – Firstly, this is the case in terms of content: The self-regulation of the Stock Exchange is strongly anchored in the consciousness of the local banks and issuers to allow sensible regulation. Consequently, issued by persons with the necessary practical experience and the corresponding expertise. This would also lead to acceptance of the regulations. – Secondly, it applies procedurally: it is extremely problematic if such far-reaching changes are adopted in an ordinance and not, for example, in a law, despite negative consultation results. Thematically, the Ordinance to the Federal Act on the Adaptation of Federal Law for 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 and 2020, the Six Exchange Regulation (SER) conducted consultations on the revision of the regulations for Ad Hoc Publicity. The proposal contains various amendments to the listing rules, the Directive on Information Relating to Corporate Governance and the Directive on Ad Hoc Publicity. SER (respectively the Regulatory Board of SER) has now published the various changes, in addition to a FAQ last year (cf. in detail the information on the page of SIX Exchange Regulation; link). – The fundamental changes were put into effect on July 1, 2021. – Further amendments on the new obligation to use the Connexor Reporting Platform for the transmission of Ad Hoc Disclosures to SER have been implemented as of October 1, 2021 (with a transition period; cf. in detail Regulatory Board Communication No. 5/2021 of August 18, 2021; link). Finally, SER is currently revising the commentary on the Directive on Ad hoc Publicity (RLAhP) and expects to publish it at the end of February/beginning of March. SwissHoldings accompanied and accompanies the bill and advocates the interests of its members.

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 so-called 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. **SwissHoldings has participated in the consultation with a short statement of selective comments due to the limited impact** (cf. link to the statement). The new

	and modified regulations were adopted on October 18, 2021 and implemented on December 6, 2021 (cf. link to further information of SIX Swiss Exchange on SPACs, the revised Coding Regulations and the new Directive).

Modification Regulation of Crypto-Assets as Underlying Instruments

Current Status & Outlook	At the end of 2021, SIX Exchange Regulation Ltd has carried out a consultation on the adjustment for the regulation of "Crypto-Assets as Underlying Assets". The background to this is "Circular No. 3 - Practice regarding the listing of derivatives (RS3)", which the Issuers Committee supplemented four years ago. This included the requirements for cryptocurrencies as underlying assets of derivatives and now wants to transfer, as well as adapt at the level of regulations and directives. **SwissHoldings is only affected by the bill to a limited extent and welcomes the regulation so far as** the Issuers Committee wants to take into account the changed needs of the market, in addition to the technical innovations (see link to the statement).

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 review their efficiency. In working group meetings held in English, the various **Compliance Management Systems** with the different member companies are presented and discussed. **Other topics relevant to the member companies are** also discussed.
Outlook	The office will continue to promote mutual exchange between member companies on a continual basis.

Whistleblower Directive

Current Status & Outlook	**Problematic Obligation to Set Up Whistleblower Systems and Investigation Units in Every EU Country:** There is a problematic development regarding 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, as well as investigation units will have to be set up in every EU country by companies that have more than 50 employees there. From SwissHoldings' point of view, this is extremely problematic in two respects: Firstly, whistleblowers are not better protected by local whistleblower systems. Secondly, this would lead to a large and unnecessary amount of bureaucracy. Accordingly, various stakeholders, namely various European and foreign associations as well as SwissHoldings from Switzerland, have been and are lobbying for the Commission to make/prescribe a different interpretation in this regard and for the various countries to allow group-wide whistleblower systems in their legislations.

	The deadline for implementing the Whistleblower Directive in the Member States has in principle already expired on December 17, 2021; however, not all Member States have yet adopted their respective laws. On a positive note, national legislation is emerging, at least in certain countries, that points in the direction of group-wide whistleblower systems. SwissHoldings continues to follow the developments and to advocate for group-wide whistleblower systems as far as possible from Switzerland.

Civil Procedure Law

Two Bills on the Revision of the Code of Civil Procedure - Professional Secrecy Protection for In-house Counsel and Collective Legal Protection

Current Status & Outlook	In 2018, a **consultation on** the amendment to the Code of Civil Procedure was carried out. It particularly concerned the dismantling of cost barriers, collective legal protection and the implementation of the parliamentary initiative Markwalder (16.409). Specifically, providing the right to testify and refuse to disclose in-house legal services employees. At the time, SwissHoldings participated in the consultation process and spoke out in favor of professional secrecy protection for in-house counsel. In addition, argued against the introduction of the elements of collective legal protection (see link to our consultation response). In the meantime, the Federal Council has **created two bills** from the preliminary draft **and presented two separate dispatches accordingly:** 1. Bill 20.026, concerns the protection of professional secrecy for in-house counsel. The Federal Council presented the dispatch on February 26, 2020 (cf. link to the media release as well as to the dispatch and the Federal Council draft). 2. Bill 21.082, concerns collective legal protection. The Federal Council adopted the dispatch on this bill on December 10, 2021 (cf. link to the media release as well as to the dispatch and the Federal Council draft). **Bill 20.026 - Professional Secrecy Protection for In-house Counsel.** Bill 20.026 concerns the implementation of the parliamentary initiative Markwalder (16.409) for a right to testify and refuse to disclose in-house legal services employees. This is extremely important from SwissHoldings' point of view. It also concerns various amendments to the Code of Civil Procedure, which only marginally affects the members of SwissHoldings. The bill has now been discussed by the Council of States and is currently before the National Council's Preliminary Committee. The latter has already deliberated on the protection of professional secrecy (cf. link to the corresponding media release). However, the flag ("Fahne") with its decisions in detail has not yet been published. The bill is expected to come before the National Council in the special session, which will at the earliest take place by May 9-11, 2022. **SwissHoldings has long been a very active and resolute advocate for professional secrecy protection for in-house counsel - particularly in the form provided by the Federal Council.** **Bill 21.082 - Collective Legal Protection** Bill 21.082 concerns collective legal protection. Although the Federal Council proposes a somewhat leaner solution overall compared to the preliminary draft, it is

	still extremely problematic. Specifically, the existing provision on collective actions in the CCP is to be adapted. It is namely intended to serve the enforcement of compensation claims in so-called mass and scattered damage cases. The possibility of collective settlements is also envisaged (see link to media release incl. draft and dispatch). Officially, it is not yet known when the bill will be discussed in parliament. **SwissHoldings is clearly opposed to the introduction of the use of collective redress.**

Data Protection

Data Protection Law, Regulation Law and the Equivalence Decision

Current Status	**Data Protection Law:** In view of European developments, Switzerland also had to revise its data protection law. Firstly, this was to meet international expectations in accordance with the future revised Council of Europe Convention 108. Secondly, to maintain equivalence with the EU GDPR, which is very important for the economy. The revision was adopted in the final vote during the autumn session in 2020. We welcome this swift conclusion because it clears the way for preserving the recognition of equivalence. **Ordinance Law:** The enactment of the law is followed by the enactment of the Ordinance Law. SwissHoldings participated in the consultation period that ran from 23 June 2021 to 14 October 2021 and is working to ensure that significant changes are made to the bill (see link). It now remains to be seen what changes the Federal Office of Justice will make. **Expected entry into force of the new Swiss data protection law and ordinance**: According to the information on the page of the Federal Office of Justice (cf. link), it is planned to bring the new data protection law into force on September 1, 2023. The Federal Council however still has to make the necessary decision. **Equivalence Decision by the EU**: The Equivalence Decision by the EU was originally announced for summer 2020, however, it still has not been made. Nevertheless, it should now be made in the foreseeable future.
Outlook	**SwissHoldings is following the developments around the above topics. We continue to advocate for the interests of the member companies in all these areas but in particular for maintaining equivalence.**

Additional Topics within the Legal Field

Lex Koller and Real Estate for Business Establishments "Betriebsstättegrundstücke"

Current Status & Outlook	**Demand in the Context of Covid Legislation**: With regards to the regulation around Covid-19, there have been several calls for the introduction of a permit requirement for the purchase of Real Estate for Business Establishments (Betriebsstättegrundstücke). Ultimately, the Committee for Legal Affairs of the National Council drew up a parliamentary initiative to this effect. The content for the initiative found its way into the draft 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 because it was identical in all essential elements. (see our position in detail under the following link). Both the proposals were approved by an "unholy" broad alliance of the SP and parts of the SVP. Nevertheless, a broad center was able to speak out against them in the end and these proposals are now off the table. **Motion 21.3598:** However, Motion 21.3598 was then submitted as another initiative; whereby instructing the Federal Council to "submit the 'Amendment to the Federal Law on the Acquisition of Real Estate by Persons Abroad,' which it had submitted for consultation on March 10, 2017, to the Federal Assembly in the form of a dispatch." The National Council approved the motion and sent it to the Preliminary Advisory Committee, which ultimately opposed the motion. The Council of States will decide on it on March 16. 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.

Consultation Regarding Strategic Infrastructures in the Energy Industry within Lex Koller

Current Status & Outlook	Regarding the Parliamentary Initiative "Submission of Strategic Infrastructures in the Energy Industry" (cf. link to 16.498 Pa.Iv. Badran Jacqueline), on October 11 2021. The consultation procedure was opened by the Committee for the Environment, Spatial Planning and Energy of the National Council. This resulted in the adoption of a preliminary draft amendment to the Federal Act on the Acquisition of Real Estate by Persons Abroad (BewG, so-called Lex Koller) The amendment calls for more strategic infrastructures to be included within the energy industry, namely hydropower plants as well as electricity and gas grids. For regulatory reasons, the sale of such infrastructures to persons abroad is to be excluded in principle. **SwissHoldings clearly rejects the proposal and has positioned itself accordingly with a statement made during the consultation process** (see link to statement).

Consultations on the Relief Act and Regulatory Brake

Current Status & Outlook	From April 28 to August 18, 2021, the Federal Council held consultations on both the Relief Act and the Regulatory Brake. With the Relief Act, the Federal Council wants to consistently check existing regulations and new bills for relief potential. With the Regulatory Brake, it wants to subject regulations to a qualified majority in Parliament that place a particularly heavy burden on companies (see in detail the Federal Council's media release of April 28, 2021, including the corresponding consultation documents under the following link). **SwissHoldings welcomes the proposals and has participated in the consultation process with a statement (see link to statement). We are now awaiting further steps by the Federal Council on this matter.**

Amendment to the Foreign Nationals and Integration Act: Easier Admission for Foreign Nationals with a Swiss University Degree

Current Status & Outlook	On March 7, 2017 **Motion 17.3067 Dobler** claimed "If Switzerland trains expensive specialists, they should also be able to work here". The Motion was accepted by the National Council on September 20, 2018 and then by the Council of States on March 19, 2019. The justification is that young specialists from other countries, who have been trained expensively in Switzerland, leave the country because they cannot be employed directly after graduation. This is largely due to exhausted quotas despite there being a shortage of skilled workers in the country. The request for the Motion states that a new exception to the annual maximum numbers should be created. This would require an amendment to the Foreign Nationals and Integration Act (AIG), which the Federal Council has already submitted as a draft to the interested parties for consultation. **SwissHoldings welcomes the creation of this new exception and has accordingly participated in the consultation with a statement (see link to statement).**

Tax Department

Withholding Tax Reform

Current Status	On April 15, the Federal Council adopted an amendment to the Withholding Tax Act regarding interest towards debt capital. This amendment essentially states that in order to strengthen the Swiss debt capital market, the levy on withholding tax on Swiss bonds should be waived. Only interest on Swiss bank accounts held by individuals domiciled in Switzerland will 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, in order to strengthen the Swiss capital market, the levy on turnover tax for Swiss bonds will be waived. This would result in a static revenue shortfall of CHF 25 million, which will accrue exclusively on the Confederation. For the Confederation, this revenue shortfall should be offset within five years. For the cantons and municipalities, additional revenues roughly amounting to CHF 1 billion are likely to happen much sooner (dispatch, p. 3). Nevertheless, there will be a temporary effect that does not affect the budget but for which provisions had to be made long ago. In other words, the Federal Government 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, due to the lower bond interest rates resulting from the reform (new FTA calculations was not taken into account in the dispatch), the Confederation, cantons and municipalities could save up to 200 million francs per year due to the lower bond interest rates resulting from the reform (new FTA calculations was not taken into account in the dispatch). Not part of the dispatch is the request of SwissHoldings to correct the error in the participation deduction for financing activities. The request will be dealt with further in Motion (18.3718). On September 28, the National Council was the first to deal with the reform. The Motions for rejection to strengthen tax safeguards were clearly dismissed (122zu66). The smaller motions proposed by the Commission to improve the bill were all adopted in the detailed deliberations. In the overall vote, the bill was again clearly approved with zu 122votes68 (MM NR). On October 28, the Commission for Economic Affairs and Taxation of the Council of States will deal with the reform. This means that the reform could already be dealt with by the plenary of the Council of States in the winter session of 2021, when the final vote of the two Councils could take place. The amendment on withholding tax 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 abolishment of the turnover tax. Unlike most other tax reforms supported by the business community, it is not a tax cut bill. As a result of the reform, SwissHoldings member companies will not pay less profit, capital or other taxes in Switzerland. On the contrary, our companies are already the most important taxpayers in Switzerland and will pay more taxes domestically as a result of the reform. This will move activities from abroad, especially from the Netherlands, Belgium and Luxembourg, to Switzerland and pay the future associated taxes in Switzerland. Alternatively, should the reform fail, companies will in all likelihood have to strengthen the substance (personnel,

functions, capital) of 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% has to be reclaimed via a laborious and lengthy procedure. The current legal situation and the insignificant Swiss capital market have forced the larger Swiss companies to raise outside capital abroad. For this purpose, the Swiss companies have to establish 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. Foreign bonds may in principle only finance jobs and activities abroad, but not those in Switzerland.

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

The Strengthening of the Swiss Capital Market Helps Broad Sectors of the Economy: Thanks to the reform, Swiss companies can offer bonds to international investors without the 35% deduction on the interest rate. 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 lowering interest rates. More favorable bonds will become more attractive for mid-sized companies compared to more expensive bank loans (role model USA). When issuing the 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 and reduced expenditures for the Federal Government, cantons and municipalities. Compared to other tax reforms, the reform has an excellent cost-benefit ratio.

No Threat to High Withholding Tax Revenues: Withholding tax is an important source of revenue for the Federal Government (approx. 10 billion in 2019; only 5.2 billion 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 deals exclusively with withholding tax on interest on debt, which is why the high revenues remain unaffected by the reform. The fact that the withholding tax on interest hardly generates any revenue for the Federal Government 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 arduous refund procedure. Other taxpayers buy foreign bonds

	without tax deduction. In other words, the current tax protection in the interest area is useless. The Stumbling Block of the Reform: Despite the rejection of corresponding proposals in the WAK of the National Council, the safeguard function of withholding tax is likely to remain the main point of contention within 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 protection and thus in the fight against the tax evasion of capital income. At the same time, the proposal respected financial privacy and fiscal banking secrecy. However, upon closer examination, it turned out that the proposal not only had significant technical shortcomings but also entailed large costs. For the banks, which would have had to carry out the safeguarding tasks, the costs of the proposed tax safeguarding would have been many times higher than the safeguarded tax revenues of the treasury. Apart from normal bank accounts, the Embassy does not provide tax security. Should a safeguard be politically desired, various options are available. However, all (of the many) solutions developed and tested by the administration and the business community have significant problems. Comprehensive Deduction Systems, such as that of the consultation proposal, are associated with enormously high costs in relation to the potential loss of revenue of around 10 million francs for the Confederation (dispatch, p. 39) and is only likely to be economically justified in the case of significantly higher interest rates on borrowed capital. With the introduction of a comprehensive automatic exchange of information on domestic bank information, the withholding tax on dividends would lose its raison d'être. Finally, Switzerland does not need two backup systems namely a reporting procedure (AEOI) and a withholding procedure. In particular, 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 1.6 billion CHF. These revenues come almost exclusively from foreign shareholders of large Swiss companies such as Nestlé, Novartis, Roche and others (Message, p. 14). An AEOI limited 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 for the reform has greatly increased for Swiss corporations. For SwissHoldings, it is therefore imperative that the reform is pushed ahead quickly. It would have been ideal if the reform was passed before the end of 2021 and could have then entered into effect as early as the beginning of 2023. However, this presupposed that the left refrains from a referendum against the reform. If the reform can be passed by the Council of States in the winter session, this timeframe is possible to achieve. The stumbling block of the reform is likely to be tax hedging. The Council of States may also want to take another close 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 on fiscal banking secrecy and the protection of financial privacy could also pick up speed once again. Whether the Council of States decides in favor of a reporting procedure or a deduction system, it should not be a concern to SwissHoldings. As legal entities, our member companies must hand over all supporting documents and information necessary for the correct assessment and then submit bank records upon request to Swiss tax authorities. In AEOI

	foreign countries, the bank data of our companies is already reported to the tax authorities, which is not a real 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 deficiency in the participation deduction. However, it is becoming apparent that this concern will not find support due to the shortfall in revenue from the Federal Government (80 million francs) and the cantons (50 million francs). For the 'Too-Big-To-Fail' banks, this shortcoming was eliminated by parliament in 2018. At most, improvements can be achieved in favor of the industry and in other areas during the political process, such as the turnover tax (e.g., elimination of problems that have since been discovered for treasury activities newly conducted in Switzerland). Since the abolishment of the turnover tax as part of the stamp duties, we will have a very difficult time politically and is unlikely to be abolished during the next fifteen years. At best the obstacles of this Swiss financial transaction tax that are really important for the industry can be addressed (exemption for long-term, business-based equity purchases or a switch to digital without the antiquated blue card). The withholding tax reform regarding interest on borrowed capital represents an opportunity for Switzerland as a business location to gain international attractiveness in another area and to eliminate one of its most important disadvantages as a headquarters location. Against the background of the loss of attractiveness of Switzerland, as a business location due to the OECD's 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, it should be noted here that the real winner of the reform will be the Swiss Treasury (Federal Government, cantons and municipalities). First, it will be able to tax the profits from the financing activities of Swiss corporations in Switzerland in the future. As a result of the OECD's minimum taxation, the profits can be even taxed at a higher rate. SwissHoldings is very pleased that the National Council and the Council of States adopted the bill in the winter session 2021. While the bill was basically uncontroversial among representatives of the conservative parties, it was rejected by the Greens and the Social Democratic Party until the very end. The latter has already filed an optional referendum and is currently collecting signatures. If the bill is accepted in a possible referendum, it can hopefully enter into effect as early as January 1, 2023.

OECD/G20-Project on the Taxation of the Digitalized Economy

Current Status	The project for the taxation of the digitized economy is based on two pillars and aims to adapt international corporate taxation. In Pillar 1, the hundred or so largest 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 via 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 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 October 14. The following parameters were adopted: ● The world's largest companies (minimum sales of 20 billion EUR) are required to pay tax in their home countries on 25% of group profits exceeding a 10% profit margin (Pillar 1 amount A). The tax is to be paid in particular by those group companies that have the highest profit margins. ● In return, all "digital service taxes" and similar unilateral instruments should be abolished. ● The redistribution by means of Pillar 1 amount A will take place from 2023 and is based on a multilateral agreement to be submitted in mid-2022 and then subsequently ratified. After seven years (2030), the sales limit will be reduced from EUR 20 billion to EUR 10 billion, which will significantly increase the number of companies affected. ● International companies that are required to prepare a country-by-country report, i.e. have sales 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 an assessment basis determined according to accounting principles (e.g. IFRS) that is largely standardized internationally. ● Pillar 2 (minimum taxation) represents a so-called "common approach", is "voluntary" and applies from 2023 (Income Inclusion Rule) or 2024 (Undertaxed Payments Rule). However, it should be noted that there are still major differences of opinion between the IF states involved regarding the details. In December 2021, the Pillar 2 Model Rules were published (Link Model Rules) and the commentary on the Model Rules is to be published before the end of February 2022. Since no agreement was found in important areas by the involved states, these differences of opinion are to be resolved by the so-called Implementation Framework by the end of 2022. The work on the technical details of Amount A (Pillar 1) is also currently struggling with considerable difficulties. From the company's point of view, some of the initial technical plans appear to be very difficult or even impossible to implement. Global tax reform has been given an impetus by the new US administration, which wants to concurrently push ahead with US reform. As part of this, the

Biden administration wants to raise corporate taxes in the USA. This would eliminate some business-friendly special rules on finance improvements to the US infrastructure, as well as various new social projects such as the Build Back Better Act [BBB]). For the Biden administration, global reform is likely to serve to advance U.S. reform and steer 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. This would require the elimination of digital service taxes that many states have planned (e.g., EU Digital Levy) or already implemented. Therefore, the majority of the amount A is likely to come from classic industrial groups, which already make substantial tax payments via their sales companies in the market states. These 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 USA will participate in Pillar 1 at all is unlikely to be known until 2022. The USA is also likely to be granted special rules for Pillar 2. With GILTI, for example, the USA is to be allowed to apply a different minimum tax calculation system with different rules (minimum tax rate, tax base, etc.), some points of which still have to be adapted in the above-mentioned US reform. According to the IF statement, it is still open whether (a reformed) GILTI will ultimately be considered equivalent.
However, the U.S. reform and in particular the GILTI adjustments are at a critical point. In order to encourage U.S., European or Asian companies to once again set up factories and research facilities in the U.S., especially within the framework of "America First", factors other than attractive corporate taxes must also be decisive in the competition for location. The factors used by the U.S. in this regard include various types of aid/subsidies for the creation and maintenance of research and production jobs, or the waiver of government claims (e.g., social security contributions). In contrast, such instruments are disadvantageous for the calculation of the global minimum tax rate under Pillar 2 and are also largely frowned upon in Switzerland. Although they are also used to a considerable extent by important European countries such as France and the UK, it remains to be seen how the U.S. Congress will position itself on the government's intended reform.

<u>Technical Explanations for Pillar 2:</u>
Pillar 2 provides for the introduction of a set of complementary rules regarding 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 (min. EUR 750 million turnover) pay at least 15% in profit and capital taxes in all states (according to a newly defined calculation method or tax base, which is why the tax rates currently applicable in Switzerland are misleading, see below). The states will not be obliged to comply with the minimum tax rate. Therefore, if a group company in one state has an Effective Tax Rate (ETR) lower than 15%, another state (e.g. the headquarter state) can tax the difference to the

minimum tax rate by applying the IIR. However, according to the latest version of the OECD Model Rules for Digital Platforms, the state itself can also make this selective increase to 15% (instead of a general tax rate increase to 15%). Many states will probably do this in order to secure a tax substrate for themselves. If the headquarter state has an ETR that is too low, the UTPR applies, to which many other states with subsidiaries and economic relations between subsidiaries and group companies in the headquarter state may tax the difference to 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 from the companies included in the consolidated financial statements within a given country. For this purpose, the statutory individual financial statements of a national company are not used, However, the financial statements for the consolidated financial statements of the national company are in accordance with the accounting standard used by the Group for its consolidated financial statements. Capital taxes are also included in the tax base. The accounting standard accepted for GloBE purposes is generally any accounting standard recognized as permissible by the authority of the Group's domicile; provided that its application does not result in a material impediment to competition. IFRS, US GAAP but also Swiss GAAP FER are defined as adequate accounting standards. Certain permanent differences between profit according to (local) tax assessment rules and profit according to (global) financial accounting rules are to be eliminated (e.g. dividends, gains and losses on sales of investments).
The additional tax amount to reach the minimum tax rate can be reduced by the amount of a carve-out. This carve-out takes into account personnel expenses 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%). During a transitional period of 10 years, a higher carve-out is possible. This measure 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 taken into account. This at least calls into question, for example, the measures implemented as part of the Swiss tax reform.
The STTR applies to payments based on a DTA (Interest, Royalties and Similar Payments). It allows the source state to take countermeasures in the event that the payments are taxed below 9% in the recipient state. With the introduction of Tax Bill 17, the STTR should no longer be a major obstacle for Switzerland.

<u>Implementation in Switzerland:</u>
On January 12, 2022, the Federal Council decided on how it will implement the rules of the OECD’s digital taxation. The plan is to amend the Federal Constitution to include a competence standard for both Pillar 1 and Pillar 2 of the OECD project. As a result, the OECD’s minimum taxation (Pillar 2) can be implemented as quickly as possible in the interests of the treasury and companies, whereas transitional provisions are to be enacted in the constitution. Based on these, the Federal Council will adopt a directly

	applicable transitional Ordinance, which will apply throughout Switzerland from January 1, 2024. The Ordinance is subsequently to be replaced by a Federal Law as part of the Ordinary Legislative Procedure. Since the international timeframe (in effect as of 2023/2024) is extremely demanding for the democratically distinct Swiss legislative process. The Federal Council's plans include various additional acceleration measures. For example, the consultation on the constitutional provision is to begin as early as March and last just over a month. The Federal Council plans to present the dispatch on the constitutional amendment to parliament as early as June. Also in June or mid-August, the WAK within the lower house of parliament will deal with the bill. In the fall and the winter sessions of 2022, the business will be deliberated and concluded by the Federal Council. Finally, the mandatory referendum on the amendment to the Federal Ordinance is to be held in June 2023. Consequently, with the constitutional referendum, the Federal Council is pressing ahead with work on the enactment of the Federal Council Ordinance on the Implementation of the OECD Minimum Tax. The consultation process is expected to begin in June 2022. It is currently unclear how long this will take. If the constitutional amendment is approved by the Swiss Electorate, the (definitive) Federal Council Ordinance should be issued in the second half of 2023 and come into effect on January 1, 2024. The content of the Federal Council's plans is that the additional revenue from the OECD's minimum taxation plan should go to the cantons. The cantons are free to decide how to allocate the money. No comments can be made on the implementation of Pillar 1 at the present time.
Outlook	Within the IF Statement of October 2021, which has now been endorsed by countries such as Ireland, the OECD has taken a huge step forward in this project. Until recently, it seemed clear that the reform had overcome the main obstacles. Due to the latest developments in the USA, at least a partial failure can no longer be ruled out. In any case, an agreement on Pillar 1 currently seems rather unlikely. For Pillar 2, at least a delay must be expected. It currently seems uncertain if a large number of countries will implement the IIR in 2023. <u>Assessment of the Consequences for Switzerland and Further Action:</u> Effects of Pillar 1: The requirements of the OECD's digital taxation project are not in Switzerland's interest. For example, Pillar 1 provides for a shift in the taxation of profits from large, profitable groups to the sales states. Those group companies that generate the highest value added, will be required to hand over the earnings. Switzerland is a business location where Swiss and foreign companies carry out activities with particularly high value added. 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 aforementioned revenue shortfall with the 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 will probably be even more accentuated from 2030 onwards, when the thresholds for redistribution will be significantly lowered.

Effects of Pillar 2: 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 in international comparison. If other countries succeed in achieving the OECD's minimum tax rate of 15% with tax measures (e.g. patent box), Switzerland will lose the important location advantage for taxes. It must be taken into account that the OECD's tax base will in all likelihood be broader than the current Swiss profit and capital tax base, i.e. the OECD's tax rate of 15% corresponds to a Swiss tax rate of over 15%. If other countries also have lower wages and other costs than Switzerland, as well as 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).

Implementation is Required: Nevertheless, it is imperative that Switzerland adopts the requirements of the OECD's digital taxation project. For example, if Switzerland were to refuse to implement the minimum taxation requirements, this would do more harm than good to the Swiss Economy and the Swiss Treasury. The additional tax substrate from minimum taxation would simply move 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 corporations might have to reconsider whether they can maintain their Swiss headquarters. In other words, Switzerland must now do everything possible to implement the international requirements in a timely manner (Pillar 1 as soon as the multilateral agreement is ratified by all states - currently planned for 2023 and Pillar 2 for 2024).

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

Counterproductive Implementation: The simplest countermeasure would be for those cantons that receive additional tax revenues from affected companies. This is a result of the OECD's minimum taxation to simply refund the additional revenues to the affected companies 'Tel Quel" or "As-Is". This procedure would even be required under Swiss Constitutional Law, as it would prevent companies affected by the OECD's minimum taxation from being treated less favorably than other Swiss companies. However, such a refund would be inadmissible under International Law and would not be recognized by the new global tax agreement. Since only internationally permissible measures can be considered for the globally active Swiss economy, the cantons must find other means. Furthermore, they must ensure that only internationally permissible measures are actually used by the authorities (control function).

	Maintaining R&D Attractiveness: An important area for Switzerland is research. A patent box offers generally low tax rate and cantonal optional R&D deduction are tax measures that contribute substantially to international companies carrying out significant research and development activities in Switzerland. In their iteration, tax incentives for research will only be possible to a very limited extent in the future due to the OECD's minimum taxation. Even in the Canton of Zurich, a patent box could in many cases lead to too low effective taxation. Therefore, tax incentives for research should be adapted to meet the new international requirements. Permissible according to the OECD's guidelines is an R&D promotion that provides for a reduction of the tax amount and is independent of the amount of profit taxes (Art. 4.1.3 resp. definition "Qualified Refundable Tax Credit in Art. 10.1 of the Model Rules). In order to ensure that Switzerland does not lose ground internationally in terms of fiscal research promotion, OECD-compliant research promotion should be strongly expanded. Preservation of other value-added intensive activities: Many Swiss companies affected by the OECD's minimum tax and large Swiss subsidiaries of foreign companies do not carry out research activities but typically focus on management, purchasing and other principal activities in Switzerland. Switzerland should also provide tools for them to continue their value-added-intensive activities here, while continuing to pay substantial profit taxes to the Swiss Treasury. Timelines: The OECD's timetable for implementing the new requirements is extremely ambitious. Switzerland therefore cannot wait until the final details of the new requirements are known. As decided by the Federal Council on January 12, 2022, the legislative process must now be set in motion. In parallel, the promising and targeted work of the Federal Government, cantons, science and industry must continue. For example, the EU has already prepared a detailed draft of an implementation guideline for Pillar 2 in December 2021 and submitted it to the member states for approval. Aspects of Content: With regard to Swiss implementation, SwissHoldings is of the opinion that existing structures, which have proven themselves over many years should not be adapted without necessity. Like the Federal Council, 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. Therefore, the cantons should continue to be at the forefront with regards to the minimum tax. The necessary cooperation between the cantons in the GloBE assessment should be ensured by a competence center. Since the defense of the assessments vis-à-vis other states is carried out by the Confederation (Federal Tax Administration or State Secretariat for International Financial Matters), the Confederation should also play an active role in the competence center. It is also important that the accounting specialists of the competence center start their work as early as possible at the beginning of 2023. The Confederation and the cantons should be prepared for the fact that selected states will attack the GloBE assessments and accept double taxation in order to obtain additional tax revenues.

	As proposed by the Federal Council, the additional revenues from the minimum tax belong to the cantons and not to the Confederation. This distribution is factually correct, as the cantons could set the tax rates in such a way (e.g. 40%) that no additional taxes are incurred at all. In this case, those cantons, whose companies have also paid it, should receive the additional revenues from the minimum tax on a pro rata basis. Redistributions prescribed by the Federal Legislature, for example in favor of the Canton of Bern and at the expense of the Canton of Zug, should be dispensed with. Redistributions between the cantons must be made via intercantonal fiscal equalization. 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 in particular also from a US tax perspective

Department of Economy

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 also one of the EU's largest export and import markets. 66% of Swiss imports come from the EU and 48% of Swiss exports go to the EU. SwissHoldings member companies are also strongly intertwined with the EU. At the end of 2019, member companies' direct investments in the EU amounted to CHF 236 billion. This is 53% of all direct investments abroad by SwissHoldings member companies. Accordingly, the relationship between Switzerland and the EU is very important to the Swiss economy. As a result, Switzerland is pursuing a bilateral path, starting with the free trade agreement in 1972, Switzerland has established a dense and constantly evolving network of agreements with the association of states. Particularly significant are the Bilateral I and II agreements, 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 numerous benefits to our country. However, the EU has made further developments on the network of agreements that are conditional on clarification of the institutional framework. Based on this demand, a draft agreement was drawn up between 2014 and 2018. In a meeting on 26 May 2021, the Federal Council decided not to sign the Institutional Framework Agreement and to terminate the negotiations with the EU, as various substantial differences could not be resolved. Nevertheless, it would like to continue bilateral cooperation and develop a common agenda on further cooperation with the EU. In response to several postulates from Parliament, over the course of 2022, the Federal Council will present a report that includes an assessment of relations with the EU and measures for the ongoing development of a bilateral path to ensure a mutually beneficial relationship with the EU. In the meantime, the Federal Council is seeking a rapid de-blocking of the cohesion contribution. This was released by parliament in the fall session of 2021. In addition, the Federal Council approved the memorandum of understanding with the EU for the implementation of the Swiss contribution in November 2021. The conclusion of the bilateral implementation agreement is scheduled for 2022. At the end of February, the federal council outlined guidelines for a new negotiation package with the EU. The body wants to regulate contentious issues such as the dynamic adoption of law, dispute settlement and exceptions and safeguard clauses on a sectoral basis in the future rather than on an overarching basis. Other possible parts of the package include new internal market agreements and the continuation of Switzerland's cohesion

	contribution. The Federal Council plans to begin initial exploratory talks with the EU on this new proposal in the coming weeks.
Outlook	Orderly and secure relations between the European Union and Switzerland are essential for both sides. The EU member states will remain extremely important trading partners for the strongly export-oriented Swiss economy for the foreseeable future. It must therefore remain a priority goal that the bilateral path can be successfully continued. SwissHoldings welcomes the fact that the Federal Council is endeavoring to develop a common agenda on further cooperation with the EU in order to ensure the smoothest possible application of the bilateral agreements; even without the conclusion of the InstA. In this context, 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 our point of view, it is also important to exhaust all possibilities that Switzerland can implement unilaterally to strengthen the framework conditions in order to ensure the competitiveness of our country.

Abolishment of Industrial Tariffs

Current Status	The bill to revise the Customs Tariff Act is intended to set customs duties on industrial products to zero. For the purposes of this bill, the term "industrial products" covers all goods with the exception of agricultural (including animal feed) and fishery products. In addition to eliminating tariffs, the bill also seeks to simplify the tariff structure for industrial products. The planned simplification of the tariff structure will reduce the number of tariffs in the industrial sector from 6172 today to 4592. The bill is part of the "Import Facilitation" package of measures in the fight against Switzerland as a high-price island. The National Council and Council of States approved the bill in the final vote on October 1, 2021 (final vote text). After the referendum deadline of January 20, 2022 passed without action, the Federal Council decided that it would be put into effect on January 1, 2024.
Outlook	Our association welcomes the decision of the Parliament to adopt the amendment and will accompany the technical implementation of the industrial tariff dismantling.

Free Trade Agreement

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 done, amongst other channels, through free trade agreements with third parties. In addition to the EFTA Convention and the free trade agreement with the European Union (EU), Switzerland has a network of 33 free trade agreements with 43 partners worldwide. Therefore, in association with the other EFTA states, Switzerland 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 more prominent and free trade agreements are increasingly viewed critically. In particular, fears regarding Sustainable Development Goals (SGDs) and climate targets are fueling protectionist tendencies. In the context of these developments, discussions about the sustainability of free trade agreements have also increased. Following the narrow approval of the free trade agreement with Indonesia, attention will now increasingly focus on the free trade agreement with Mercosur. Negotiations between EFTA and the Mercosur countries were concluded in Buenos Aires in August 2019. Currently, the legal review is underway, which was delayed by Covid. In addition, the legal review revealed that different interpretations on some substantive points still need to be clarified. According to the practice of the Federal Council, an optional referendum is to be expected.
Outlook	Especially against the backdrop of trade conflicts, the blockade of the World Trade Organization (WTO), growing protectionism and the expansion of free trade agreements is very important for the export-oriented Swiss economy and the member companies of SwissHoldings. Free trade agreements provide privileged access to important markets and lead to overall growth and prosperity for 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 for expanding and modernizing the network of free trade agreements. Concerns are increasingly being expressed about sustainable development in connection with global trade. Of course, SwissHoldings recognizes and supports the claim that sustainability aspects are deservedly taken into account within the considerations of free trade agreements. The chapter on "Sustainability and Trade" provides a solid foundation for promoting sustainable development. Moreover, it should not be neglected that intensified trade relations are an important factor in promoting sustainable development. In addition to significant economic aspects, the improvement of the labor market and, as a result, social progress, knowledge and technology transfer also play an important role. SwissHoldings will continue to advocate for the important expansion of the Swiss network of free trade agreements.

Investment Control

Current Status	In Switzerland, the question is currently being discussed on whether foreign direct investment within Swiss companies poses a threat to Switzerland overall. The Federal Council has dealt with this issue in detail within the context of the report "Cross-border Investments and Investment Controls" and has come to the conclusion that the introduction of regulatory control for direct investments would not bring any added value at the present time. Notwithstanding, both councils have voted in favor of the Rieder Motion. Whereby mandating that the Federal Council draft a bill for investment control of foreign direct investment in Swiss companies - among other things, by establishing an approval authority for transactions that are subject to investment control. In particular, the focus is 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 August 25, 2021, the Federal Council defined the parameters for a control system for foreign investments to implement the Rieder motion. The consultation draft is expected to be available by 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 for SwissHoldings that investment activity is maintained and that Switzerland is not weakened as an investment location. This is all the more important, as Covid-19 is likely to have triggered a sharp decline in foreign direct investment inflows last year. However, while competition for investment from abroad is intensifying, Switzerland is becoming increasingly dependent on foreign investment for its growth and prosperity. As a basic principle, it should be noted that the investment control mechanism must be targeted (i.e. focused on clearly defined objectives), efficient in implementation and administratively lean. An unnecessary administrative burden on companies should be avoided. Investors should also be granted the highest possible level of transparency and legal certainty. SwissHoldings will actively accompany the preparation of the draft law. Confidence in Switzerland as an open - but already not barrier-free - investment location and liberal economic policy must be maintained.

Corporate Social Responsibility

Corporate Responsibility Initiative

Current Status	The popular initiative was put to a vote on November 29, 2020. The lead for this business campaign was taken by economiesuisse and SwissHoldings was also involved in the campaign. The initiative narrowly won a majority of the voting (50.7% in favor) - but the bill was rejected thanks to a clear failure to win a majority with the cantons (cantons: 14.5 NO, 8.5 YES). This paved the way for the enforcement of the indirect counter-proposal. The Federal Council presented the Ordinance on an indirect counter-proposal on December 3, 2021. The new obligations were based on the EU regulations and in some cases go beyond them. The law will come into effect as early as January 1, 2022. This means that Swiss companies, as of the 2023 fiscal year, will have to report under the new rules for the first time. SwissHoldings supports the direction of the implementing Ordinance. In particular, it is considered positive that the sector-specific due diligence obligations have been closely coordinated with the guidelines of the OECD and to the International Labor Organization (ILO); to ensure that a risk-based approach is explicitly pursued for the area of child labor.
Outlook	The new obligations associated with the implementation of the counterproposal are challenging, especially in the area of child labor. SwissHoldings will support the implementation work of the member companies, to the fullest extent and offer a platform for the exchange of expertise.

Sustainable Development Strategy 2030 / Federal Councils CSR Action Plan

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, financial market and the field of education (research and innovation) can drive sustainable development forward; in conjunction with what framework conditions are necessary to achieve this. At its meeting on November 4, 2020, the Federal Council sent the strategy out for consultation and lasted until February 18, 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 June 23, 2021. SwissHoldings also advocates appropriate regulation in the area of Corporate Social Responsibility. With a focus on international standards and best practices, the Federal Council's National Action Plan on Business and Human

	Rights (NAP) and SECO's CSR Position Paper directs Switzerland in the right direction. On the important issue of Corporate Social Responsibility, only an internationally coordinated approach can achieve the desired results. On January 15, 2020, the Federal Council approved the revised Action Plans 2020 - 2023 on Corporate Social Responsibility and Business and Human Rights. On September 14, 2021, the Swiss Forum on Business and Human Rights was also held, which included a cross-stakeholder exchange on good practices and proven approaches. The Federal Council has also revised its position paper and action plan on Corporate Responsibility for Society and the Environment. From a strategic perspective, it has been adapted in such a way that the stakeholders' dialog has been strengthened and the review on the implementation of CSR tactics have 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 for the Consultation of the NCP (NCP Advisory Council) and the support group national action plan on "Business and Human Rights".

Accounting and Reporting

IFRS Standards

Current Status	Three consultations are currently being held by the IASB on the classification of liabilities (Non-Current Liabilities with Covenants), on supplier finance arrangements and on the promotion of the reduction of vehicle emissions (Negative Low Emission Vehicle Credits). SwissHoldings will submit a statement on the consultation regarding supplier finance arrangements. In addition, the association submitted a statement on disclosure requirements for subsidiaries that are not subject to public accountability at the beginning of the year (link). In addition, after appropriate consultation the IFRS decided to expand its activities to include non-financial reporting. To implement this, the IFRS Foundation Constitution has been amended to allow the establishment of the International Sustainability Standard Board. This is to be responsible for the development of standards in the area of sustainable corporate governance. The Technical Readiness Working Group has already published a prototype for disclosure requirements in the area of general non-financial reporting and climate reporting as preparatory work
Outlook	SwissHoldings will continue to actively follow the development of IFRS accounting and participate in relevant consultations.

Developments at the EU Level

Current Status	At the EU level, the topic of sustainability is at the center of public discussion. In this context, the European Commission has become active through various initiatives. In the area of reporting, the focus is primarily on three regulations. On one hand, there is Regulation 2019/2088 on sustainability-related disclosure requirements in the financial services sector, which is aimed at financial services providers. Alternatively, the taxonomy regulation and the directive on non-financial reporting also impose new 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 investments and minimize greenwashing. Companies that fall under the scope of the non-financial reporting directive must disclose their activities to the extent that they qualify as environmentally sustainable under the taxonomy. For more information on the current status of the draft, please refer to the subchapter "Sustainable Finance". In addition, the directive on non-financial reporting is currently being revised. The European Commission conducted a consultation in spring 2020 (link to SwissHoldings' statement). On April 21, 2021, the European Commission published the draft revision under the new name Corporate Sustainability Reporting Directive (CSRD). This comprises the following key figures: ● 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 the mandatory EU standard. ● Audit of non-financial information by independent third parties becomes mandatory. ● The information must be published together with the annual report in electronic format. The draft CSRD is currently being processed by the European Parliament and the European Council. In addition, the European Commission is currently looking into possible regulations in the area of sustainable corporate governance and related due diligence. It opened a consultation on this at the end of October 2020. A draft regulation is expected in Q1 2022 after it had been postponed several times.
Outlook	SwissHoldings welcomes in principle the initiatives for improved transparency of ESG risks and consolidation of the requirements for companies regarding this situation. However, the obligation to publish information on sustainably classified activities in the context of non-financial reporting should be carried out in accordance with the principles of financial reporting and in an internationally coordinated context. The transfer of international recommendations (such as TCFD) into Swiss legislation should also be principle-based - whereby the "Comply or Explain" principle is to be provided for, which gives companies the necessary leeway during implementation. Mandatory disclosures of predefined KPIs cannot be derived from these recommendations. In addition, corresponding transparency requirements should be appropriately graded according to size, complexity, risk profile and structure of the business model. Efforts to increase transparency and clarity

	must be proportionate, practicable and appropriately designed. Overly burdensome regulations must be prevented. SwissHoldings is monitoring ongoing developments and continues to accompany the business, particularly within the framework of the working group of umbrella organizations at the European level.

Capital Markets

Sustainable Finance

Current Status	The topic of "Sustainable Finance" has gained importance in conjunction with 'Sustainable Corporate Governance'. Particularly in the discourse surrounding the Paris Agreement, it became clear that private investors have an important role to play with regards to combating climate change. The subject of these considerations is that the participation of private investors ensures market mechanisms can perform their important guidance function and thus 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 issue has also arrived at the political level. In 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 June 24, 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 make an effective contribution to sustainability. The following priorities emerge from the report: ● The systematic disclosure of relevant and comparable climate and environmental information for financial products ● Strengthening legal certainty with respect to fiduciary duties or with respect to the consideration of climate/environmental risks and impacts ● Strengthening the consideration of climate/environmental risks and impacts in financial market stability issues ● Monitoring developments at international and, in particular, EU level. The Federal Council intends to address these in cooperation with the industry and other interest groups. The four directives were further specified in December 2020 when 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) - Whereas on August 18, 2021 the Federal Council decided on the key

parameters for future binding climate reporting by large Swiss companies. By summer 2022, the Federal Department of Finance is to prepare a consultation draft.

- Proposal to adapt financial market law to avoid any greenwashing by fall 2021.
- Recommendations to the financial market acts to publish methods and strategies on how climate and environmental risks are taken into account. The recommendation has been compiled and will be reviewed at the end of 2022.
- Expand Switzerland's involvement in international environmental conferences and initiatives.

SwissHoldings is closely following the work regarding the binding implementation of TCFD. From SwissHoldings' point of view, a principle-based anchoring of the recommendations is essential, which provides companies the necessary leeway for its implementation via the "Comply or Explain" principle.

In line with the goals of the Federal Council, the Green Fintech Network presented an action plan for a green and innovative Swiss financial center in April 2021. This included 16 proposals, ranging from the establishment of a platform for sustainability data, to launching the Innovation Challenge for Green Fintech Startups, as well as the promotion of Open Finance and increasing financing opportunities for Green Fintechs. For companies, the action plan calls for improved non-financial reporting 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. This includes the Taxonomy Regulation, which is particularly relevant for companies. The regulation came into effect in 2020 and provides a framework for assessing the environmental sustainability of economic activities and requires companies affected by the regulation to report on it. Under the regulation, they must disclose sales, capital and operating expenses associated with environmentally sustainable economic activities. The regulation is based on six environmental objectives: climate change mitigation, climate adaptation, conservation and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and conservation of biodiversity and ecosystems.

The Delegated Acts further specify the information and the methodology for its preparation in Delegated Acts on Climate Targets, which was published in 2021. These delegated acts on environmental targets are expected in 2022. The timeline foresees that initial qualitative information and the share of activities covered by the Taxonomy must be disclosed by the 2021 reporting period. This can be as early as January 1, 2022 but companies must then 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.

On July 6, the European Commission published the revised Sustainable Finance Strategy, which is particularly designed to finance the transition to a sustainable economy. It proposes measures in the four areas: transition finance, inclusivity, resilience and contribution to the financial system and

	global ambition. The European Commission will report on progress for implementation in 2023. Developments in the area of sustainable financing, as well as regulatory innovations in particular, could also affect companies outside the financial sector.
Outlook	SwissHoldings shares the view that private sector investments can make an important contribution to achieving global climate and sustainability goals. Increased attention to sustainable finance can create awareness for the great contribution and high commitment of the private sector by the sustainable development of society. For SwissHoldings, it is important that investors and the private banking sector can continue to use their discretion with regard to corporate financing. This would help determine which companies or technologies they consider to be particularly sustainable. Market-driven sustainability and consideration of ESG criteria are increasingly part of financial markets. These broad-based efforts by the private sector should not be unnecessarily restricted by the State. SwissHoldings sees the current initiatives for greater standardization within the area of sustainable finance as fundamentally positive. However, the creation of binding classification systems should only be carried out with restraint and, if possible, in an internationally coordinated manner. Companies already report extensively on their sustainability efforts as part of their financial and non-financial reporting. On Binding Classification Systems ("Taxonomy") specifically: The core objective of sustainability should continue to be a transformation that is as broad as possible. This includes all companies and provides the opportunity to adapt their business model. Delimiting individual business activities into a rigid "Black/White" system does not do justice to this claim. The marginal benefit in terms of sustainability of investments in sectors - which currently have a lower standard but a high potential for transformation - is generally much higher. A lack of differentiation in the audit requirements also means that investments to gradually improve sustainability performance may often not prove worthwhile in practice, which subsequently slows them down. In addition to the ESG factors, a properly understood sustainable economic activity also includes the contribution of companies to the economic development of a society. This is appropriately captured in the triple bottom line principles of sustainability but is inadequately addressed in the arguments towards sustainable finance that is currently under discussion. Socio-economic development contributions of the economy, such as in relation to old-age and pension provisions, the education and training of employees (keyword vocational training), etc., must be included in the corresponding considerations.

Exchange Equivalence - Extension of the Exchange Protection Measure

Current Status	The EU granted Switzerland **stock exchange equivalence** only until the end of June 2019, but then did not extend it. For this reason, **Switzerland activated the measure to protect the Swiss stock exchange infrastructure on July 1, 2019**. Since January 1, 2019, foreign trading venues are subject to a recognition obligation, whereby they should admit certain shares of Swiss companies to trading or enable trading of such shares (see also link). The Ordinance regulating the Stock Exchange Protection Measure (see link to Ordinance) is based exclusively on the Federal Constitution (Art. 184 para. 3 BV) and was therefore limited in time (until December 31, 2021). **The Federal Council** decided in November 2021 to extend the measures and to launch a consultation on the transfer of the Protective Measure into ordinary law. This will run until March 4.
Outlook	SwissHoldings is supporting the bill on a cross-sectoral basis and advocating for the interests of its member companies. The association will participate in the ongoing consultation process (see also the comments in the legal section).

Monetary Policy SNB

Current Status	In today's extraordinary times due to the "COVID 19" challenges, the Swiss National Bank (SNB) is increasingly becoming the focus of attention. At the parliamentary level, various proposals have been discussed with the aim of tying the SNB's distributions to certain purposes. Currently, there is a motion on the WAK-N demanding that the federal share of future SNB distributions be used directly for the reduction of the Corona debt. This motion was adopted in the National Council. However, it still has to clear the hurdle in the Council of States.
Outlook	SwissHoldings will closely follow the ongoing developments and from our perspective the SNB's distribution practice to date has proven its worth. The organization is critical of a "politicization" or further earmarking of the SNB's profits.