Switzerland

Alex Nikitine, Andreas Hösli, and Carmen Spichiger of Walder Wyss explore the challenges facing Swiss companies as they attempt to balance Swiss, EU, and international ESG requirements, and adapt to recent legislative developments

In the area of ESG, Swiss companies face a complex and rapidly evolving regulatory landscape consisting of domestic laws and regulations, foreign requirements (in particular, EU laws), international standards, and contractual obligations.

Although Switzerland is not a member of the EU and is not required to transpose EU law into its national legislation, Swiss ESG legislation generally follows EU regulatory developments, albeit with some deviations (partial transposition). Many Swiss companies are directly or indirectly affected by EU legislation, either because they do significant business in the EU or because they are business partners (e.g., suppliers) of a large EU-based company. Further, Swiss companies may fall within the scope of foreign ESG laws, such as **the German Act on Corporate Due Diligence Obligations in Supply Chains**.

In addition, Swiss ESG law selectively refers to international standards, such as ***the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct***. As a result, it is essential for a Swiss company to ensure compliance with Swiss ESG requirements and, where applicable, EU law and other ESG requirements.

To navigate the complex ESG landscape safely and efficiently, it is essential to understand the legal framework, to build up sensitivity around practical approaches to avoid unnecessary costs, and to proactively anticipate upcoming regulatory developments. Notably, in

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February 2025, the European Commission proposed a significant reduction in ESG requirements (the '**omnibus simplification package**'), with implications for many Swiss companies (see below, "The EU omnibus package").

ESG reporting

Since the business year 2023, large public-interest companies have been required, on a comply-or-explain basis, to prepare a report on certain non-financial matters (Article 964a et seqq., Swiss Code of Obligations, or the CO). These requirements are based on the 2014 EU Non-Financial Reporting Directive. The first series of these reports was published in 2024.

Since 2024, companies reporting in line with the ***Recommendations of the Task Force on Climate-related Financial Disclosures*** are deemed to have fulfilled their non-financial reporting obligations with respect to climate change (see **the Swiss Ordinance on Climate Disclosures**). The Swiss Ordinance on Climate Disclosures is being revised to reflect international developments.

The non-financial report must be approved by the board of directors, submitted to a shareholder vote, and then published. Non-compliance is punishable by a criminal fine of up to CHF100,000 in the case of intentional conduct and CHF50,000 in the case of negligence (**Article 325ter, Swiss Criminal Code**). A debate has ensued as to whether the shareholder vote is binding or merely advisory. A proposal to revise the current requirements presented by the Federal Council in June 2024 states that the shareholder vote shall be binding.

In 2023, the EU adopted **the Corporate Sustainability Reporting Directive** (CSRD). The CSRD will be phased in gradually, with the first mandatory reports due in 2025 (for the financial year 2024). Based on the concept of double materiality, in-scope companies are required to provide detailed information on a broad range of ESG topics, to be reported in line with **the European Sustainability Reporting Standards**. The CSRD also introduced a requirement to obtain assurance for sustainability disclosures. In February 2025, the EU proposed several major amendments to the CSRD as part of its **first omnibus simplification package** (see below, "The EU omnibus package").

Following developments in EU law – in particular, the entry into force of the CSRD – the Swiss Federal Council presented a proposal to amend the current non-financial reporting requirements in June 2024. This process is likely to be influenced by the recent omnibus simplification package in the EU (see below, "The EU omnibus package").

Due diligence requirements

On January 1 2023, Switzerland introduced due diligence requirements in relation to risks of child labour and conflict minerals and metals (Article 964j et seqq., CO; **Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour**). In addition, specific due diligence requirements were enacted to mitigate risks of importing illegally harvested timber and timber products. Companies subject to the due diligence requirements must implement a management system to identify and assess relevant risks associated with their operations and supply chains. The due diligence requirements primarily affect companies in sectors with relevant risks in their supply chains, such as cocoa, coffee, garments, or gold.

Where applicable, companies must publicly report on how they have complied with their due diligence obligations. There are specific exemptions; in particular, for SMEs and for subsidiaries of parent companies that publish a report equivalent to the Swiss due diligence requirements. Non-compliance with these reporting duties is punishable under **Article 325ter of the Swiss Criminal Code**.

To discharge due diligence requirements and related reporting obligations, Swiss law provides that companies may refer to international conventions, standards, and guidance; in particular:

- International Labour Organization conventions No. **138** and **182**;
- ***The ILO-IOE Child Labour Guidance Tool for Business;***
- ***The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct;***
- ***The OECD Due Diligence Guidance for Responsible Business Conduct;***
- ***The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas;*** and
- ***The UN Guiding Principles on Business and Human Rights.***

In parallel, ESG due diligence is increasingly becoming an integral part of legal due diligence in M&A. This indicates that investors seem to be willing to pay a measurable premium for good management of ESG matters, evaluate ESG risks and opportunities, and identify red flags. However, the assessment of the importance may have diminished recently due to international pressure over excessive ESG regulation.

In the EU, **the Corporate Sustainability Due Diligence Directive** (CSDDD) entered into force on July 25 2024. According to the current implementation schedule, EU member states must transpose the directive into national law by mid-2026, with the first obligations coming into force in mid-2027. For very large companies, the CSDDD introduces due diligence requirements on a wide range of ESG issues. The CSDDD also imposes an obligation to adopt and implement a transition plan for climate change mitigation in line with the 2050 climate neutrality target of the Paris Agreement and the interim targets of **the European Climate Law.**

In light of the entry into force of the CSDDD, Switzerland is evaluating possible changes to its due diligence requirements. This evaluation will certainly be influenced by the EU omnibus simplification package. It is expected that Switzerland will place importance on measures reducing bureaucracy.

The Climate and Innovation Act

On January 1 2025, the Climate and Innovation Act (CIA) entered into force. The CIA enshrines Switzerland's climate policy into law and complements the Swiss CO2 Act by outlining the measures Switzerland will take to achieve climate neutrality by 2050, including reducing energy consumption, providing financial incentives to replace fossil fuel heating systems, and promoting climate-friendly technologies.

Under the CIA, all companies are under an obligation to achieve net zero by 2050. Furthermore, the CIA sets sectoral greenhouse gas reduction targets for 2040 and 2050 for the building, transport, and industry sectors. For that purpose, companies are encouraged to adopt transition plans. Moreover, the CIA adopts the goal of aligning national and international financial flows with a low greenhouse gas emissions and climate-resilient development pathway, in line with the Paris Agreement.

Greenwashing

To address the issue of greenwashing, Switzerland has amended its Unfair Competition Act (UCA) as of January 1 2025. According to the newly enacted provision (**Article 3, paragraph 1, letter x, UCA**), any person who makes a statement regarding their climate impact or the climate impact of their goods, works, or services that cannot be substantiated by objective and verifiable information acts unfairly. Accordingly, the provision covers claims related to products (including services) and claims related to companies (including in sustainability reports).

Unfair competition gives rise to risks of both civil and criminal liability and may include the involvement of the Swiss Secretariat for Economic Affairs (SECO). In recent years, several complaints concerning climate change-related advertising have been filed with SECO, as well as with the Swiss Fairness Commission, a self-regulatory body. In the future, such complaints may have even more serious consequences due to the revision of the UCA. In Q2 of 2025, the Federal Office for the Environment will publish a guideline on climate change-related claims.

In parallel, the EU is also taking steps to combat greenwashing. **The Empowering Consumers Directive**, which EU member states must transpose into national law by September 2026, includes several restrictions on environmental claims in commercial communications (in particular, the prohibition of climate-related product claims based on compensation through carbon credits). In addition, the EU's co-legislators are currently negotiating **the draft Green Claims Directive**, which would impose further requirements.

Financial services

The above-mentioned requirements are generally applicable to all sectors. In the financial sector, additional requirements apply. To date, Switzerland has not adopted a specific ESG legislation for the financial sector. This is due, at least in part, to the self-regulatory efforts of the financial industry.

Entities supervised by the Swiss Financial Market Supervisory Authority must comply with relevant supervisory expectations with respect to the disclosure of climate-related risks for the largest banks and insurers (circulars 2016/1 and

2016/2, as amended in 2021), and with regard to the management of climate risks and other nature-related risks (**Guidance 01/2023**, **Circular 2026/1**). The latest circular (2026/1), which will gradually come into force as of January 1 2026, aims to strengthen the resilience of supervised institutions to climate and other nature-related risks, thereby also protecting their clients and the Swiss financial centre.

Various industry associations have recently adopted (and, in some cases, already revised) self-regulatory instruments. These include initiatives taken by the Asset Management Association Switzerland, the Swiss Bankers Association, and the Swiss Insurance Association. These self-regulatory rules are binding on the members of the respective associations and will enter into force gradually, with transitional periods for implementation up to January 1 2027. They include provisions concerning the prevention of greenwashing, transparency, governance, integration of ESG preferences and risks into investment advice and portfolio management, the promotion of energy efficiency in mortgages, and life insurance.

In June 2024, the Federal Council acknowledged the financial sector's self-regulatory efforts to combat greenwashing, while still identifying unresolved issues. It announced that, for the time being, it would refrain from introducing regulation to combat greenwashing in the financial sector. This position will be re-evaluated by the end of 2027 at the latest, taking into account international developments.

The EU omnibus packages

In February 2025, the European Commission presented its **2025 work programme**, in which it set out its ambition to boost competitiveness, enhance security, and bolster economic resilience within the EU. As a first step, on February 26 2025, the commission delivered the first two so-called omnibus packages of simplification measures. These packages propose a substantial reduction in regulatory requirements across a range of related areas, impacting significant legislative ESG acts in the EU, including the CSRD, the CSDDD, and the Taxonomy Regulation.

The proposed changes include:

- Substantial reductions of the scope of application of the CSRD (thereby reducing the number of in-scope companies by around 80%);
- Postponement of the entry into force of the CSRD and the CSDDD;
- Restriction of the scope of mandatory due diligence to direct business partners;
- Deletion of harmonised EU rules concerning civil liability; and
- The removal or lightening of several provisions (concerning amount of data, assurance, etc.).

The proposals are being assessed by the commission's co-legislators, the European Parliament and the Council.

The outlook for ESG in Switzerland

While companies have now had their first experiences with mandatory ESG reporting and due diligence, Switzerland is already considering revising the recently enacted ESG regime. This is mainly due to rapid and multi-layered developments at the international level. The outcome of the proposed omnibus simplifications will undoubtedly have a significant impact on this process.

For the time being, businesses in Switzerland are well advised to assess their current and likely future exposure to various ESG laws, regulations, and standards through scenario analysis.