



ESG Comparative Guide



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1. Legal and enforcement framework

1. 1. What regulatory regimes and codes of practice primarily govern environmental, social and governance (ESG) regulation and implementation in your jurisdiction?

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The statutory rules and regulations governing ESG matters applicable to Swiss domiciled companies can be found in the corporate section of the Code of Obligations (CO) and certain corresponding ordinances, among other statutes. These rules - some of which will only come into force in or trigger duties starting from 2023 - provide as follows (see also question 3.1 regarding their scope):

- In large publicly listed companies, each gender should be represented at least 30% on the board of directors and 20% on the executive committee.
- Large 'companies of public interest' - that is, large publicly listed companies, large companies that have issued bonds, or large companies supervised by the Swiss Financial Market Supervisory Authority (FINMA) - must provide an annual report on non-financial matters.
- Large companies that undertake the extraction of natural resources must provide an annual report on payments to government bodies exceeding CHF 100,000 per financial year in aggregate.
- Companies that handle gold, tin, tantalum and/or tungsten ('conflict minerals') and (large) companies that offer products or services for which there is a reasonable suspicion that they have been produced or provided using child labour (as well as small to medium-sized companies if there are obvious indications of the use of child labour) must comply with special due diligence and reporting obligations.
- Shareholders of publicly listed companies must annually (re)elect each member of the board of directors and approve the compensation of the board of directors and the executive committee; and such companies must prepare an annual remuneration report.

Based on the recently modified Federal Statute on Gender Equality, companies with more than 100 employees must conduct wage inequality analyses that are subject to an audit by an approved third party. Employees (and in the case of public listed companies, shareholders) must be informed of the outcome of each analysis.

From a financial institutions regulatory perspective, FINMA started monitoring climate-related financial risks to which regulated financial institutions are exposed. This should ensure that banks and insurance companies do not suffer climate-related investment losses. Further, the Financial Services Act imposes certain general information and documentation duties on financial service providers towards clients which may also apply in the ESG context in order to protect investors against climate-related risks.

Finally, the SIX Swiss Exchange - the main stock exchange in Switzerland - has issued the Directive on Information relating to Corporate Governance (DCG), which regulates for SIX-listed companies the disclosure of information on corporate governance - in particular, on executive compensation - as well as the disclosure of a separate sustainability report.

1. 2. Is the ESG framework in your jurisdiction primarily based on hard (mandatory) law and regulation or soft (eg, 'comply or explain') codes of governance?

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While some parts of the statutory ESG framework are mandatory, others leave room for companies to explain why they do not comply with such regulations. With regard to those aspects outlined in question 1.1, the mandatory rules relate to:

- the election of the board of directors;
- the approval of executive compensation;
- the remuneration report;
- transparency for extractive companies; and
- transparency and diligence regarding conflict minerals and child labour.

So-called 'soft regulation', on the other hand, applies to the requirements on:

- gender representation; and
- non-financial reporting.

Companies listed on the SIX Swiss Exchange are free to disclose a sustainability report as described in question 1.1, but must disclose certain information about corporate governance.

1. 3. Which bodies are responsible for implementing and enforcing the rules and codes that make up the ESG framework? What powers do they have?

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The ESG agenda in Switzerland is mainly driven by government legislative projects, as well as by parliamentary and popular initiatives. While some of these projects have not borne fruit, others have been successful and have now been implemented.

Most of the existing ESG regulations are of a private law nature (see question 1.1), enforced by civil courts or criminal courts. As per the Swiss Criminal Code, some - but not all - of the rules related to the CO are subject to criminal liability in case of non-compliance. For example, the inclusion of false statements in, or the failure to provide, a required report as per the requirement on transparency and diligence regarding conflict minerals and child labour is punishable by a fine of CHF 50,000 in case of negligence and CHF 100,000 in case of intent.

While there is no ESG-specific regulator in Switzerland, regulators in regulated industries - such as FINMA with respect to financial service providers - have issued new regulations and supervise and enforce respective efforts in their field (to some extent in addition to the civil and criminal courts).

1. 4. What is the regulators' general approach to ESG and the enforcement of the ESG framework in your jurisdiction?

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With respect to financial services providers, FINMA is particularly active in the area of transparency and

disclosure obligations with regard to climate change-related risks.

In FINMA's most recent risk monitor report from November 2021, it announced that particular emphasis will be placed on analysing the climate risk-related disclosures of systemically important institutions, which must comply with these as from 2022. Compliance with the disclosure obligations will be assessed by audit firms.

FINMA is also addressing customer protection issues - in particular, the risk of 'greenwashing' in the distribution of financial products and services. For example, in the application process of a fund product, FINMA requires fund managers to provide additional information on the sustainability targets pursued when offering a 'sustainable' product. Regarding other financial services, however, FINMA has limited scope to prevent and avoid greenwashing. This is due to a lack of specific sustainability-related transparency obligations for most financial market participants and an effective supervisory basis for taking action at the point of sale.

Further, FINMA, together with the Swiss National Bank, joined the Network for Greening the Financial System (NGFS) in April 2019 and committed to implementing the relevant recommendations that NGFS has published in connection with the UN Climate Change Conference 2021 (COP 26).

1. 5. What private sector initiatives have been launched in your jurisdiction to complement the ESG framework?

Switzerland

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As outlined in question 1.1, the SIX Swiss Exchange has issued the DCG, which regulates, among other things:

- the mandatory disclosures on compensation and shareholdings of members of the board of directors and the executive committee; and
- the voluntary production of a sustainability report.

Further, the Swiss Bankers Association has published a Position Paper on Sustainable Finance and a Guideline for the Integration of ESG Considerations into the Advisory Process for Private Clients, the latter of which contains explicit information on the relevant methods and strategies.

Also important are institutional investors, as further outlined in question 6.1.

2.Scope of application

2. 1. Which entities are captured by the rules and codes that make up the principal elements of the ESG framework in your jurisdiction?

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In general, the rules on ESG matters apply regardless of the corporate form of a company. However, some statutory rules apply only to:

- publicly listed companies (eg, the rules on executive compensation and gender representation); or
- large companies that meet certain financial and/or personnel thresholds or are regulated by the Financial Market Supervisory Authority (eg, the rules on non-financial reporting).

The Directive on Information relating to Corporate Governance exclusively applies to companies that are listed on the SIX Swiss Exchange.

2. 2. How are entities in your jurisdiction that are not subject to specific rules or codes implementing ESG?

Switzerland

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While many statutory requirements apply only to some companies, almost all major Swiss corporations today have a particular focus on ESG. This is mainly due to public awareness and because companies cannot stay silent on ESG matters for reputational reasons.

2. 3. What are the principal ESG issues in your jurisdiction that are either part of the ESG framework or part of the implementation of ESG?

Switzerland

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Initially, the main ESG issue addressed in Switzerland was the approval of executive compensation. This was followed by gender representation; and today the focus has shifted further to climate change and human rights, as reflected by the newly implemented rules on transparency and diligence regarding conflict minerals and child labour (see question 1.1).

These latter regulations will not take effect until 2023. However, given the magnitude of these matters, corporate Switzerland is already preparing for compliance with great caution. It is expected that non-governmental organisations will probe the implementation of these and have compliance reviewed in civil and criminal lawsuits.

3. Disclosure and transparency

3. 1. What primary disclosure obligations relating to ESG apply in your jurisdiction?

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Remuneration report: Publicly listed companies domiciled in Switzerland must prepare an annual remuneration report that includes all compensation paid to members of the board of directors or the executive committee.

Gender representation: Large publicly listed companies are those that exceed two of the following thresholds:

- total assets of CHF 20 million;

- sales revenue of CHF 40 million; and
- 250 full-time positions.

Gender quotas require that in such companies, each gender be represented to a degree of at least 30% on the board of directors and 20% on the executive committee. Companies that do not comply with these quotas must provide an explanatory report.

Non-financial reporting obligations: Inspired by EU Directive 2014/95/EU, Switzerland imposed new non-financial reporting obligations on ‘large companies of public interest’ - that is, large publicly listed companies, large companies that have issued bonds, or large companies supervised by the Financial Market Supervisory Authority that, as a group, exceed the following thresholds in two consecutive financial years:

- at least 500 full-time positions; and
- a balance sheet of CHF 20 million or revenues of CHF 40 million.

Pursuant to the new regulation that is in effect as of the 2023 financial year (with the first report for 2023 due in 2024), large Swiss domiciled companies of public interest must provide an annual report on environmental (especially carbon dioxide targets), social and labour issues, as well as in respect of human rights and anti-corruption.

Extractive companies: In line with international regulation, Switzerland implemented new transparency requirements for Swiss domiciled extractive companies subject to ordinary audit - that is, publicly listed companies or companies that exceed two of the following thresholds:

- total assets of CHF 20 million;
- sales revenue of CHF 40 million; and
- 250 full-time positions.

Extractive companies are those which are active in the extraction of minerals, crude oil, natural gas or the extraction or felling of timber in primary forests. As of the financial year 2022, these companies must annually report payments relating to the extraction of natural resources exceeding (in aggregate) CHF 100,000 per financial year to government bodies (including government-controlled entities).

Conflict minerals and child labour: Inspired in particular by Regulation (EU) 2017/821 and the Child Labour Due Diligence Act of the Netherlands, the Swiss Parliament has adopted additional transparency rules for companies that:

- import or process certain minerals and metals from conflict-affected or high-risk areas; or
- offer products or services for which there is a reasonable suspicion that they have been produced or provided using child labour.

Pursuant to the new legislation, companies falling within its scope (see also question 1.1) must implement extensive due diligence obligations and comply with reporting requirements as of the 2023 financial year (with the first report for 2023 due in 2024).

3. 2. What voluntary ESG disclosures are also commonly made in your jurisdiction?

ESG has also gained significant attention among customers, (institutional) investors, shareholders and employees, who expect a clear line of action on ESG matters. Accordingly, ESG matters are now of high priority for almost all Swiss companies. This development has led many companies to voluntarily publish ESG statements - in particular, with regard to gender equality and environmental protection - and to actively commit themselves to sustainability. The latter is regularly demonstrated by developing a sustainability strategy which is then formally approved by the board of directors.

The voluntary sustainability disclosures based on the Directive on Information relating to Corporate Governance, as outlined in question 1.1, are usually made by only a minority of companies. It remains to be seen how this will change in the coming years.

3. 3. What role is played in this regard by (a) the board and (b) other corporate bodies and/or officers?

Switzerland

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Under Swiss corporate law, the ultimate responsibility for the management of a stock corporation is vested in the board of directors. Accordingly, the board of directors is also responsible for establishing and implementing a proper corporate governance framework.

Against this background, Swiss statutory law stipulates that the board of directors is legally responsible for preparing and approving the respective ESG reports outlined in question 3.1, except the report on non-financial reporting. This report must additionally be approved by the shareholders' assembly.

Direct implementation and enforcement of the ESG rules is typically delegated to the executive committee, which manages the operations of the company. This includes continuous reporting to the board of directors (usually to a specific ESG or risk committee), so that the board of directors can take high-level corrective action if required.

3. 4. What best practices should be considered in relation to ESG reporting and disclosure?

Switzerland

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Given that the disclosure obligations discussed in question 3.1 have just entered into force, no clear view on best practice has been established to date. Nevertheless, more clarity on this is expected in the coming years.

In any event, Swiss companies should keep in mind that ESG reporting obligations have a dual function. On the one hand, they should encourage companies to reflect on ESG issues and thus improve their performance in this regard. On the other hand, they serve as an information source for (institutional) investors, shareholders, customers, suppliers and the general public to help them form a picture of the company. Accordingly, also to avoid any reputational damage and even civil or criminal liability, companies should ensure that they prepare accurate reports. This requires accurate and comprehensive data, sound conclusions and a clearly communicated strategy on how to address potential issues. This way, any public outcry due to intentional or negligent false reporting can be prevented with good chances.

Further, given that failure to comply with the reporting obligations outlined in question 3.1 may lead to criminal conviction, it is advisable to conduct a voluntary ESG audit of the respective reports. This way, the governing bodies of a company may be able to show due care and diligence - in particular, to avoid a criminal conviction, which may result from negligence and not just from intent (eg, see question 1.3).

4. Strategy and governance

4. 1. How is ESG strategy typically designed and implemented in companies in your jurisdiction?

Switzerland

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At the core of every ESG strategy is a definition of individualised ESG goals. These goals are based on regulatory requirements as well as the company's individual short and long-term influences (after all, focusing on ESG should serve companies in the long run). These aims may include goals such as:

- supporting the transition to net zero;
- continuously improving society; or
- acting with integrity.

Based on the ESG strategy, companies must define a specific ESG framework that further clarifies how these ESG goals may be achieved - for example, through commitments to:

- reduce greenhouse gas emissions by 50%;
- educate all employees on diversity and inclusion; and
- implement human rights due diligence in connection with procurement.

Such goals are then supplemented by specific milestones which can serve as a guideline for taking action. Finally, internal reporting obligations including key performance indicators (KPIs) should be defined to continuously monitor progress towards achieving the ESG goals.

4. 2. What role is played in this regard by (a) the board and (b) other corporate bodies and/or officers?

Switzerland

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As outlined in question 3.3, the board of directors is responsible for the company's strategy and organisation, as well as financial matters. This includes identifying and enforcing both statutory and internal rules on ESG matters, particularly where ESG risks may affect the company's financial performance. In large companies, this is often delegated to certain board committees comprised of ESG and/or risk experts.

Day-to-day implementation and enforcement of the ESG rules lies in the hands of the executive committee, which has direct insight into the operations of the company. In case of non-compliance with the ESG rules, it is primarily the duty of the executive committee to take corrective action. The board of directors in turn can demand certain changes or, if necessary, replace the executive committee. The shareholders finally have the possibility to refuse re-election and thereby remove members of the board of directors in case of poor

performance.

4. 3. What mechanisms are typically utilised to monitor the implementation of ESG strategy in your jurisdiction?

Switzerland

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Typically, in larger companies these mechanisms include:

- a clear line of duty and allocation of responsibilities;
- internal reporting obligations; and
- the measurement of success and progress through KPIs.

This allows for the objective monitoring of ESG milestones and the overall ESG strategy. KPIs relating to ESG may relate to targets such as:

- the number of accidents in a factory;
- overall energy consumption; or
- the number of substantiated compliance violations.

With regard to gender representation and compensation, the respective proportion of representation and the remuneration paid respectively serve directly as KPIs.

If KPIs are not met, it is essential to clarify why this has happened and, if necessary, to allocate more resources or time to meet them. Sometimes unmet KPIs also reveal hidden challenges that will make it difficult to meet the overall ESG goals.

If it becomes apparent that certain KPIs are not viable, the management in charge or, in the case of high-level KPIs, the board of directors should consider adjusting them. This also applies to the ESG strategy, which must be continually reviewed and adapted to changing circumstances.

4. 4. What role is played in this regard by (a) the board and (b) other corporate bodies and/or officers?

Switzerland

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The monitoring of high-level ESG KPIs often falls within the responsibility of the board of directors. Analysis of low and mid-level KPIs is usually the duty of the respective executive committee of the company. See also questions 3.3, 4.2 and 4.3.

4. 5. How is executive compensation typically aligned with ESG strategy in your jurisdiction?

Switzerland

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Until a few years ago, executive compensation in Switzerland often depended exclusively on financial

Until a few years ago, executive compensation in Switzerland often depended exclusively on financial performance. This is now changing and more and more (publicly listed) companies are taking ESG objectives into account - for example:

- by making a certain percentage of the performance-based remuneration of a member of the board of directors or the executive committee dependent on the achievement of certain individual ESG goals; or
- by otherwise considering ESG aspects in bonus allocation.

4. 6. What best practices should be considered in relation to the design and implementation of ESG strategy?

Switzerland

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ESG is an increasingly important issue for all stakeholders. Accordingly, companies would be well advised to set ESG goals that are clearly measurable and easy to communicate. This helps to ensure that everybody is fully committed to achieving the set goals.

At a legal technical level, companies must establish a clean governance structure. To this end, all directives and the ESG strategy should be fully aligned and there should be no gaps or contradictions in the ESG framework. Regular assessments are also useful to make appropriate adjustments.

5. Financing

5. 1. What is the general approach of lenders towards ESG in your jurisdiction? What internal and external information regarding a prospective borrower will they typically consider in this regard?

Switzerland

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As demand for sustainable finance instruments has increased in recent years, the offer and selection of such instruments has also increased. In the absence of legally binding terminology on sustainable loans or bonds in Switzerland, the information that is required from the borrower or bondholder will depend on:

- the internal ESG criteria of the lender or issuer; or
- where the issuer or lender follows certain principles of self-regulatory organisations, those principles.

For financial services providers at the point of sale, the Financial Services Act (FinSA) imposes certain information and documentation duties towards the client. For example, the ESG preferences of a client should be documented in the suitability process that the financial services provider may conduct, to ensure that investors understand what (sustainable) finance products they are investing in.

Further, as outlined in question 1.4, the Swiss Bankers Association (SBA) has published guidelines for the successful integration of ESG considerations for financial service providers that wish to provide advisory services in sustainable investments to clients in Switzerland.

5. 2. Are bonds/loans that are marketed as green bonds/loans, social bonds/loans,

sustainability bonds/loans or similar a feature of the markets in your jurisdiction?

Switzerland

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The number of sustainable investments has increased exponentially in Switzerland, with a total volume of CHF 1.52 trillion in 2020 (a 31% increase on 2019). This trend can also be observed in the marketing of sustainable bonds and loans.

The Swiss market for sustainable bonds is steadily growing, in particular with regard to green bonds. A total of 71 green bonds are currently listed on the SIX Swiss Exchange. By comparison, other sustainable bonds do not yet play a big role in the Swiss market. To date, the SIX Swiss Exchange reports five sustainability-linked bonds as well as one social and one sustainable bond. With regard to sustainable loans, ongoing demand can be observed. In addition, an increasing number of banks are integrating ESG factors into lending on their own initiative.

There is currently no legal definition of 'green', 'social' or 'sustainability' bonds or loans in Switzerland. Hence, issuers, lenders and other actors rely on standards adopted by self-regulatory organisations, such as the principles and guidelines published by the International Capital Market Association (ICMA). With regard to sustainable loans, the green loan principles, social loan principles and sustainability-linked loan principles of the Loan Market Association (LMA) are often used for green, social and sustainability-linked loans.

5. 3. What key developments have taken place in the structuring of these instruments in your jurisdiction?

Switzerland

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Sustainable bonds and loans are mostly structured as green bonds or loans as per the ICMA Green Bond Principles or the LMA Green Loan Principles, respectively. Other structures for sustainable bonds or loans are used to a lesser extent; although it seems that demand for sustainability-linked loans is increasing.

In the absence of a legal definition of 'green' bonds or loans, issuers or lender usually consider the four components of the ICMA Green Bond Principles or the LMA Green Loan Principles in structuring the financial instrument. The cornerstone of a green bond or loan is the use of the proceeds exclusively for the financing or refinancing of eligible green projects.

In addition, with regard to green (or other sustainable) bonds, the disclosure obligations of FinSA for the prospectus and other offering materials will apply. The prospectus (and the so-called "Key Information Document", if applicable) must:

- contain essential information on:
 - the issuer;
 - the securities; and
 - the offer; and
- address all risks for investors, including from an ESG perspective.

5. 4. What best practices should be considered in relation to ESG in the financing

context?

Switzerland

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There is no legal definition of ‘sustainable’ bonds or loans in Switzerland; nor have generally accepted standards or best practices been developed. Therefore, when choosing a financial product, participants should either study the internal ESG ratings or refer to the guidelines or practices of self-regulatory organisations such as the Swiss Sustainable Finance Organization, the SBA, ICMA or LMA. The SIX Swiss Exchange categorises sustainable bonds according to the principles published by ICMA and differentiates between:

- green bonds;
- social bonds;
- sustainability bonds; and
- sustainability-linked bonds.

6. ESG activism

6. 1. What role do institutional investors and other activist shareholders play in shaping ESG in your jurisdiction?

Switzerland

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In line with global developments, institutional investors and activist shareholders in Switzerland are increasingly paying special attention to ESG matters, which are seen as directly linked to both the short and long-term success of businesses. This is especially true of government pension funds, which have largely adapted their investment guidelines and started to take ESG investment criteria into account. This partly also applies to the Swiss National Bank, which does not invest in shares and bonds of companies whose products or production processes grossly violate widely accepted social values. These include companies that:

- cause serious environmental damage;
- violate human rights;
- produce prohibited weapons; or
- since 2020, primarily produce coal.

Unlike in the United States and England, campaigns by activist shareholders are generally rather rare in Switzerland. While there have been more such campaigns in recent years, these have only sporadically been directly related to ESG. The primary exception to this are the campaigns of the Swiss proxy adviser Ethos, which has been committed to good governance since its inception 25 years ago – long before many international proxy advisers became aware of ESG. It remains to be seen whether activist shareholders will begin to openly demand more focus on ESG.

6. 2. How do activist shareholders typically seek to exert influence on corporations in your jurisdiction in relation to ESG?

Switzerland

Activist shareholders generally first try to influence the board of directors and management through non-public discussions, in a bid to convince the board that their proposed course of action would be beneficial to the company and should thus be adopted. Such discussions are generally permissible under Swiss law, provided that all shareholders are treated equally and no additional information is disclosed by the company.

Often simultaneously, but sometimes only after unsuccessful discussions, activist shareholders try to exert public pressure on management through a public campaign. This regularly involves the provision of information to certain media outlets. Finally, activist shareholders may publicly propose to vote out of office all or some members of the board of directors and propose other individuals for election. With regard to publicly listed companies, activist shareholders must ensure that they are not considered to be acting in concert, as this might trigger disclosure and mandatory offer obligations.

6. 3. Which areas of ESG are shareholders currently focused on?

Switzerland

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Following the emergence of the debate on excessive executive compensation after the financial crisis of 2008, corporate governance became the first ESG focus of shareholders. This culminated in the adoption of regulations on excessive compensation which entered into force in 2014, as a result of which the remuneration of the board of directors and the executive committee of listed companies must be approved annually by the shareholders' assembly.

In recent years, gender and environmental aspects have gained importance. This ultimately led to the adoption of the disclosure requirements described in question 3.1. In addition, individual shareholders are increasingly taking the initiative to directly demand climate-neutral behaviour from companies at their annual general meeting. In the wake of the 2022 turmoil in the energy markets and the discussions about Russian oil and gas imports, this development is likely to gain renewed momentum.

Social aspects are addressed in particular in connection with potential human rights violations. This is reflected in the newly implemented statutory rules on transparency and diligence regarding conflict minerals and child labour. In addition, discussions in recent years have led to the adoption of gender quotas in relation to gender representation. For more details, see question 1.1.

6. 4. Have there been any high-profile instances of ESG activism in recent years?

Switzerland

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In March 2022, Swiss proxy adviser Ethos and a group of institutional investors requested a shareholders' resolution to amend the articles of association of Credit Suisse. They asked that Credit Suisse improve its transparency regarding its climate impact and reduce its exposure to the financing of companies active in the fossil fuel industry. However, at the annual general meeting in late April 2022, the shareholders rejected this proposal.

Also in March 2022, Institutional Shareholder Services publicly demanded that the chairman of Swiss Re not

be re-elected due to the failure to sufficiently increase the quota of women on the board of directors. It remains to be seen whether this campaign will succeed.

6. 5. Is ESG activism increasing or decreasing in your jurisdiction? How and why?

Switzerland

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As stated in question 6.1, activism has increased in recent years and this trend is generally expected to intensify in the coming years. The focus is likely to be primarily on the financial industry, which is being urged by clients and the general public alike to offer sustainable financial products.

7. Other stakeholders and rights holders

7. 1. What role do stakeholders or rights holders (eg, employees, pensioners, creditors, customers, suppliers, and Indigenous communities) play in shaping ESG in your jurisdiction? What influence can they exert on a company?

Switzerland

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Due to the direct democracy regime in place in Switzerland and effective political rights such as the popular initiative, voters have significant influence on legislation. Employees can exert additional pressure on companies in this regard, as the currently very employee-friendly labour market forces companies to remain attractive employers to attract talent.

Customers in the public sector, in turn, are increasingly demanding certain ESG assurances from companies, especially with regard to equal pay and the protection of minorities. Finally, as outlined in question 6.1, many pension funds as well as the Swiss National Bank have also adapted their investment guidelines so that they invest primarily in long-term sustainable investments.

8. Trends and predictions

8. 1. How would you describe the current ESG landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

Switzerland

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The statutory ESG requirements are still rather new and often not yet established in practice, as outlined in question 3.4. Accordingly, the current practical ESG landscape is still indistinct. Nevertheless, new legislative efforts are already underway to further shape the ESG framework in Switzerland.

Based on the Paris Climate Agreement, the Swiss Federal Council is conducting a consultation on the Ordinance on Climate Reporting as part of the non-financial reporting initiative as described in questions 1.1 and 3.1. The ordinance is expected to come into force for the financial year beginning in 2023.

In the area of green financing, it can be assumed that the respective rules will be increasingly extended and harmonised with international regulations. This will ensure that the Swiss market remains competitive in the long term.

9. Tips and traps

9. 1. What are your top tips for effective ESG implementation in your jurisdiction and what potential sticking points would you highlight?

Switzerland

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Many of the ESG regulations are still relatively new and their practical design is still mainly undefined. Accordingly, companies and their boards would be well advised to seek legal advice and/or to consider voluntary audits so that they can demonstrate due care and diligence and avoid violating any regulations and potentially committing criminal offences which can be sanctioned due to negligence and not just intent (see question 3.4).

In terms of content, companies should ensure that they make precise and clear statements in the reports, as outlined in question 3.1. This way, they can avoid further responsibilities from arising down the line because contradictory statements were made in their reports.

In view of the growing importance of ESG, companies are generally encouraged to address these issue at the highest corporate level at an early stage ('tone from the top'). This will ensure that ESG receives the appropriate attention and the company can also sell this credibly to the outside world.

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