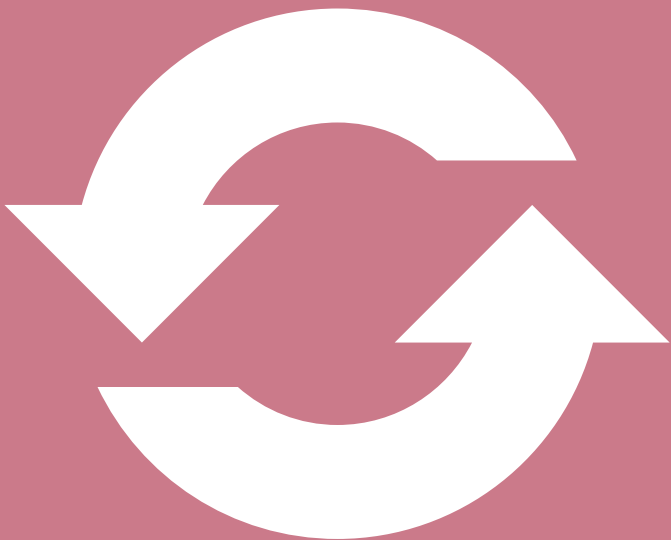


Update

February 2024



Contents

Law Department	1
Capital Market Law	1
🔄 Draft Register of Beneficial Owners	1
🔄 Revision of the Financial Market Infrastructure Act (FMIA).....	2
Competition Law & Policy	3
🔄 Amendment of the Cartel Act: Partial Revision.....	3
🔄 Amendment of the Cartel Act: Institutional reform	5
Tax Department	6
International Tax Law	6
🔄 OECD/G20 Project on the Taxation of the Digitalized Economy	6
Economics Department	8
Trade and Investment Policy	8
🔄 Bilateral Relations between Switzerland and the EU.....	8
🔄 Free Trade Agreement.....	9
🔄 Investment Controls	10
Investment Protection Agreements	11
Corporate Social Responsibility	12
Corporate Responsibility.....	12
Collective Legal Protection	12
Accounting and reporting	14
IFRS Standardization.....	14
Capital Markets.....	14
Monetary Policy SNB	14



 Updated documents are available here.

SwissHoldings is the association of multinational industrial and service companies in Switzerland. At federal level, we advocate for optimal framework conditions on behalf of our more than 60 members. Together, our members account for around 66 per cent of the total market capitalisation on the SIX Swiss Exchange. Our members employ around 1.8 million people worldwide, around 202,000 of them in Switzerland. Through the numerous service and supply contracts they place with SMEs, multinational companies in Switzerland employ - directly and indirectly - more than half of all employees in Switzerland.

LAW DEPARTMENT



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Capital Market Law

Draft Register of Beneficial Owners



Executive Summary

The draft for a Federal Law on the Transparency of Legal Entities seeks to enhance the integrity of Switzerland as a financial and business hub. The proposed measures include the establishment of a Federal Register of Beneficial Owners and other specific interventions to enhance the effectiveness of combating money laundering and white-collar crime. These measures are designed to align with the international standards set forth by the Financial Action Task Force and the Global Forum on Transparency and Exchange of Information for Tax Purposes.



Contents

The proposed [legislation](#) has two primary objectives. Firstly, it aims to enhance the transparency of legal entities to facilitate more efficient identification of Beneficial Owners by the authorities. This involves the introduction of a Federal Register of Beneficial Owners and the imposition of Anti-Money Laundering Act obligations, including corresponding due diligence requirements, on specific activities within legal advice. Secondly, the bill encompasses amendments to existing laws to bolster the effectiveness of the Anti-Money Laundering efforts. This includes the revision of supervisory regulations and the implementation of additional measures in specific sectors such as real estate and precious metals trading.



Stance

The consultation process concluded at the end of November 2023, and the received positions are currently under evaluation by the Federal Department of Finance (FDF). In line with the [adoption of Recommendation 24](#) at international level, corresponding efforts have commenced at the national level. Thus far, the Federal Council has directed the FDF, in collaboration with the Federal Department of Justice and Police (FDJP), to draft a bill no later than June 2023, aiming to facilitate the identification of beneficial owners of legal entities (see press [release](#)). As outlined in the press release, the proposed bill is expected to establish a central register for the Identification of Beneficial Owners and introduce new obligations for updating information on Beneficial Owners based on a risk-based approach.



Ausblick

SwissHoldings, as part of the consultation process, presented its statement (refer to the position) at the conclusion of November 2023. Anticipated further developments are foreseen in the second quarter of 2024.





Position

SwissHoldings has raised specific concerns in a [consultation response](#). In particular, we consider the following points to be especially important:

- Clarification of the Term "Control": SwissHoldings advocates for a more precise definition of the term "Control" to mitigate potential confusion or conflation with the terminology employed in Company Law and that pertaining to participation transparency.
- Full Exemptions for Listed Companies and Their Subsidiaries: The association is dedicated to ensuring that listed companies and their subsidiaries are granted complete exemptions concerning specific regulations.
- Limitation of Access to Beneficial Ownership Information: SwissHoldings urges that access to information on Beneficial Owners be restricted to the minimum necessary and made available solely to relevant authorities.
- Negligent Breach of the Duty to Report and Provide Information: SwissHoldings asserts that a negligent breach of the duty to report and provide information should not be subject to the criminal provisions outlined in Article 41 of the Anti-Money Laundering Act (AMLA). Moreover, it is imperative, in our perspective, that negligence in violating the reporting obligation in Article 37 of the AMLA is not subject to criminal prosecution.

Revision of the Financial Market Infrastructure Act (FMIA)



Executive Summary

As per a report from the Federal Department of Finance (FDF), the Financial Market Infrastructure Act (FMIA) has, by and large, demonstrated its efficacy thus far. The Federal Council is presently undertaking a routine and comprehensive assessment, with a specific focus on enhancing transparency and legal certainty in designated regulatory domains. The consultation process for these considerations is slated to commence in mid-2024.



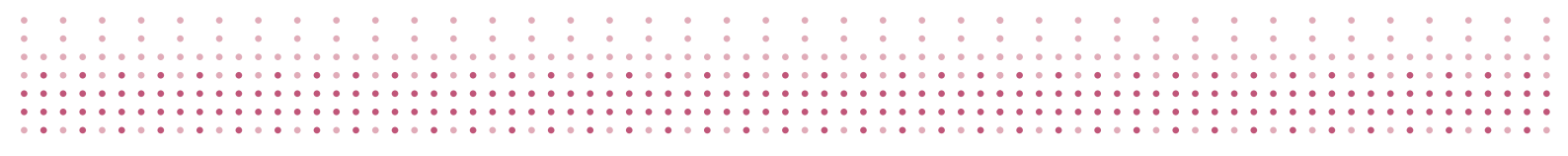
Contents

The Financial Market Infrastructure Act (FMIA) governs the licensing and obligations of financial infrastructures, along with the conduct obligations imposed on financial market participants engaged in securities and derivatives trading. Preceding its enforcement in January 2016, the Federal Council declared that the Federal Department of Finance (FDF) would undertake a comprehensive review of the FMIA and compile a report.



Stance

In this [report](#), the Federal Department of Finance (FDF) concludes that the Financial Market Infrastructure Act (FMIA) has largely demonstrated its efficacy since its enforcement. Nevertheless, there is a need to augment transparency and legal certainty in specific regulatory domains. Additionally, the Federal Council has determined to enact the reporting obligation for small non-financial counterparties concerning derivatives transactions, effective January 1, 2028.





Ausblick

Following this report, the Federal Council directed the Federal Department of Finance (FDF) at the end of September 2022 to formulate a consultation draft for the revision of the Financial Market Infrastructure Act (FMIA) by mid-2024 (see [press release and documents](#)).



Position

The proposed amendments to derivatives regulation represent a principled improvement and are, therefore, commendable. However, we emphatically oppose the notion of transferring ad hoc notifications of shareholdings from self-regulation to state regulation under the supervision of FINMA. Self-regulation has demonstrated its efficacy, and its abandonment should only occur when deemed absolutely necessary; it should be preserved as a locational advantage.

Competition Law & Policy

Amendment of the Cartel Act: Partial Revision



Executive Summary

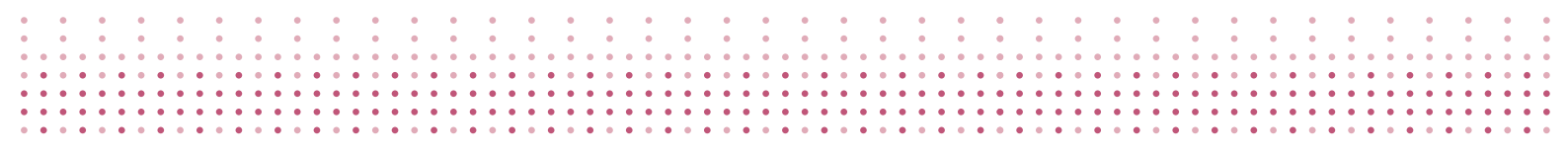
On May 24 2023, the Federal Council endorsed the [dispatch concerning the partial revision of the Cartel Act \(23.047\)](#). The primary objective of this partial revision is to modernize Swiss Merger Control, aligning it with international standards. Additionally, the revision seeks to enhance Civil Antitrust Law and streamline the objection procedure for practicality. In connection with these goals, the Federal Council has directed the Federal Department of Economic Affairs, Education, and Research (EAER) to present a proposal for institutional reform in the first quarter of 2024. The Economic Affairs and Taxation Committee of the Council of States (WAK-S) initiated its deliberations during the same period. SwissHoldings explicitly appreciates the inclusion of the long-requested institutional reform in the revision.



Contents

The transition from the Qualified Market Dominance Test to the Significant Impediment to Effective Competition Test (SIEC test) is undertaken with the objective of aligning the practices of the Competition Commission (COMCO) with international standards. As articulated in the report presented [by the State Secretariat for Economic Affairs \(SECO\)](#), the proposed modifications are designed to empower the imposition of targeted prohibitions or the approval of mergers in cases where a significant impairment of competition is identified. The proposition encompasses a streamlined notification obligation for mergers at the European level and a regulation pertaining to the extension of deadlines within the examination procedure.

Another integral aspect of the legislative amendment involves the reinforcement of Civil Antitrust Law, with an anticipated extension for the right to institute legal proceedings. Furthermore, the objection procedure is slated for enhancement to render it more practicable by avoiding the immediate risk of sanctions in the event that an investigation is not initiated within the stipulated shortened deadline.





Stance

At its [meeting on March 17, 2023](#), the Federal Council directed the Federal Department of Economic Affairs, Education and Research (EAER) to submit a dispatch concerning the partial revision of the Cartel Act (CartA) by mid-2023. Subsequently, this directive was officially endorsed by the Federal Council during its [meeting on May 24, 2023](#). Following this, the matter was forwarded to the WAK-S for the initial parliamentary preliminary consultation.

In this context, the Federal Council incorporated two requisitions from [Motion 16.4094 Fournier](#) aimed at enhancing the position of small and medium-sized enterprises in competition proceedings. These requisitions encompass the establishment of specific time limits and the provision of compensation for parties involved in first-instance proceedings before the Competition Commission (COMCO). Additionally, the preliminary draft includes an implementation proposal for [Motion 18.4282 Français](#), which was adopted in June 2021, and takes into consideration both qualitative and quantitative criteria.

Lastly, the preliminary draft incorporates provisions pertaining to the principles of investigation, the presumption of innocence, and the burden of proof. These provisions are included to fulfill the requirements outlined in [21.4189 Wicki](#). For more detailed information, please refer to [the press release and the consultation documents](#).



Outlook

[On 26 January 2024, the WAK-S found during its deliberations](#) that there was a need for further clarification. It therefore decided to hold further hearings at its next meeting on 19/20 February.



Position

In particular, SwissHoldings anticipates a stringent implementation of the Français and Wicki motions. Both motions assert that authorities and courts must (once again) scrutinize the actual effects of an agreement or practice and substantiate its detrimental impact on competition. However, the draft revision fails to meet these expectations adequately. The draft disproportionately emphasizes Article 5 CartA concerning agreements and overlooks the analogous necessity for action outlined in Article 7 CartA addressing unlawful conduct. Moreover, the presence of considerable interpretative leeway necessitates clarification, as detailed in [SwissHoldings' position paper to the WAK-S](#). Additionally, SwissHoldings has conveyed significant improvement suggestions to the WAK-S, including:

- Introduction of a compliance defense: SwissHoldings advocates for the inclusion in the Cartel Act of a provision acknowledging substantial compliance efforts, with such efforts considered in mitigating penalties, up to the exclusion of sanctions.
- Appeals procedure: While acknowledging the positive intent to enhance the appeals procedure, SwissHoldings appreciates the proposed changes in the draft and the dispatch. However, specific clarifications are deemed necessary.



- Civil Antitrust Law: SwissHoldings opposes the extension of the right to sue to all parties affected by unlawful restraints of competition.

Amendment of the Cartel Act: Institutional reform



Executive Summary

Within the framework of the Cartel Act revision, the restructuring of competition authorities will undergo a distinct procedure, a measure advocated by multiple stakeholders during the consultation process. This approach aims to safeguard against potential impediments that could jeopardize the Cartel Act revision. The Federal Council has delegated this responsibility to the Federal Department of Economic Affairs, Education and Research (EAER). The EAER, in compliance with this mandate, intends to unveil a more detailed implementation proposal in the initial quarter of 2024. Currently, various alternatives are under scrutiny through collaborative efforts with a commission of experts specifically appointed for this purpose.



Contents

Concurrently with the ongoing partial revision of the Cartel Act, the Federal Council is advancing a distinct overhaul [of the competition authorities](#) referred to herein as Institutional Reform. This aspect is no longer integrated into the original Cartel Act revision but is being addressed as a separate initiative. This strategy is the 2012 Cartel Act revision faced two rejections in the National Council. The overarching objective of such Institutional Reform is to rectify issues within administrative proceedings, with a particular emphasis on the segregation of decision-making and investigative authorities. In 2012, the Federal Council proposed the establishment of a Competition Authorities Act (CAA) in its dispatch on the Cartel Act (see above). This proposed reorganization of the prosecution procedure involves a competition authority investigating a case and subsequently submitting an application to a competition court of first instance. This constitutes the core of the envisioned Institutional Reform.



Stance

Various parties called for institutional reform during the [consultation process](#). During the [meeting on March 17, 2023](#), the Federal Council instructed the EAER to submit a proposal for implementation. An independent commission of experts was set up for this purpose.



Outlook

The forthcoming report from the commission of experts within the EAER is currently in its concluding phases and is anticipated to be released in the initial quarter of 2024. This report will articulate the framework of the proposal for submission to the Federal Council.



Position

SwissHoldings expresses its approval that the long-sought institutional reform has now been concurrently addressed with the ongoing revision of the Cartel Act. The contemplated changes manifest a distinct dedication to modernizing and fortifying the prevailing institutional structures within the realm of Antitrust Law.



TAX DEPARTMENT



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International Tax Law

OECD/G20 Project on the Taxation of the Digitalized Economy



Executive Summary

Switzerland implemented the OECD Minimum Tax in the form of a Swiss Supplementary Tax at the beginning of 2024. This places Switzerland at a significant and unwarranted disadvantage as a business location when compared to numerous non-implementing countries, including the USA, China, and India. Switzerland must vigilantly monitor international developments and strive to establish an internationally level playing field, placing increased emphasis on new instruments to enhance Switzerland's attractiveness as a business location.



Contents

The OECD project on the Taxation of the Digitalized Economy is structured around two pillars and aims to enhance the acceptance of International Corporate Taxation. The OECD Secretariat is conducting the work on behalf of the G7 and G20, with administrative representatives of the involved countries participating in the formulation of new rules. The formal adoption of the new tax rules is carried out by the "OECD/G20 Inclusive Framework on BEPS" (hereinafter: IF), which presently encompasses 143 countries.



Stance

Internationally, the larger EU member states have committed to implementing the OECD minimum taxation by the beginning of 2024. It currently appears that most of the larger EU member states will fulfil their obligations. Individual countries will introduce the rules retroactively (e.g. Spain) in the course of 2024. Outside of Europe, the enthusiasm surrounding the introduction of the minimum tax seems to have largely evaporated. Except for Canada, Japan, Korea and Australia, many countries are largely holding back on announcements or consultation procedures.

In Switzerland, the Federal Assembly approved the implementation proposed by the Federal Council in December 2022. In May 2023, the Federal Council presented the second part of the draft ordinance ([Draft Ordinance 2](#)). The mandatory referendum was held in Switzerland on 18 June 2023. More than $\frac{3}{4}$ of Swiss voters approved the implementation decided by the Federal Council and Parliament. At its [meeting on 22 December 2023](#), the Federal Council decided that the minimum taxation would be introduced on 1 January 2024 and that Switzerland would focus on the Swiss supplementary tax QDMTT. At the same time, the Federal Council published the definitive ordinance.



Outlook

The trajectory of the OECD Minimum Tax at the international level remains uncertain at present. The global prevalence and adoption of the tax by major economic powers (USA, China, India, EU, Brazil, etc.) hinge significantly on the outcome of the US elections in November 2024 and the subsequent adjustments to the Minimum Taxation rules by the "OECD/G20 Inclusive Framework on BEPS" (hereinafter: IF). The existing rules confer economic advantages to headquarters states abstaining from introducing Minimum Taxation. Consequently, three-quarters of the IF states, including China, India, the USA, Brazil, and others, have refrained from implementing the Minimum Tax. The international proliferation of the Minimum Tax appears highly uncertain without an effective Undertaking to Provide Reports (UTPR) or substantial amendments to the Minimum Tax level calculation.

The current rules place Switzerland at a disadvantage that lacks objective justification. Notably, these rules allow the USA or China to offer their corporations effective tax rates significantly below 15 percent, with other countries unable to offset this difference. Switzerland does not have the latitude to extend similar tax advantages to its corporations. The IF should eliminate these objectively unjustifiable disadvantages for Switzerland and rectify protectionist advantages accorded to other countries to establish a level playing field.



Position

SwissHoldings acknowledges that to prevent financial losses, particularly diminished tax revenues, in the medium to long term, Switzerland must prioritize the establishment of an internationally recognized Minimum Taxation regime that ensures a level playing field. Additionally, both the Confederation and cantons should address locational disadvantages arising from increased tax burdens on Swiss companies through appropriate compensation mechanisms. The following considerations should guide this effort:

- International Implementation of the OECD Minimum Taxation
- Effects on the Attractiveness of Various Industries
- Financial and Economic Consequences (short, medium and long term) without Countermeasures
- Possibility of Creating Internationally Accepted and Targeted Location Measures
- Effects Under Transfer Pricing Law
- Domestic Policy Aspects



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Mehr Informationen zum OECD/G20-Projekt zur Besteuerung der digitalisierten Wirtschaft gibt es auf unserer Webseite.



ECONOMICS DEPARTMENT



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Trade and Investment Policy

Bilateral Relations between Switzerland and the EU



Executive Summary

Switzerland boasts an extensive web of Bilateral Agreements with the European Union (EU). The objective is to enhance and solidify the relationship between Switzerland and the EU through the revision of five existing agreements, alongside the incorporation of two novel internal market agreements and collaboration in the realms of research, education, and health. However, the EU has tethered this progress in the agreement network to the clarification of the Institutional Framework. To achieve this and further develop and stabilize the relationship between Switzerland and the EU, a package approach is now employed. Instead of addressing institutional matters comprehensively in a horizontal agreement, these issues are now individually addressed in each sector-specific agreement.



Stance

At its [session on June 9, 2023](#), the Federal Council officially endorsed the long-awaited [report on the assessment of relations between Switzerland and the European Union \(EU\)](#). The evaluation confirmed the continued viability of the existing bilateral approach as the most advantageous solution for Switzerland. Shortly thereafter, during its [sessions on June 21, 2023](#), The Federal Council established the key parameters for a negotiating mandate between Switzerland and the EU. These parameters serve as the foundational framework for subsequent negotiations with the EU. Subsequent to exploratory discussions with the EU, the Federal Council, in its session [on November 8, 2023](#). [On December 15, 2023](#), the Federal Council adopted a preliminary negotiating mandate concerning the so-called Bilaterals III. Concurrently, during the same session, the Federal Council granted approval and released the [report documenting the outcomes of the exploratory discussions with the EU](#). An overview detailing the components of the package approach is available for reference [here](#). In the following phase, the draft mandate will undergo a consultation process with the Foreign Affairs Committees of the Federal Assembly (FAC) and the Conference of Cantonal Governments (CCG). The Federal Council's objective is to commence negotiations with the EU expeditiously, considering the upcoming European elections in the summer of 2024, with the aim of avoiding unnecessary delays.



Position

The establishment of orderly and secure relations between Switzerland and the European Union (EU) is imperative for the mutual benefit of both entities. The EU member states retain significant importance as

trading partners for Switzerland, given its heavily export-oriented economy. Consequently, maintaining the successful trajectory of Bilateral Relations must remain a paramount objective. SwissHoldings acknowledges and appreciates the Federal Council's efforts to sustain the application of bilateral agreements with minimal disruptions.

In the perspective of the association, it is crucial to explore all unilateral measures within Switzerland's purview to enhance the framework conditions, thereby securing the competitiveness of our nation. This proactive approach aligns with the overarching goal of ensuring the continued success and effectiveness of the bilateral path.

Free Trade Agreement



Executive Summary

In addition to regulated trade relations, the strongly export-oriented Swiss economy also relies on a broad network of Free Trade Agreements (FTAs). Switzerland has succeeded in continuously expanding this network in recent years. It is particularly pleasing in this respect that the Federal Council recently achieved a breakthrough in the negotiations for an FTA with India at the beginning of the year after 16 years. This successful negotiation is of great strategic importance for the Swiss economy. Switzerland is also negotiating further agreements with Vietnam, Mercosur, Malaysia, Thailand, and Kosovo. It is also working on modernizing existing agreements.



Contents

The Swiss economy maintains a strong international focus, engaging in extensive cross-border trade and investment activities. In light of this context, Switzerland's foreign policy emphasizes the continual enhancement of access to foreign markets. This objective is realized, among other measures, through the negotiation and conclusion of Free Trade Agreements with third countries.



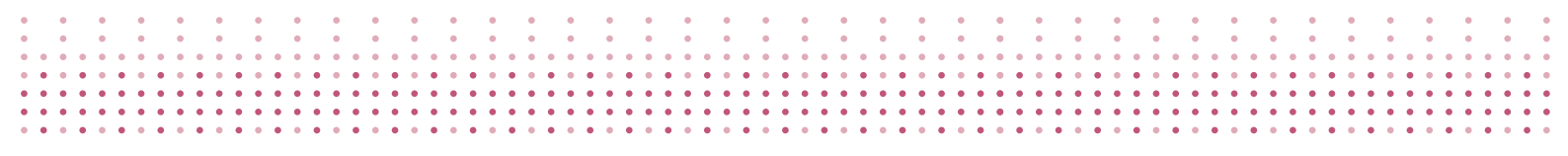
Stance

In addition to the EFTA Convention and the Free Trade Agreement with the European Union, Switzerland has a network of 33 Free Trade Agreements with 43 partners worldwide. Together with the other EFTA states, Switzerland is currently negotiating Free Trade Agreements with six new partner states, namely India, Kosovo, Malaysia, Mercosur, Thailand, and Vietnam, and is investing in the modernization of various existing agreements such as those with Chile, Mexico, and the South African Customs Union.



Position

The expansion of the network of Free Trade Agreements holds significance for the export-oriented Swiss economy and, consequently, for the member companies of SwissHoldings. This is especially pertinent amid the backdrop of escalating trade conflicts globally, a diminishing influence of the World Trade Organization (WTO), and a rise in general protectionism.



Investment Controls



Executive Summary

The implementation of an Investment Review aims to forestall the acquisition of domestic companies by foreign investors, especially when such takeovers pose a threat to public order or security in Switzerland. In pursuance of this objective, the Federal Council endorsed [the dispatch for an investment screening act on December 15, 2023](#). The primary focus of the investment review will be on investors under state control and domestic companies operating in particularly critical sectors. The Committee of the First Council will address this matter in the upcoming year.



Contents

The implementation of an Investment Review is designed to forestall the acquisition of domestic companies by foreign investors, particularly if such takeovers jeopardize public order or security in Switzerland. Consequently, takeovers of domestic companies operating in particularly critical sectors by foreign, state-controlled investors are subject to an approval requirement. These critical sectors encompass armaments and goods for civilian and military use, electricity grids and production, water supply, as well as healthcare, telecommunications, and transportation infrastructure. Generally, small companies are exempt from these provisions.



Stance

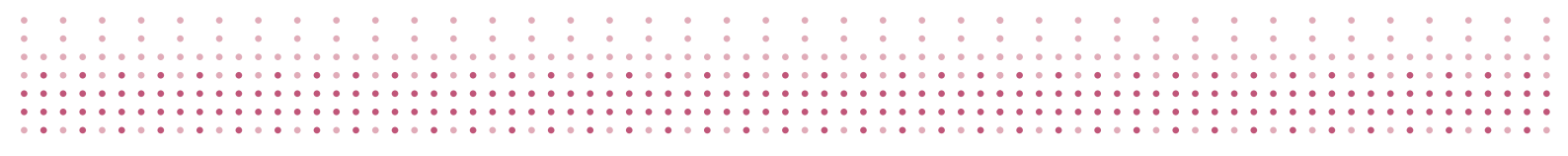
At its [meeting on May 18, 2022](#), the Federal Council published the [preliminary draft for a new Investment Control Act](#) and submitted it for consultation. Parliament had previously called for a corresponding legal basis by adopting [Motion 18.3021 Rieder](#), proposing the introduction of a notification and approval requirement for certain takeovers of domestic companies. At its [meeting on December 15, 2023](#), the Federal Council adopted the [dispatch on the matter](#) for the Parliament.



Position

Foreign Direct Investment (FDI) holds significant importance for Switzerland. In the small and open Swiss economy, the prosperity of the population and the competitiveness of companies depend directly on their integration into global value chains. Given that Swiss companies themselves are among the largest direct investors abroad, Switzerland has a particular interest in ensuring that access to international investment markets is as non-discriminatory and transparent as possible. This goal is most likely to be achieved if Switzerland remains open to foreign investment.

- As part of the consultation process, the Federal Council presented a Regulatory Impact Assessment (RIA) on the preliminary draft. The RIA concludes that the cost-benefit ratio of such a new law is unfavorable; for this reason, the committee continues to oppose the introduction of an investment review, deeming the existing legal framework sufficient. SwissHoldings supports this position.
- However, the question of whether Switzerland should introduce an investment review cannot be assessed in isolation from



international developments. If restrictions on certain foreign investments are introduced universally by OECD member states, this must be taken into account when assessing the Swiss regulatory approach, not least to prevent a pull effect on the Swiss economy.

Investment Protection Agreements



Executive Summary

SwissHoldings closely follows the developments surrounding the investment agreements and emphasises the great importance of these agreements for Switzerland as a business location. With over 111 Bilateral Investment Protection Agreements (BITs), Switzerland boasts the third-largest network of such agreements globally. These agreements serve as a crucial pillar in enhancing Switzerland's appeal as a business location. Currently, an agreement is being formulated with Indonesia, and SwissHoldings is actively monitoring the developments surrounding these investment agreements, emphasizing their significant importance for Switzerland as a business destination.



Contents

Switzerland maintains a network of 111 Bilateral Investment Protection Agreements (BITs), positioning it as the third-largest global network after Germany and China, according to UNCTAD. By entering into Investment Protection Agreements (IPAs), Switzerland enhances the regulatory framework, thereby augmenting its attractiveness as an international investment destination.



Stance

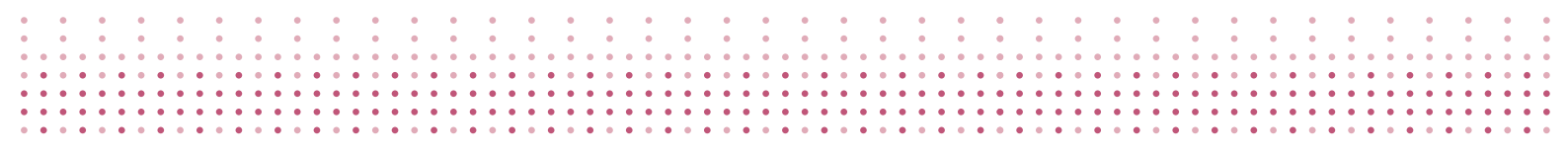
With a change in practice by the Federal Council, Investment Protection Agreements (IPAs) are now subject to an optional state treaty referendum, in addition to free trade agreements. The first IPA undergoing consultation is the new agreement with Indonesia, addressing the contractual gap that emerged since the expiration of the previous agreement in 2016.



Position





Direct investments are key for Switzerland: the prosperity of the population and the competitiveness of companies in the small and open Swiss economy depend directly on their integration into global value chains. Investment promotion and protection agreements play an essential role here: foreign investments not only entail economic risks for companies, but also political risks. This makes treaties between states to protect and promote foreign investment activity even more important.

Effective investment protection requires an investor-state arbitration mechanism: investor-state dispute settlement procedures have proven their worth both for Switzerland and for Swiss companies. They build on existing international structures (ICSID, UNCITRAL) and enable disputes to be resolved in a relatively timely, objective and politically independent manner.




Corporate Social Responsibility

Corporate Responsibility

-  **Executive Summary** *The Responsible Business Initiative faced rejection at the ballot box on November 29, 2020, leading to the enactment of the indirect counter-proposal. Swiss companies are set to adhere to the new regulations for the first time in 2024, covering the 2023 financial year. Additionally, the Federal Council has indicated its intention to review the adaptation of laws in alignment with the EU's evolving regulatory approaches in the realms of sustainability reporting and due diligence. A consultation draft on reporting is slated for release at the beginning of June.*
-  **Contents** The emerging regulatory approaches in sustainability aim to embed Prof. John Ruggie's three-pillar principle to promote compliance with human rights and environmental regulations in the value chains of globally active companies, including legislative considerations.
-  **Stance** In the aftermath of the Responsible Business Initiative's rejection, the indirect counter-proposal, primarily modeled on the corresponding regulatory approaches of the EU in sustainable corporate governance, has been enacted. Given the EU's continuous expansion of provisions in this domain, Switzerland is currently evaluating potential amendments to relevant laws. A consultation draft on Environmental, Social, and Governance (ESG) reporting is expected in early June.
-  **Position** Many Swiss companies have recently invested substantial efforts in complying with the new due diligence and reporting obligations in Switzerland. The first reports are anticipated next year. The business community urges the Federal Government to coordinate extensively across departments for upcoming tasks in this domain and to avoid overburdening companies. Any adjustments resulting from new regulatory projects should adhere to established practices, including a careful assessment of cost implications for companies. Importantly, the dynamic nature of ESG regulation outside the EU must be considered, given the broad global base of the Swiss economy. Over 50 percent of its exports presently go to countries outside the European Union. To prevent duplication, close coordination with globally applicable ESG standards is essential.

Collective Legal Protection

-  **Executive Summary** *Switzerland is presently undergoing political deliberations on the potential expansion of its existing array of collective redress instruments. In December 2021, the Federal Council issued the corresponding dispatch for parliamentary consideration. However, from the business community's perspective, the bill is not ripe for parliamentary discussion. The Federal Council's proposal is criticized for approaching dispute resolution from a limited perspective, exclusively focusing on a specific procedural law instrument.*



It fails to consider international developments in recent years, new technological possibilities, and potential alternatives to court-based class actions.



Contents

The proposed class action bill entails the expansion of the existing class action, the creation of a new class action for pursuing compensation claims, and a novel option for settlements declared binding by the courts.



Stance

In December 2021, the Federal Council presented the dispatch on the class action bill and forwarded it to Parliament. Last June, the National Council's Legal Affairs Committee (RK-N) commenced its deliberations on the matter, expressing reservations about the Federal Council's proposal. Consequently, the committee opted not to take a stance on the bill at the moment and tasked the Federal Office of Justice (FOJ) with conducting extensive further investigations. However, the audit reports from the administration, now available (see also [the media release from the RK-N](#)) only minimally address the committee's valid fundamental concerns regarding the introduction of class action instruments. This stands in stark contrast to ongoing discussions at the EU level, where comprehensive "safeguard" measures to mitigate potential risks of abuse of these instruments are being considered. Such measures include a fundamental ban on commercial litigation funding or a general restriction on access to ordinary civil proceedings through a preliminary examination clause. Consequently, the Commission decided at the beginning of July, during its last deliberation, that an extended examination of security measures and validation of the existing RFA report through direct interviews with companies is necessary before deciding on further proceedings. The Commission is expected to resume its deliberations in the first quarter of 2024.



Position

For the economy, the emphasis lies in efficiently balancing the interests of various parties. Various instruments serve this purpose, with international developments indicating the empirical superiority of certain instruments over others. Therefore, it is crucial that the discussion takes place at an appropriate level. The Federal Council's assertion of the need for action in the dispatch at the civil proceedings level means that significant alternatives are excluded from the outset. This exclusion must be countered by the analyses commissioned by the Commission. The investigations by the Federal Administration aim to demonstrate how other countries are addressing tensions arising from the phenomenon of mass and scattered damages. Notably, the promising model in Scandinavian countries deserves special attention, given the overwhelmingly positive experiences with this approach in Scandinavia.



Accounting and reporting

IFRS Standardization



Executive Summary

SwissHoldings diligently monitors developments in the realm of IFRS standardization. For its globally engaged members, the presence of a universally recognized reporting standard holds pivotal significance as the foundation for their own reporting. Following the convergence process with the US standard US GAAP, the evolution of standards has somewhat stabilized. Additionally, the IFRS Foundation's newfound focus on ESG reporting is progressively assuming a more prominent role in the organization's undertakings.



Content

The IFRS Foundation functions as a non-profit foundation, aiming to formulate high-quality global accounting standards, promote the utilization and implementation of these standards, and facilitate the alignment of national accounting standards with its global counterparts. The Foundation supervises the activities of both the IASB (International Accounting Standards Board), responsible for financial standards, and the ISSB (International Sustainability Standards Board), responsible for non-financial standards.



Stance

In the recent period, the IASB concluded two projects: "Business Combinations under Common Control" and "Extractive Industries." Additionally, work on the IAS 32 project (Classification as Equity or Liabilities) continued. Simultaneously, the ISSB, the collaborating standard-setting partner, is making progress in the realm of sustainability reporting. In recent weeks, the ISSB released the initial two standards (S 1 and S 2). S 1 pertains to the overarching level, delineating principles for presenting sustainability-related opportunities and risks in a comprehensive manner. On the other hand, S 2 specifically addresses climate-related reporting. SwissHoldings remains actively engaged in monitoring the activities of the IFRS Foundation and contributing to pertinent consultations on behalf of its members.



Position

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

Capital Markets

Monetary Policy SNB



Executive Summary

In these unprecedented times, the Swiss National Bank (SNB) is increasingly drawing attention. Several motions have been addressed at the parliamentary level, aiming to link the SNB's distributions to specific purposes. Additionally, recent proposals have surfaced advocating for a reform of the SNB's governance structure. Ensuring the bank's ability to operate independently of political interests is of paramount importance. The Swiss National Bank (SNB) operates under a distinct mandate: to uphold price stability, a critical factor in our prosperity.



**Contents**

In these unprecedented times, the Swiss National Bank (SNB) is increasingly drawing attention. Several motions have been addressed at the parliamentary level, aiming to link the SNB's distributions to specific purposes. Additionally, recent proposals have surfaced advocating for a reform of the SNB's governance structure. Ensuring the bank's ability to operate independently of political interests is of paramount importance. The Swiss National Bank (SNB) operates under a distinct mandate: to uphold price stability, a critical factor in our prosperity.

**Stance**

SwissHoldings will diligently monitor ongoing developments. From the association's standpoint, the SNB's current trajectory has proven effective. The organization is wary of any potential "politicization" or additional earmarking of the SNB's profits.

