Switzerland Chapter Only

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STARTUP LEGAL PLAYBOOK

A Quick Reference Guide to International Market Entry for Startups (and Their Lawyers)

Fourth Edition, 2026

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ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

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FOREWORD

Welcome all to the fourth edition of the ITechLaw Startup Legal Playbook: *A Quick Reference Guide to International Market Entry for Startups (and Their Lawyers)*.

The purpose of this Playbook is to provide startup founders and startup lawyers alike with a quick reference guide to key issues they may experience in foreign jurisdictions. Let's face it, the modern startup is not concerned with owning the local geography, but instead wants to step out onto the world stage as early as possible. Often times, this means that the need for foreign legal advice comes well before the resources which their institutional, established competitors can bring to bear.

Enter the *Playbook*. This is not meant as a definitive guide to everything you'll need to know about legal systems and local market realities in any given jurisdiction, but it is intended to help triage key issues. Whether you're using this guide as a lawyer advising a startup client, or as a startup company yourself, our hope is that the *Playbook* will help you to better assess potential risks and to ask the right questions.

And if you have need of a local legal expert, now you'll have a list of lawyers from around the world that deal with startups just like yours, that are ready and willing to help.

A bit about format. As you'll see, the *Playbook* is primarily broken into chapters by country. Each country's entry is organized in the same manner, as answers to a series of nine questions or prompts:

- **Legal Foundations** - *Please describe the general legal structure of your country. Is it common law or civil code? What are the important jurisdictional layers (i.e. Federal, State, Provincial, etc.)?*
- **Corporate Structures** - *Please describe the most relevant structures from a practical point of view a start-up might consider when looking to start its business in your country.*
- **Entering the Country** - *Are there any foreign investment rules/restrictions to be aware of?*
- **Intellectual Property** - *Please identify on high level where IP may be registered, and what protections that affords. Do you have specific trade secret legislation? Are you on the Madrid System?*
- **Data Protection/Privacy** - *Please describe any regime for data protection and/or protection of personal information in your country. For EU: Are there significant national particularities due to the usage of the 99 opening clauses of the GDPR?*
- **Artificial Intelligence** - *Is there a specific regime for AI regulation in your country? Are there any other legal particularities to consider?*
- **Employees/Contractors** - *What does a foreign entity briefly needs to know about engaging employees or contractors in your country? Is there a work for hire regime? Are there restrictions on terminations of employees?*

FOREWORD CONT'D

- **Consumer Protection** - *What does a foreign entity need to know about consumer protection in your country?*

- **Terms of Service** - *Is there anything that can't be or must be included in online terms of service in order to be enforceable in your country?*

- **Tax/Funding** - *Which national tax regulations are relevant for investors? Which trends, contact points, and links to further information are there in relation to funding/subsidies in your country?*

- **What else?** - *Is there anything else specific to your country not addressed above that a foreign entity ought to know before entry?*

The basis of these eleven questions should provide a reasonable primer on key inter-jurisdictional issues you or your startup or startup client will want to consider as you contemplate expansion into new territories.

This publication has been a years-long project of the Startup Committee of the International Technology Law Association (ITechLaw). First discussed in 2020 during the height of the global pandemic, our committee spent time considering and developing these foundational questions and then enlisted colleagues from around the globe to provide responses forming their respective chapters. We have been amazed and humbled by the response we have received. The first edition of the Playbook included detailed chapters for thirty-nine countries, with the second edition expanding to sixty-three, and the third edition topping sixty-eight countries!

What's new? For this fourth edition of the Playbook, we asked contributors to update existing entries from the third edition, and have onboarded new countries to bring our current count to seventy-two jurisdictions!

What's next? In future editions, we will continue to expand the Playbook by adding more countries, provide updates as various jurisdictions inevitably change their laws, and consider adding to the list of questions on specific industry verticals and regulatory regimes. If you or your firm would like to contribute for a country not already listed, or you have other ideas on future expansions, please let us know!

In the meantime, we hope you find the following chapters illuminating and useful in your push for global domination!

Sincerely,
Your ITechLaw Startup Committee Co-Chairs

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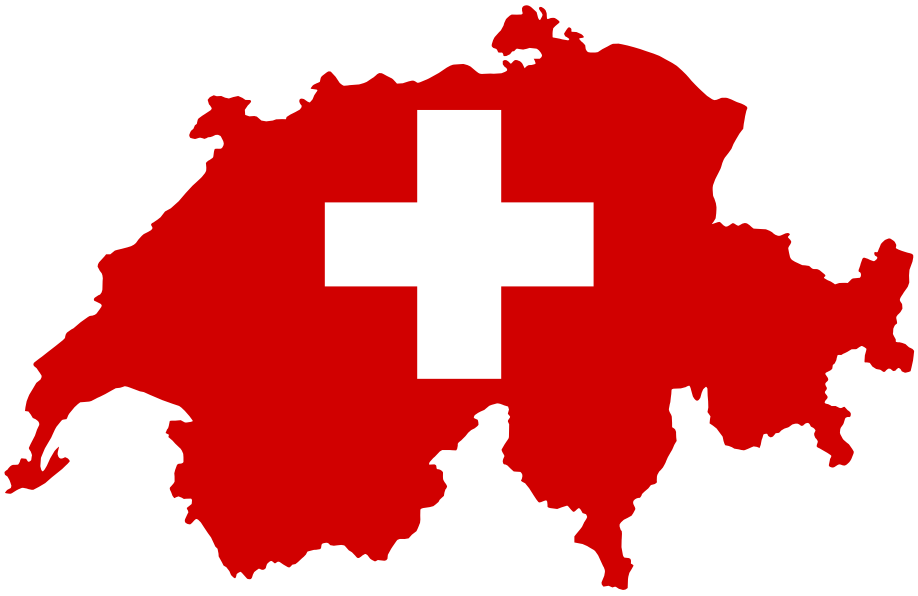

SWITZERLAND

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LEGAL FOUNDATIONS

Switzerland follows a civil law system and relies on written laws and codes issued by its parliaments and governments. These statutes are then interpreted and applied by the courts whose case law constitutes an important source of law despite Switzerland's civil law tradition.

In addition, Switzerland is a federation, meaning the Swiss legal structure is divided into three levels: federal, cantonal and communal. Federal laws apply in Switzerland in its entirety while statutes enacted by the 26 different Swiss cantons only apply within their jurisdiction. Likewise, communal statutes are only applicable within a set municipality.

Over the course of its history, Switzerland centralised large parts of its laws at the federal level in an effort to harmonise its legislation, including most of its commercial laws, and avoid local discrepancies. Nowadays, the federal jurisdiction includes private law – which covers for instance contract law, tort law, labour law, corporate law, intellectual property law – and criminal law. In contrast, public law remains split between the federal and cantonal jurisdictions. Some public law areas are covered at the federal level (e.g. social security law, competition law) while some are at the cantonal level (e.g. construction law) and others are both (e.g. tax law).

CORPORATE STRUCTURES

Swiss law provides for the following company forms which are typical and commonly used for start-ups:

Company limited by shares

The most common form of entity found in Switzerland is the company limited by shares (Aktiengesellschaft; société anonyme; società anonima), which is a capital company usually identified under the acronym Ltd (AG; SA; SA). Its favoured position stems from the advantages it offers – including for small enterprises and start-ups – in terms of capital regulation and limited liability. Only the corporate assets are liable for the company's debts, excluding the shareholders' assets.

The company limited by shares requires at least one shareholder – who may either be an individual or a legal entity – and one director. All companies limited by shares must be represented by one person residing in Switzerland, be it a director or an individual granted with signatory powers. Regarding its capital, the company limited by shares must have a minimum share capital of CHF 100,000. However, merely 20% of the share capital (or a minimum flat amount of CHF 50,000) needs to be paid up at the time of incorporation. Companies limited by shares may constitute their share capital not only in CHF but also in a foreign currency. At the time this article was written (February 2026), the only authorised foreign currencies are GBP, EUR, USD and JPY. In addition, to be incorporated the companies limited by shares must be registered in the commercial register of the canton where it is domiciled.

The governance of companies limited by shares takes shape through their articles of associations and additional by-laws. Shareholders may also conclude further agreements (e.g. shareholders agreements) to regulate other matters (e.g. election of directors, granting of extended rights of participation or information or share ownership and shares transfers).

CORPORATE STRUCTURES, CONT'D

Limited liability company

The Swiss limited liability company (Gesellschaft mit beschränkter Haftung; société à responsabilité limitée; società a garanzia limitata) – also referred to under the acronym LLC (GmbH; Sàrl; Sagl) – is an alternative capital corporation to the company limited by shares and a combination of the latter and a partnership. It is suited for small and medium enterprises (SMEs) and family businesses. The principal distinction between the company limited by shares and the limited liability company relates to the different obligations imposed on their associates. While companies limited by shares' shareholders have the sole legal obligation to pay up their shares, the more personal nature of limited liability companies subjects their quotaholders to further duties, including additional services and payments and non-competition clauses. Quotaholders, however, still benefit from limited liability as only the corporate assets are liable for the company's debts.

Otherwise, the requirements to establish a limited liability company are quite similar to the ones applicable to the company limited by shares, except notably that the limited liability company requires a lower capital of CHF 20,000.

The governance of limited liability companies follows their articles of associations, additional by-laws and other agreements passed between their quotaholders. The limited liability company's quotaholders are in principle responsible for the management of the company, unless it has been delegated.

Among their disadvantages, limited liability companies have less flexibility in managing their capital than companies limited by shares. In addition, limited liability companies constitute more transparent entities as their ownership must be disclosed to the commercial register along with the names, domiciles and number of quotas owned by each quotaholder; all this information being freely available to the public. In contrast, the ownership of a company limited by shares remains anonymous.

As for the choice between incorporation as a company limited by shares or a limited liability company, most Swiss start-ups tend to be incorporated as companies limited by shares as the corporate structure allows for more flexibility.

Other structures

While the above corporate structures are the most commonly used for start-ups in Switzerland, there are other types open to entrepreneurs under Swiss law. These include:

- sole proprietorship;
- general partnership;
- and limited partnership.

Sole proprietorships are suitable for companies whose business activities are closely linked to a single owner, namely an individual acting alone in their business.

General and limited partnerships are ideal for small businesses whose partners' personal interests are close to their business interests.

These corporate forms are ideal for small starting businesses as they do not require any start-up capital and are easier to establish than limited or limited liability companies. However, partnerships may be impeded in their entrepreneurial flexibility due to more comprehensive scrutiny rights recognised by all partners.

Furthermore, they present additional risk to their proprietors and partners as each and every one of them is liable for the company's debts. It is to be noted, however, that in contrast to general partnerships, limited partnerships allow splitting the liability for corporate debts between two kinds of partners, i.e. general partners (usually the company's managers) and limited partners (usually the company's investors or creditors). General partners are liable on an unlimited basis for their assets, while limited partners are liable on a limited basis only. Due to these accrued risks, sole proprietorship and (general or limited) partnerships are only suitable to low-risk businesses with limited available start-up financing. As such, these corporate structures are overall unsuitable for start-ups. Rather, start-ups in Switzerland rarely opt for sole proprietorship and (general or limited) partnerships for their incorporation; capital companies (i.e. companies limited Text

SWITZERLAND

ENTERING THE COUNTRY

At the time this article was written (February 2026), Switzerland does not yet have an encompassing foreign investment control regime.

The Federal Assembly and the Federal Council are however working to enact new regulations on the matter. As part of this process, in December 2025, the Federal Assembly adopted the new Federal Investment Screening Act (ISA), introducing a system of control of foreign direct investments (FDI) focused on sectors critical to security and state investors. This law is subject to an optional referendum until 17 April 2026 and is expected to come into force in 2027 at the earliest, once the Federal Council has issued the implementing provisions by way of an ordinance.

In essence, the newly adopted ISA aims to safeguard Switzerland's public order and security, while preserving the country's general openness to foreign investments. The Swiss approach is intentionally narrow compared to FDI regimes of most other OECD jurisdictions: only acquisitions of control by foreign state-controlled investors in security-critical sectors are subject to clearance. Private foreign investors remain outside the scope of the ISA.

The ISA provides that acquisitions of Swiss businesses active in specified critical sectors of the Swiss economy by foreign state-controlled investors are subject to notification and to clearance by the Federal State Secretariat for Economic Affairs (SECO) prior to implementation. The notion of "foreign state-controlled investor" is clearly defined: it includes only foreign state administrations and agencies, companies headquartered outside Switzerland under direct or indirect control of a foreign state, asset-holding entities under such control, and individuals or entities acting on behalf of a foreign state.

Only acquisitions of companies operating in defined critical sectors are covered by the ISA: these are highly sensitive sectors (such as manufacturers of armaments or dual-use goods critical for the armed forces and other security institutions, operators of certain energy and water supply infrastructures, and providers of central security-related IT services) and other critical sectors (such as hospitals, pharmaceutical companies, transport and railway infrastructure operators, operators of major food distribution centres, telecommunications network operators, financial market infrastructure operators, and systemically important banks). Additionally, the law sets quantitative thresholds (e.g., at least 50 full-time positions worldwide or global turnover of at least CHF 10 or 100 million in the two previous financial years) that the target company must exceed for the acquisition to fall under the ISA. This ensures that investments in small Swiss companies or start-ups are not impacted.

The new ISA will not replace pre-existing sector-specific change of control regimes or FDI regulations. These sector-specific regulations may apply before the ISA comes into force and will continue to apply alongside it, depending on the business involved (e.g., the Federal Banking Act, the Federal Act on Financial Institutions and the Federal Telecommunications Act). Additionally, the Federal Law on the Acquisitions of Real Estate by Persons Abroad (commonly referred to as "Lex Koller") requires prior authorisation for real estate acquisitions in Switzerland by foreign persons. However, this does not apply to nationals of members states of the European Union, Iceland, Liechtenstein, Norway or the United Kingdom domiciled in Switzerland. Furthermore, no prior authorisation is needed for acquiring commercial premises serving a company's business activities.

SWITZERLAND

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademark

What is protectable? Any sign (i.e. such as words, letters, numerals, figurative representations, two or three-dimensional shapes, or combinations of such elements with each other or with colours) capable of distinguishing the goods or services of one undertaking from those of other undertakings.

Where to apply? If trademark protection is sought in Switzerland, trademarks must be registered with the Swiss Federal Institute of Intellectual Property ("IPI"). The application procedure before the IPI is similar to the procedure before the European Union Intellectual Property Office ("EUIPO"). International protection for trademarks registered in Switzerland can be requested from the IPI according to the Madrid System. The application can be filed via an online platform on https://e-trademark.ige.ch/etrademark/index.jsf (available in German, French and Italian). The IPI reviews the application and registers the trademark immediately, provided that the requirements are met. The IPI publishes the new registration, which triggers a three-month opposition period for any third parties. The trademark is registered once opposition(s), if any, is/are dismissed.

Duration of protection? Once validly registered, the trademark is protected for a ten-year period. Upon request, the protection period can be extended for another ten-year period.

Costs? Application costs for Swiss trademarks amount to CHF 450, with a discount of CHF 100 for trademark applications filed via the online platform. Costs of an extension of the protection period amount to CHF 550. Fees for legal advice, if any, are to be charged additionally.

Patents

What is protectable? In Switzerland, any invention is patentable provided that it is new and not obvious having regard to the state of the art and applicable to industry.

Where to apply? Patent protection is granted per country (i.e. the applicant must file a patent request in each country where patent protection is sought). To obtain a patent in Switzerland, an application can be filed with the IPI. The IPI reviews the application and then publishes the patent request in the Swiss protection titles register (called Swissreg). The patent is granted if opposition(s), if any, is/are ruled out. It should be noted that in Switzerland the patent is granted without any guarantee from the IPI (i.e. the IPI does not examine whether conditions are met before granting the patent). As a consequence, patents can be challenged by any third party in an opposition period of nine months following the publication by the IPI. In addition, the patent holder is responsible for detecting any infringement against the patent and enforcing its patent if needed as neither the IPI nor any other Swiss authority monitors patent infringements.

Duration of protection? In any case, the maximal length of the protection period is 20 years from the application date. Protection is maintained upon payment of annual fees to the IPI.

Costs? Application costs amount to CHF 200 and examination costs amount to CHF 500. Fees for legal advice, if any, are to be charged additionally. Annual fees are due as of the fourth year of protection. They amount to CHF 100 for the fourth year and increase each year gradually up to CHF 960 for the 20th year.

Designs

What is protectable? Under Swiss law, any unique new creative product or parts of products that is characterized by the arrangement of lines, surfaces, contours, or colours or by the materials used, either in two-dimensional or three-dimensional plans, can be protected.

Where to apply? To obtain protection of a design in Switzerland, an application can be filed with the IPI. The IPI immediately registers the design and publishes it in the Swiss protection titles register (called Swissreg). It should be noted that the design is registered without any guarantee from the IPI (i.e. the IPI does not examine whether conditions are met before the registration of the design). Consequently, the registration of the design can be challenged by any third party. In addition, the creator of the design is responsible for monitoring any infringement of the protection and enforcing the protection if needed as neither the IPI nor any other Swiss authority monitors design infringements.

Duration of protection? The minimal duration of protection is five years. The protection can be extended up to five times, each time for five years (i.e. maximal duration of protection is 25 years).

Costs? Application costs amount to CHF 200. Each extension costs an additional CHF 200. Fees for legal advice, if any, are to be charged additionally.

INTELLECTUAL PROPERTY, CONT'D

Topographies of Semiconductor Products

What is protectable? Under Swiss law, any three-dimensional structures of semiconductor products, regardless of how they are attached or coded and provided that they are not obvious having regard to the state of the art, can be protected.

Where to apply? To obtain protection of a topography in Switzerland, an application can be filed with the IPI. The IPI registers the topography once the application is completed. It should be noted that the owner of the topography is responsible for monitoring any infringement of the protection and enforcing the protection if needed as neither the IPI nor any other Swiss authority monitors topography infringements.

Duration of protection? The duration of protection is ten years.

Costs? Application costs amount to CHF 450. Fees for legal advice, if any, are to be charged additionally.

The following IP rights cannot be registered:

Copyright

What is protectable? Literary and artistic intellectual creations from natural persons with individual character (including software) are considered as works protected by copyright, irrespective of their value or purpose.

How to protect? Copyright exists from the creation of the work.

How to exploit protected work? Copyright owners have the exclusive right to their own works and the right to recognition of their authorships.

Duration of protection? The duration of protection depends on the nature of the work: in the case of software, copyright expires 50 years after the death of its author; in the case of photographic depictions and depictions of three-dimensional objects produced by a process similar to that of photography, copyright expires 50 years after production; in the case of all other works, copyright expires 70 years after the death of the author.

Costs? Copyright is free.

Trade secrets

Is there any IP protection? Under Swiss law, trade secrets do not qualify as an intellectual property asset.

Is there any other protection? The Swiss Unfair Competition Act prohibits anyone who exploits or discloses manufacturing or business secrets of which he/she has improperly learned. To enforce this, it is recommended for companies to implement appropriate measures to keep trade secrets safe (i.e. internal regulations determining which information is considered a trade secret, who has access to this information and measures in place to secure such information). In addition, according to Swiss employment law, for the duration of the employment relationship the employee must not exploit or reveal confidential information obtained while in the employer's service, such as manufacturing or trade secrets. The employee remains bound by such duty of confidentiality even after the end of the employment agreement to the extent required to safeguard the employer's legitimate interests. Furthermore, it is to be noted that the Swiss Criminal Code prohibits the breach of trade secrets on complaint to a custodial sentence not exceeding three years or to a monetary penalty.

Duration of protection? Trade secret protection applies as long as the measures in place apply.

DATA PROTECTION/PRIVACY

Swiss data protection laws include the Federal Act on Data Protection (FADP) and 26 canton-level regulations, one for each canton. Despite this high number of texts, only the FADP contains provisions relevant to processing of personal data by private entities, including companies. It is to be noted that the FADP has recently been revised to bring the Swiss data protection legal framework more closely in line with the GDPR of the European Union. The revised FADP (hereinafter "FADP") (as well as the Federal Data Protection Ordinance [hereinafter "DPO"] and the Federal Ordinance on Data Protection Certification [hereinafter "DPCO"]) entered into force on 1 September 2023.

In a nutshell, the FADP reutilises the GDPR's concepts of "data controller" and "data processor". While the data controller is the entity which determines the purposes and means of processing personal data, the data processor processes personal data on behalf of the former. Both data controllers and data processors must respect certain overarching principles through their processing of personal data. According to these principles, all personal data processing must be conducted in good faith, be proportional, be exact and accurate, be recognisable by the data subjects and be processed to achieve the sole purposes that were communicated to the data subjects at the time the personal data was collected. If a particular processing of personal data fails to meet those requirements, said personal data may still be lawfully processed where there is a lawful basis for processing, including the consent of the data subjects, an overriding private interest, an overriding Swiss public interest or Swiss law.

In addition, data subjects benefit from different rights to enforce their privacy, e.g. right of access or right to be informed at the time the personal data was collected. Data controllers and data processors have corresponding duties to observe in their handling of personal data. For instance, they are required to inform data subjects in an appropriate manner when collecting personal data unless any exception applies, to safeguard personal data and, unless an exception applies, maintain an inventory of their processing activities (record of processing activities [ROPA]). They also have the possibility, but no obligation, to appoint an internal data privacy advisor.

Regarding international transfers of personal data, Switzerland follows a similar approach as the European Union: personal data may be transferred abroad to states that have been recognised as having legislation providing an adequate level of protection by a decision of the Swiss Federal Council (see Article 16(1) DPA). The list of such states can be found in Annex 1 to the DPO and is similar to the adequacy list kept by the European Commission, but there are differences (for example, Japan is currently not considered providing for adequate protection by the Swiss Federal Council). It is noteworthy to mention that on 14 August 2024 the Swiss Federal Council decided to add the United States to the list of states with an adequate level of data protection, provided that the recipient is certified under the CH-U.S. Data Privacy Framework (CH-U.S DPF). The amendment came into force on 15 September 2024. Some uncertainty remains as to the long-term reliability of the CH-U.S. DPF, in light of President Trump's recent weakening of the Privacy and Civil Liberties Oversight Board, an organisation that exercises oversight within the CH-U.S. DPF.

In the absence of an adequacy decision by the Swiss Federal Council and unless one of the exceptions set forth in Article 17 DPA applies, transfers are only lawful if an appropriate level of data protection is guaranteed by one of the means specified in Article 16(2) DPA. In particular, an appropriate level of data protection is guaranteed where transfers are accompanied by concluding EU Standard Contractual Clauses adapted to Swiss law requirements – which are additional agreements between data importers and exporters – and by conducting a transfer impact assessment resulting in a positive outcome. It is to be noted that Switzerland has been recognised by the European Commission as providing adequate protection pursuant to the GDPR; meaning that personal data may flow from EU member states and EEA contracting states to Switzerland.

While the GDPR certainly inspired the revised FADP's content, the latter is not a carbon copy of the former and slight differences subsist, e.g. the revised FADP does not impose mandatory terms in data processing agreements (DPAs) contrary to the GDPR, etc.

SWITZERLAND

ARTIFICIAL INTELLIGENCE

Switzerland does not currently have a dedicated regulatory framework for AI and is approaching the challenges posed by AI using existing regulations on data protection, intellectual property and business and professional secrecy. The revised Federal Data Protection Act therefore remains the key regulation for AI. It plays an important role in setting standards for personal data in AI, emphasising principles such as legality and data minimisation.

It must further be noted that the EU AI Act, with extraterritorial effects akin to the GDPR, will significantly impact Swiss companies engaged in AI activities. In fact, the EU AI Act will apply to all parties involved in AI, including those in Switzerland if their systems are intended for the EU.

Finally, on 12 February 2025, the Swiss Federal Council announced that the AI Convention of the Council of Europe will be incorporated into Swiss law. Any necessary modifications will be as sector specific as possible, with general regulation limited to core areas like data protection. In addition to the legislation, non-legally binding measures will be developed to implement the AI Convention. Accordingly, the Swiss Federal Council has instructed the Federal Department of Justice and Police, in cooperation with other departments, to prepare for the end of 2026 a consultation draft for implementing the AI Convention, outlining the necessary legal measures related to transparency, data protection, non-discrimination, and oversight. The Federal Department of the Environment, Transport, Energy and Communications, along with other departments, will also have to prepare a plan for non-legislative measures, ensuring alignment with the approaches of key trading partners.

EMPLOYEES/CONTRACTORS

General considerations: A company may enter into an employment agreement with an individual. The employment agreement does not have to be in written form. Notwithstanding the form of the agreement, the employee shall be registered with Swiss social security. Some mandatory provisions may apply to employment agreements. They aim to provide employees with minimal working conditions. In addition, depending on the field of activity, collective labour agreements may also apply.

A company may also offer to any third party a contractor agreement. Mandatory employment law provisions do not apply to contractors, and they do not have to be registered with social security by the company. It is to be noted that a contractor agreement may be requalified as an employment agreement depending on the circumstances of the case. This requalification triggers the obligation for the company to (i) register the third party with Swiss social security and (ii) comply with Swiss employment law provisions. To mitigate this risk, the company shall, in particular, verify that the contractor remains in any case fully independent and autonomous from the company (i.e. no subordination relationship).

EMPLOYEES/CONTRACTORS, CONT'D

Work for hire regime in Switzerland: Under Swiss employment law, by default only the IP rights to inventions and software developed during employment in fulfilment of contractual obligations belong to the employer by law. Swiss employment law does not regulate the IP rights to inventions and software created prior to or during employment outside of contractual obligations or during leisure time nor ownership in any other IP rights. As a consequence, employers shall require employees to assign all of the others IP rights to them by way of a written employment agreement.

Registration with social security: Every employer must register its employees with social security and pay their shares of contributions. The amount of the contributions depends, among other things, on the employee's remuneration.

Termination: As a general consideration, Switzerland has a very liberal approach to terminations. Under Swiss law, two types of terminations can be listed: (i) ordinary termination (i.e. with respect to the applicable notice period) and (ii) immediate termination.

As for ordinary termination, it is to be noted that any party is free to terminate the employment agreement upon completion of the applicable notice period. There is no need to provide any reasons. However, any employee can challenge termination of their employment if such termination is abusive/wrongful. A termination is deemed abusive/wrongful if it is based, in particular, (i) on account of an attribute pertaining to the person of the employee, (ii) because the employee exercises a constitutional right, (iii) because it is given solely in order to prevent claims under the employment agreement from accruing to the employee, (iv) because the employee asserts claims under the employment agreement in good faith or (v) because the employee is performing Swiss compulsory military or civil defence service or any non-voluntary legal obligation.

As for immediate termination of employment, it is admissible if based on a good cause (i.e. any circumstance which renders the continuation of employment in good faith unconscionable for the party giving notice). It shall be noted that Swiss law is rather restrictive in this respect, resulting in the fact that employees are generally well protected against immediate termination. Maximal exposure in case of wrongful immediate termination is an indemnity equivalent to 12-month's salary (six months maximum as indemnity and six months maximum as penalty). In such case, it shall be outlined that the termination, however wrongful, remains valid. As conditions for an immediate termination to be admissible are rather restrictive, an ordinary termination with immediate garden leave can serve as a valid alternative.

CONSUMER PROTECTION

Consumer protection law in Switzerland is relatively weak compared to the legislation in the European Union. As a non-EU member state and non-EEA contracting state, Switzerland is not bound by European requirements. There is often an "autonomous adaption" of EU law. In the field of consumer law, this happened mainly in the 1990s, but after that the existing consumer protection rules were no longer adapted to developments in the EU. Switzerland's approach to consumer protection is therefore rather fragmented. There is no overarching consumer protection framework, but some laws aim to protect consumers, either expressly or by implication. Generally, consumers are protected against misinformation, unfair contractual terms and product safety risks, for example when purchasing certain products (such as food, clothes, household appliances, furnishing, electricity, drugs, etc.) or certain services (such as financial services, telecommunication services, electricity, education, housing, transport, etc.). The relevant laws usually require that products and services be described in a transparent and accurate manner and that products be safe.

It can be stated that Switzerland has a significantly lower level of consumer protection compared to other countries, especially the European Union. In other words, Swiss consumer law is very liberal in comparison, even if Switzerland has partly autonomously implemented EU law. Consequently, the restrictions are very limited and do not go as far as in the European Union.

Information obligations: Some laws require that information about products and services shall not be misleading and allow consumers to understand and compare offers. For example, the Federal Act against Unfair Competition (UCA) generally (including B2B settings) prohibits false or misleading information, which may include failure to provide information that is required for consumers to make an informed decision. Moreover, detailed regulations on price indications exist in order to ensure that prices for products and services are clear, not misleading and comparable.

Unfair contract terms: Under the UCA, general terms and conditions in consumer contracts are null and void if they are unfair. However, there is little guidance in the law as to what makes a term "unfair" and, unlike the European Union, Switzerland does not recognise any official list of clauses presumed to be unfair. Consequently, it is unlikely that, for example, a clause that allows a provider to update consumer contracts by providing for notice and a right to object would be considered unfair.

Restricted withdrawal rights: Swiss law does not grant a right to consumers to withdraw from distance and off-premises contracts. In practice, in some cases, rights of this kind are however granted voluntarily to consumers by providers and vendors (even if there is no legal obligation to do so).

Consumer credit: An important part of consumer protection legislation is the Consumer Credit Act, which aims to protect consumers against over-indebtedness. It regulates commercial consumer credit loans to private individuals. Under the Consumer Credit Act, for example, consumer credit contracts must be concluded in writing and contain minimum information, and borrowers have a mandatory right to withdraw from the contract and accelerate repayment. Moreover, lenders must conduct a credit assessment and cap interest to a maximum rate.

Geo-blocking ban: Under the UCA, discriminatory practices such as geo-blocking and price discrimination against Swiss consumers in e-commerce are prohibited. Unlike its European equivalent, the Swiss ban does not extend to the offline sector and allows for exceptions if there is an objective justification, such as customs duties, VAT differences or higher shipping and handling costs. Additionally, certain sectors — such as financial services, public transport, gambling, and audiovisual services — are expressly exempt from the ban, mirroring the approach taken in the EU.

CONSUMER PROTECTION, CONT'D

Product regulation: In addition to requirements in some laws, there are two main laws for products in Switzerland:

- Product Safety Act: Commercial manufacturers must ensure that products placed on the market do not pose relevant risks to the safety and health of users and third parties and that they comply with the applicable specific requirements or the state of the art.
- Product Liability Act: Manufacturers are liable for damages where a faulty product causes death or injury to a person or damage to property used for private purposes.

TERMS OF SERVICE

Online terms of service must typically not include any specific terms. However, to be enforceable in Switzerland, online terms of service must be agreed by both parties. Hence, they must be at the disposal of (potential) consumers prior to placing an order, and the (potential) consumers must confirm that they have agreed to them within the buying process. In practice, this is usually achieved through a tick-box that the customer is required to click during the ordering process.

In Switzerland, online terms of service usually address the following topics: entry into force, delivery, default, warranties, liability, contractual term, termination rights, applicable law, and place of jurisdiction. Please note that the applicable law and the place of jurisdiction provided for by Swiss law may in general not be amended in contracts with consumers.

In this regard and as a general consideration (B2B and B2C), the Swiss Federal Act against Unfair Competition (UCA) stipulates that any conduct or business practice that is misleading or otherwise violates the principle of good faith in a way that it influences the relationship between competitors or between suppliers and customers is unfair and unlawful.

In addition, the UCA stipulates with regards to (online) terms of services that a person acts unfairly if he/she uses general terms and conditions, that provide for a considerable and unjustified imbalance between contractual rights and contractual obligations to the prejudice of consumers in a manner that is in breach of good faith. It is to be noted that, unlike the European Union, Switzerland does not recognise any official list of clauses presumed to be unfair.

Moreover, when offering goods, works or services online, a person acts unfairly if he/she fails to provide clear and complete details of his/her identity and contact address (including email address), indicate the individual technical steps that lead to a contract being concluded, provide suitable technical means for identifying and correcting input errors before submitting the order or provide immediate online confirmation of the customer's order.

SWITZERLAND

TAX/FUNDING

Taxation overview: Swiss start-ups are usually organised in the legal form of corporations. Therefore, the following considerations are limited to investments into start-ups organised as Swiss corporations.

Swiss corporate tax system: Switzerland is a federation. It follows that both the federal state and the cantons/municipalities levy their own corporate taxes. At the federal level, companies domiciled in Switzerland are subject to a federal corporate income tax on their net profits, which is set at a flat rate of 8.5%. In addition, each of the different cantons/municipalities levy corporate income and capital taxes according to their respective laws and their own tax rates. The effective corporate income tax rate (which includes the cantonal/communal as well as the federal taxes) varies between 11.22 and 22.30%[1]. Capital tax is very low, between 0.001 and 0.506%[2]. Tax losses carried forward can be offset against taxable profits for a maximum of seven years. Such time limit does however not apply for financial restructuring measures.

Issuance stamp tax: Issuance stamp tax is levied on all direct contributions from shareholders (such contributions are however usually not accounted for as profits subject to corporate income tax) at a rate of 1%. Such issuance stamp tax is notably levied on the share issuance of Swiss companies, with a tax exemption on the first CHF 1 million issued in shares. Stamp tax may also be levied in cases of financial restructurings, although some exemptions exist.

Withholding tax: Dividends (including constructive dividends) paid by a Swiss corporation to its shareholders are subject to withholding tax ("WHT") at a rate of 35%. WHT must be withheld and paid by the Swiss company to the Swiss tax administration. Swiss WHT is usually entirely refundable for Swiss residents (individuals and corporations). For individuals, WHT is credited against their cantonal and communal income taxes, subject to some formalities and declaration requirements. For corporations, the refund of WHT usually requires a specific form to be filed with the federal tax administration. Under some conditions, the tax obligation in relation with WHT for corporate shareholders can be fulfilled by way of declaration (instead of payment and reimbursement). For non-Swiss residents, a (full or partial) refund is possible (under some conditions) in application of a double tax treaty.

Debt financing: In Switzerland, no WHT is levied on interests paid on loans, subject however to requalification 1) under the excess interest or thin capitalization rules or 2) of the loan into a bond, should the loan(s) exceed a certain threshold (CHF 500,000) and in case there are more than ten non-bank lenders. Conversion of shareholder loans into equity may also trigger unforeseen tax consequences. Debt instruments, although very useful in practice, should then be used with caution and the guidance of local counsel.

Capital gain: Private capital gains on movable assets (e.g. shares) are generally tax-exempt in Switzerland. When selling shares in start-ups, a private individual investor residing in Switzerland could then be eligible for a full tax exemption on capital gains (subject to requalification, in particular, into employment income, commercial income of a professional security dealer or dividend/liquidation income under indirect partial liquidation rules, etc.). Corporations remain taxable on capital gains but may benefit from the participation reduction if they hold more than 10%.

Employee participation schemes: Employee participation schemes are often used by start-ups to attract talents, as they cannot offer salaries as high as those of "regular" companies. From a Swiss tax (and also social security) perspective, employee participation schemes raise complex questions. As a general rule, benefits in kind/cash deriving from participation scheme are qualified as income and subject to tax. The Swiss tax practice distinguishes between shares and options plans and deals with their different characteristics/specific criteria that influence the portion to be considered as income and the timing of taxation. A possible blocking period allows for a reduction in the amount to be considered as income. In a nutshell, even if shares are held in private wealth, it cannot be automatically assumed that the employee will realise a tax-exempt capital gain, as is the case for third-party shareholders as described above. Consequently, implementation of each employee participation scheme must be accompanied by a professional and ultimately validated with the authorities.

[1] According to summarised data for 2024.
[2] According to summarised data for 2024.

TAX/FUNDING, CONT'D

Value added tax: Swiss value added tax ("VAT") is levied on proceeds of sales and services rendered in Switzerland. VAT is charged by entrepreneurs/businesses, which are responsible for declaring their output/input VAT positions and paying their final share of VAT to the federal tax administration. Businesses with an annual turnover of less than CHF 100,000 are not obligated to register as VAT taxpayers. For 2026, the ordinary VAT rate is 8.1%. Reduced tax rates apply on specific products/services and there are some VAT exemptions for some specific fields and services. As a rule, VAT returns are normally submitted quarterly (other periods are possible under the law or by agreement with the federal tax administration).

Tax holidays: Many cantons offer tax incentives for newly established enterprises that carry out a long-lasting activity in the canton and serve its economic interests, such as tax holidays or significant tax relief for cantonal and communal tax purposes for up to ten years.

Patent box and R&D deduction incentives relevant for start-ups: Two main instruments were recently (2020) introduced to encourage research and innovation in Switzerland:

- **Patent box:** This tax instrument allows a separate treatment ("in the box") of the profits generated directly by selected patents and comparable rights (defined restrictively). The taxation system provides a reduction that varies depending on the canton and may reach up to 90% of the net profit derived from patents and comparable rights. In practice, this means that only 10% of this "boxed" profit will be added to the overall profit.
- **R&D deduction:** This tax instrument aims at encouraging "upstream" R&D based on input. The new harmonised system provides for an additional "super-deduction" of a maximum of 50% over and above R&D expenditures justified for commercial purposes. In other words, this system allows a deduction that goes beyond the expenses actually incurred. Each canton is however free to decide whether or not to adopt the "super-deduction" and to restrict the maximum allowable rate.

Please note that these two instruments are subject to various conditions and limitations that need to be discussed in detail with local counsel. This is all the more necessary given the diversity of practices and rates in the various cantons.

Funding/Subsidies:

Supporting the start-up ecosystem is an important concern for Switzerland. Accordingly, the Swiss federal state and cantons have established a broad spectrum of initiatives aimed at assisting start-ups in securing capital and foster a suitable environment for innovation and development of start-ups within Switzerland.

The general approach is to create favourable conditions for financing while providing targeted subsidies. At the level of the federal government, the focus primarily is on ensuring a competitive capital market and offering supplementary support, while cantonal authorities actively implement financing programs for start-ups.

The Swiss government provides multiple funding and guarantee instruments to facilitate access to capital for start-ups: notably, there are Loans for SMI in which the state acts as the guarantor for bank loans. The federal government also promotes innovation in green technologies, using the Technology Fund to issue loan guarantees to start-ups developing innovations that reduce greenhouse gas emissions, particularly supporting green tech start-ups. Furthermore, Innosuisse - Swiss Agency for the Promotion of Innovation was established to, among other things, support research collaborations between universities and companies by covering researchers' salaries. Additionally, the SECO Start-up Fund (SSF) assists Swiss investors in financing start-ups in developing or transitioning countries deemed a priority by the SECO by covering up to two-thirds of investment costs. Finally, the federal government also offers Tax Relief on direct federal tax for industrial companies that create jobs in structurally weak regions as part of its regional policy (such full federal exemption being very limited in practice nowadays).

TAX/FUNDING, CONT'D

Funding/Subsidies, CONT'D:

The cantonal support for start-ups is reflected, among many others, in the following initiatives: in the Canton of Geneva with the innovation platform Fongit; in the Canton of Zurich with its Division of Business and Economic Development; in the Canton of Ticino with the Park Ticino as part of the Switzerland Innovation initiative; in the Canton of Basel-Stadt with its IFJ Startup Support; in the Canton of Vaud with Innovaud; in the Canton of Bern with the Economic Development Agency; or in the Canton of Zug with the Technology Forum Zug. These are just a few examples of the numerous initiatives through which the cantons provide support to start-ups by offering expertise, resources, and financing. For detailed cantonal funding options, businesses can also refer to the cantonal economic development agencies.

WHAT ELSE?

In addition to our comments on the above-mentioned topics, start-ups wishing to enter the Swiss market should be aware of the following:

Fast and efficient incorporation process: We have described above the different corporate bodies a start-up may choose to launch its business activities in Switzerland. In addition, it should be highlighted that the process of incorporating a company in Switzerland is straightforward and rapid, as it only takes a couple of weeks from the drafting of the founding documentation to the company's actual incorporation.