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## Framework Conditions

### 1. Sanctions imposed because of the war in Ukraine

Through the Swiss Bankers' Association (SBA), the Financial Center condemned Russia's war of aggression against Ukraine. It supports the sanctions imposed under the Embargoes Act and the Federal Council's Ordinance. To date, Switzerland has endorsed the ten packages of sanctions imposed by the European Union (EU).

These sanctions freeze the assets of more than 1,300 prominent persons and entities. As of November 25, 2022, assets frozen in Switzerland stood at CHF 7.5 billion and included 15 properties. The sanctions in question also include a ban on accepting deposits amounting to more than CHF 100,000 from Russian citizens or corporate bodies or individuals based in Russia. In June 2022, Swiss banks had informed SECO (the State Secretariat for Economic Affairs) of deposits amounting to more than CHF 46 billion covered by this ban. It should, however, be noted that the ban on depositing funds and the obligation to make a declaration do not apply to Swiss nationals or to citizens of an EEA Member State nor to the holders of a temporary or permanent residence permit in Switzerland or in an EEA Member State.

In the margins of the World Economic Forum held in Davos in January 2023, Federal Councillor Ignazio Cassis stated that confiscation of frozen assets from Russian clients in Switzerland would be a "potential source of finance for the reconstruction" of Ukraine, provided that this was "coordinated internationally". These proposals elicited numerous reactions and led the Federal Council to clarify the situation on February

15, 2023. The Government concluded that Swiss law does not permit the expropriation of private assets without compensation if their origin is not unlawful. Such confiscation would be incompatible with Switzerland's constitutional guarantees and international obligations.

Moreover, in June 2022, the National Council rejected a motion providing for the creation of a task force charged with tracking down and confiscating the assets of the oligarchs who had been sanctioned. However, the National Council reviewed the matter in December 2022 when it adopted a motion seeking to create such a task force, without making provision for confiscation of the blocked assets. The matter is currently under discussion in the relevant committee of the Council of States.

On April 19, 2023, the Federal Council announced that for the time being Switzerland did not intend to join the G7 Task Force on Russian Elites, Proxies and Oligarchs (REPO). The Government takes the view that technical cooperation between Switzerland and the G7 member countries is running smoothly. However, should participation prove to be in the interests of our country the Federal Council might well review the situation at a later date.



**Swiss law does not permit the expropriation of private assets without compensation if their origin is not unlawful**

# Framework Conditions

## 2. For a competitive legal and regulatory framework

### ■ Acquisition of Credit Suisse by UBS

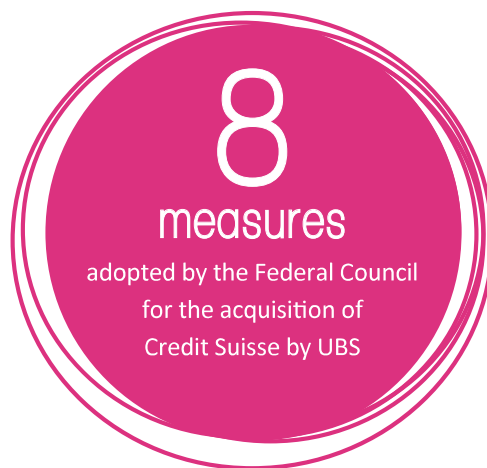
The announcement on March 19, 2023 of the acquisition of Credit Suisse by UBS for CHF 3 billion came as a bombshell. This transaction was organised by the Federal Council, the SNB and FINMA. On the same day, the Federal Council published an “Ordinance on Additional Liquidity Assistance Loans and the Granting of Federal Default Guarantees for Liquidity Assistance Loans from the Swiss National Bank to Systemically Important Banks”.

These measures were recapitulated in the Federal Council’s Dispatch of March 29, 2023. They are summarized as follows:

1. Extraordinary liquidity assistance (ELA) granted by the SNB to Credit Suisse totalling CHF 50 billion.
2. Additional liquidity assistance loans amounting to CHF 100 billion.
3. Liquidity assistance loans provided by the SNB, accompanied by a default guarantee issued by the Confederation for CHF 100 billion.
4. Granting of a guarantee against losses for CHF 9 billion.
5. Specific derogation from the Mergers Act: acquisition of Credit Suisse by UBS does not require a resolution by the General Meetings of the companies concerned if the transaction is conducted in consultation with FINMA.
6. Authorization of the merger (Cartel Act): FINMA acts in lieu of the Competition Commission (COMCO) to authorize the provisional implementation of the merger.
7. Amortization of the AT1 instruments (CoCo): these instruments are completely written down in a viability event, in particular if extraordinary government support is granted. These instruments have a nominal value of around CHF 16 billion.
8. Remuneration-related measures: the Federal Department of Finance (FDF) made an urgent temporary decision to cancel the variable remuneration drawn from the Confederation’s resources of the employees who were responsible for the collapse of Credit Suisse.

For the purposes of measures 3 and 4 above, the Finance Delegation of the Federal Assembly approved two emergency loan commitments totalling CHF 109 billion.

An extraordinary session of Parliament was convened to address this matter. On this occasion, the Council of States also approved these additional loans. However, the National Council rejected them on April 12, 2023, but it should be noted that this decision has no legal effect on the emergency commitments that had been made. Moreover, the Federal Chambers adopted some ten postulates which require the Federal Council to present reports within a one year time frame. They specifically concern the capitalization of banks, the remuneration of their managers and the “too big to fail” rules.



## ■ Impact of a potential energy shortage on the financial centre

Confronted with the threat of an energy shortage caused by several factors, including the war in Ukraine, on November 23, 2022, the Federal Council laid open for consultation draft Ordinances regulating restrictions and prohibitions of use, imposition of immediate and longer quotas and load shedding. Each element is designed to avert more serious consequences that would require even more drastic measures.

In the event of an imminent shortage, the Confederation will initially issue urgent appeals urging all electricity consumers to reduce their consumption. The Federal Council could simultaneously impose initial restrictions and prohibitions of use.

A still more restrictive measure would be the imposition of electricity quotas on major consumers. Such quotas would affect 34,000 major consumers in Switzerland who account for just under half of all electricity consumption in our country.

Quotas make a significant contribution to avoiding the need for load shedding which is the regulated management measure of last resort to prevent the widespread collapse of the grid and hence a blackout. Load shedding in supply

zone sectors would be carried out by rotating power outages throughout the power grid.

Geneva Financial Center has set up a working group to assess the impact of a potential energy shortage on its ability to function and to determine the measures to be taken in this context. Concerns include the distribution of cash to the population and maintenance of payment and stock market transactions, as well as security. A review of the situation identified telecommunications networks as a weak point in the system.

During this work, GFC was in regular contact with the cantonal authorities, Geneva Industrial Services (SIG), the Police, Swisscom and the Organisation for Radical Climate Action (ORCA).


On March 3, 2023, the Federal Council was informed of the results of the consultation. It adapted the measures stipulated in the Ordinances, taking into account the opinions expressed by the various entities that had been consulted.

Fortunately, the threat of an energy shortage in the winter of 2022-2023 has receded. Nevertheless, vigilance will still be required in the future.

## ■ Supervision of independent wealth managers (IWM) and trustees

In its Communication of August 11, 2022, FINMA announced that, since the entry into force of the Financial Institutions Act (FinIA) on January 1, 2020, IWM and trustees are under an obligation to obtain a licence to conduct their activity. They were granted a transitional period to affiliate to a supervisory authority (SA) and apply for a licence. This time limit expired on December 31, 2022. FINMA stated that the time limit would not be extended under any circumstances. The supervisory authority also announced that IWMs and trustees who failed to adhere to the time limit, but nevertheless continued to exercise their professional activity after January 1, 2023 would be liable for supervisory and criminal sanctions. The SBA reiterated these principles in its Circular 8092 of August 31, 2022.

On January 30, 2023, FINMA reported that it had received 1,699 applications for licences by the end of 2022. As of December 31, 2022, the supervisory authority had granted the requisite licence to 670 institutions. More than 1,000 applications therefore still had to be processed.

 **FINMA had received 1,699 licence applications from IWMs and trustees at the end of 2022**

## ■ Post Organisation Act (POA)

At the end of September 2022, following the Council of States, the National Council abandoned the Federal Council's draft text with no opposition; the purpose of that text had been to allow the Post Office subsidiary to grant loans and mortgages independently.

This decision puts an end to a long saga that began in 2021 with a Dispatch from the Federal Council. The Council had felt that PostFinance should be able to grant mortgages and loans to third parties independently. Moreover, the statutory requirements for the privatization of this entity were to be implemented. However, the Federal Council wanted the possibility of granting loans to be enabled before privatization.

As stated previously, the Financial Center had expressed an unfavourable opinion on this matter. The addition of a new semi-public player to what is already a highly competitive market would not have been an improvement at all. In the real estate and mortgage industry, local knowledge is important. Without such knowledge, excessive risks are likely to be taken. Moreover, competition on the French-speaking Swiss market would have been distorted to the extent that, unlike PostFinance, BCGE and BCV no longer benefit from a State guarantee.

## ■ Collective investment funds

### European regulations

The European Parliament's Committee on Economic and Monetary Affairs voted in favour of the amendments to the AIFMD (Directive 2011/61/EU) on January 24, 2023; the amendments lay down rules on delegation, harmonization of liquidity management tools, improvement of data gathered through regulatory reports, the inclusion of central securities depositories in the custody chain and, lastly, an improved offer of depository services on small European markets.

A trilogue must now be conducted by the Parliament, the Council and the European Commission with a view to adopting the final version of the text. This could be published in the Official Journal in 2023. With effect from its publication, the Member States will have 24 months to transpose these provisions into their national law.

### Collective Investment Schemes Ordinance (CISO)

The consultation procedure on the amendment of the Collective Investment Schemes Ordinance (CISO) ended on December 23, 2022. This text mainly contains specific provisions applicable to the Limited Qualified Investor Fund (L-QIF), an investment vehicle that can be placed on the market without authorization from FINMA.

One provision poses a particular problem in this context. The Ordinance stipulates that investors in such a fund must not have family ties. This new provision would prevent this type of investment fund from being offered to a family. This lack of flexibility would once again prevent Switzerland from competing with Luxembourg where no such constraint exists. We can only hope that this provision, which has been criticized by all the Financial Center's players, will be removed from the draft text.

## ■ Impact of technological advances on regulatory provisions

### Information Security Act

On December 2, 2022, the Federal Council published its Dispatch on the amendment of the Information Security Act, seeking to include an obligation to report cyberattacks on critical infrastructure. This text also lays down the tasks of the National Cybersecurity Centre (NCSC) which is to be the sole addressee of mandatory cyber incident reporting.

It should be noted that banks and insurance companies are included in critical infrastructure that will be also required to continue reporting cyberattacks to FINMA.

The National Council approved these amendments on March 16, 2023. The matter is expected to be considered by the Council of States during its summer session in 2023.

### Federal Act on Electronic Identification Services

Following the rejection of the Federal Act on Electronic Identification Services by the people on March 7, 2021, the Federal Council opened a consultation procedure on a new draft text on June 29, 2022. The consultation ended on October 20, 2022. According to this text, the new e-ID should permit simple, secure and rapid digital self-identification. Every

holder of a Swiss identity card, a Swiss passport or a residence permit may apply for such an e-ID. The Confederation will provide a mobile phone app enabling the user to manage his/her e-ID securely. This e-ID may be used both on the Internet (for example to order an extract from criminal records online) and in everyday life (for example, as proof of age when purchasing alcohol). Contrary to the provision of the law that was rejected when put to the vote, the Confederation will itself issue the e-IDs and operate the requisite infrastructure.

Data protection will be ensured by the system itself and also by restricting the data flows required and by decentralized data recording. Moreover, the Federal Council has formulated the text with neutral wording in terms of technology to enable the system to incorporate the latest state of technology at all times. The system will also adhere to international standards to enable the e-ID to be recognized and used abroad.

The infrastructure implemented by the Confederation to manage e-IDs may also be used by the cantonal authorities and private sector players.

The draft law will in all likelihood be placed before Parliament in summer 2023.



**Banks and insurance companies are included in critical infrastructure that will be required to report cyberattacks to the NCSC and to FINMA**

## Federal Council's report on open finance

The Federal Council published a report on open finance in December 2022. Its purpose is to allow clients to use their financial data freely and benefit from new services. It also aims to strengthen the Swiss financial centre's capacity for innovation and competitiveness. Opening up interfaces and cooperating with third party service providers should enable the expansion of the existing range of services, while keeping it simple and secure.

The Federal Council instructed the Administration to submit proposed measures to it by June 2024 if the financial sector fails to make sufficient progress in opening up its interfaces.

## SBA's digital currency proposal

In March 2023, the SBA published a proposal for deposit tokens to be issued by the Swiss banks and not by the SNB. This would be a purely digital form of the Swiss franc reserved for the banks in order to permit faster and less costly trading in digital assets. For its part, the EU is considering a digital euro for private individuals who would hold an account directly with the European Central Bank, but with its use confined to the eurozone. By contrast, the United States recognizes the usefulness of a "retail CBDC" (Central Bank Digital Currency), especially for cross-border transactions.

## ■ Regulatory provisions and sustainable finance

### Confederation's "Swiss Climate Scores"

On June 29, 2022, the Federal Council announced the creation of the Swiss Climate Scores. Their purpose is to establish best practice for transparency by seeking to make financial products compatible with climate objectives. These scores comprise 5 minimum criteria, namely:

- Greenhouse gas emissions
- Exposure to fossil fuels
- Proven commitments to net zero
- Management to net zero
- Credible climate stewardship

In addition, there is an optional 6th criterion:

- Global warming potential (the optional nature of this indicator is attributable to the fact that this criterion is the latest to be established on the market and therefore still presents the greatest methodological uncertainties).

These Swiss Climate Scores are to be applied on a voluntary basis; no formal verification is stipulated at this stage.

### Glaciers initiative

In late June 2022, Parliament adopted an indirect counter-proposal in response to the glaciers initiative which it does not support. This text would require Switzerland to adopt specific quantitative targets to achieve carbon neutrality by 2050 in the construction, transport and industrial sectors. Its Article 9 stipulates that the Confederation must ensure an effective contribution by the Swiss financial centre to low emission development capable of resisting climate change. In particular, measures must be taken to reduce the impact of national and international capital flows on the climate. For this purpose, the Federal Council may enter into agreements with the financial sector seeking to make capital flows compatible with climate objectives.

Following the adoption of this indirect counter-proposal, the glaciers initiative was withdrawn. However, the UDC launched a referendum against the indirect counter-proposal. The Swiss people will be asked to vote on this matter on June 18, 2023.



**The Swiss Climate Scores comprise 5 minimum criteria that are to be applied on a voluntary basis**



## CO<sub>2</sub> Act

For the record, on June 13, 2021, Swiss citizens rejected the CO<sub>2</sub> Act by a narrow majority (51.6%); the Financial Center had campaigned in favour of this Act.

Following this vote, on December 17, 2021, the Federal Council submitted for a consultation lasting until April 4, 2022, a new draft law defining Switzerland's climate policies for 2025 to 2030. The Government is adhering to its targets: our country must reduce its emissions to half the 1990 figure by 2030.

On September 16, 2022, the Federal Council adopted its Dispatch on the revision of the CO<sub>2</sub> Act for the period from 2025 to 2030. This text provides for the allocation of around CHF 4.1 billion to measures that aim to protect the climate without raising new taxes. The key measure makes provision for granting a package totalling of CHF 2.8 billion for the period in question, earmarked for upgrading buildings and replacing old fuel-oil or gas-fired central heating systems.

With regard to the financial sector, the new draft of the CO<sub>2</sub> Act incorporates a measure that was included in the text rejected by the people: FINMA will have to examine at regular intervals the climate-related financial risks to which financial institutions are exposed. It will be able to rely on the experience obtained in connection with the transparency obligations for climate risks that were introduced in 2021 for the nine largest Swiss banks and insurance companies. Any potential risk to the stability of the financial system resulting from climate change must also be monitored by the SNB.

According to the Federal Council, the term greenwashing is used when clients are misled as to the sustainable nature of financial products and services

## Federal Council's report on greenwashing

On December 16, 2022, the Federal Council published a report to clarify its position on greenwashing in the financial markets. The Government uses the term greenwashing to mean misleading clients as to the sustainability of financial products and services. In its opinion, a financial product or service that is described as sustainable must meet at least one of the following investment targets:

1. alignment with one or more specified sustainability targets, or
2. contribution to the attainment of one or more specified sustainability targets.

A working group has been set up to implement the Federal Council's position.

## Federal Council's report on the financial centre's sustainability

On December 16, 2022, the Federal Council also adopted its report on the financial centre's sustainability. It focussed on the following four fields of action:

1. sustainable development data kept by economic interest groups;
2. transparency of the financial sector;
3. social impact investments and green loans;
4. pricing of environmental pollution.

In order to achieve these priorities, the Government has drawn up a list of 15 measures.

Following the publication of this report, the State Secretariat for International Finance (SIF) set up three working groups to address greenwashing, the Swiss Climate Scores and impact investing respectively.

## SBA self-regulation

On June 28, 2022, the SBA published its two self-regulation modules in the field of sustainable finance:

- Guidelines on ESG preferences and risks in investment advice and wealth management which were due to enter into force on January 1, 2023. This text stipulates that clients will have to be questioned about their ESG preferences and will then be offered suitable products and services. Information, documentation and reporting requirements are also set out. Moreover, SBA members will be required to incorporate ESG aspects into the initial and continuing training of client relationship managers.
- Guidelines for mortgage providers relating to the improvement of energy efficiency of buildings. These guidelines were also due to enter into force on January 1, 2023. The banks are allowed a transitional period until January 1, 2024, to adopt internal procedures. These guidelines stipulate that, when providing advice on real estate financing, mortgage providers will have to address the issue of the long-term preservation of the value of the building that is to be financed and hence also the issue of its energy efficiency. This will initially concern private persons who own a detached house or a secondary residence.

These two Guidelines are binding on SBA members.

## AMAS self-regulation

At the end of September 2022, AMAS published its self-regulation provisions on transparency and publication of information by collective assets in the field of sustainable finance. Its aim is to consolidate the role of the Swiss asset management sector in the field of sustainable finance. It also sets out requirements for the organization of financial institutions as well as for the design of products and provision of relevant information to investors. This self-regulation is binding on AMAS members. It will enter into force on September 30, 2023.



## ■ Prevention of money laundering and the financing of terrorism

### FATF: revision of Recommendation 24

In 2020, the Financial Action Task Force (FATF) set up a working group to analyse Recommendation 24 on the transparency and beneficial ownership of legal persons. The following issues were studied: the quality of information about the beneficial owner, timely access to this information at both national and international level and specific barriers to transparency. The topic of central and possibly public registers of beneficial owners was also broached in this context.

Following two public consultations, on March 4, 2022, the FATF published its new Recommendation 24 accompanied by an explanatory note. The FATF does not require a central register to be kept, but it imposes very strict conditions for an alternative system.

On October 12, 2022, the Federal Council instructed the FDF to prepare by the second quarter of 2023 a draft bill that aims to increase transparency and facilitate identification of the beneficial owners of legal persons. This draft bill would in particular introduce a central register identifying beneficial owners, as well as new obligations to update information about them, based on the risks. This register will be accessible to the competent authorities, but not to the general public.

# Framework Conditions

## 3. For an attractive tax system

### ■ In Switzerland

#### Reform of the Withholding Tax Act

In December 2021, the Federal Parliament adopted the withholding tax reform which stipulated the continuation of this tax on interest paid to natural persons on their bank assets in Switzerland, while abolishing the same tax on all other forms of interest for all investors.

The purpose of this reform was to revitalize the Swiss capital market, particularly in connection with the financing of the energy transition. At present, the large majority of

Swiss bonds are issued abroad in order to avoid withholding tax. Its abolition would have enabled the activities associated with these transactions to be repatriated to Switzerland with the accompanying competences. Especially in the field of green bonds, our country lags well behind Luxembourg.

Unfortunately, on September 25, 2022, the reform was rejected by 52% of voters against 48% in favour.



**Rejection of the withholding tax reform is a lost opportunity to encourage the development of the bond market in Switzerland**

#### Abolition of rental value tax

In the Federal Parliament, the issue of abolishing rental value tax has been beset by difficulties. As a reminder, in late September 2021, the Council of States approved the abolition of the rental value tax by a narrow majority, but only on principal residences. However, it endorsed the Federal Council's view on the partial maintenance of the deductibility of interest payable on credit and on deductions connected with energy saving investments.

In May 2022, the National Council's Committee on the Economy and Indirect Taxation held a first reading of the text. It declared that it was in favour of abolishing the rental value tax, including on secondary residences. It also advocated the continuing deductibility of costs designed to make energy savings and of refurbishment costs. It also wished interest payable on credit to be deductible in an amount equivalent to 100% of the taxable income on wealth (the Federal Council's draft bill limited this deductibility to 70%). The Committee asked the Administration to calculate the cost of these proposals with a view to a second reading in August 2022.

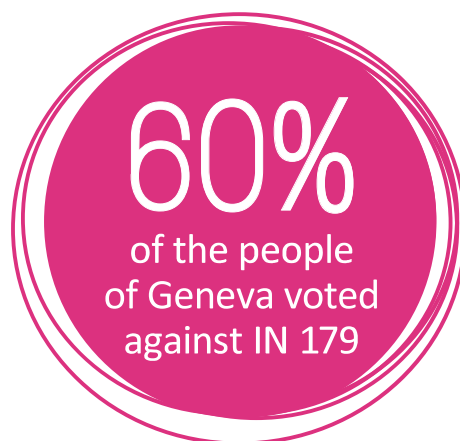
At the end of September 2022, the National Council decided to examine the draft bill. However, it did not read it article by article, but instead referred the matter back to the Committee. A majority of members of the People's Chamber felt that the text drafted by the National Council's Committee on the Economy and Indirect Taxation was too expensive and had no chance of being adopted in a referendum.



## ■ In Geneva

### **Cantonal Initiative 179:** **“Against the virus of inequalities...Let’s resist! Let’s end the tax privileges of large shareholders”**

On March 12, 2022, by just under 60% of the votes cast, the citizens of Geneva rejected Initiative 179 which sought to impose a 100% tax on the dividends earned by shareholders with an equity holding in excess of 10%. Had this proposal been adopted, it would have introduced double taxation of all dividends at cantonal level. That would have constituted an exception, as all the Swiss cantons provide relief from such double taxation. By this vote, the people of Geneva expressed their support for entrepreneurial activity and for their SMEs which are the backbone of the local economy.



### **Cantonal Initiative 185:** **“In favour of a temporary solidarity tax on wealthy individuals”**

On June 18, 2023, the citizens of Geneva will be called upon to vote on Initiative 185 entitled “In favour of a temporary solidarity tax on wealthy individuals.” This text provides for an increase of 0.5% on the current 1% tax on wealth in excess of CHF 3 million for a ten-year period. Moreover, the tax shield would be weakened to the extent that the minimum yield on the wealth to be taken into consideration for tax purposes would increase from 1 to 2%.

The Grand Council and Council of State oppose this text, it being noted that the Canton of Geneva exploits its fiscal potential more than any other Canton, and already has the highest marginal tax rate in Switzerland.

### **Cantonal Initiative 183:** **“For the abolition of the business tax”**

This initiative provides for the abolition of the municipal business tax (TPC) which is levied by the majority of Geneva municipalities and raises just under CHF 200 million for them annually.

In October 2022, the Grand Council opposed this initiative but came out in favour of a counter-proposal. The idea would be to replace the TPC by an additional cantonal profit tax, with the revenue raised being redistributed to the municipalities. That would enable the implementation in Geneva of the OECD’s fiscal reform which provides for a minimum 15% tax rate on profits.

At the end of March 2023, the Grand Council’s Tax Committee adopted a counter-proposal which abolishes the TPC. In exchange, this text provides for the introduction of an additional cantonal tax, the proceeds of which would be redistributed to the municipalities. The tax rate on profits would accordingly increase from 13.99% to 14.7%.

The plenary session of the Grand Council unanimously adopted this counter-proposal on May 11, 2023. If initiative 183 is withdrawn and without the launching of a referendum, the text will enter into force as it stands.

## ■ At international level

### OECD: corporate taxation

Based on its May 2019 road map, the OECD initially published a number of proposals designed to respond to the fiscal challenges raised by digitization of the economy. The draft was subsequently amended to include the largest multinational companies worldwide. The approach is based on two pillars:

- **First pillar: “Unified OECD approach”**

This pillar provides for an equitable distribution of the rights to tax the profits of multinational companies established in more than one country. The profit apportionment rules will accordingly be amended in favour of the States in which the consumers of goods and services are located. In exchange, all unilateral taxes on digital services will have to be abolished. This pillar is directed at all multinationals whose global turnover exceeds 20 billion euros and whose profitability exceeds 10%. The extractive industries (oil, gas and mining) as well as “regulated financial services” will be exempt.

- **Second pillar: “Global Anti Base Erosion (GloBE)”**

This section provides for the introduction of a minimum tax rate of 15% in order to combat tax base erosion. These rules are directed at multinationals whose annual turnover exceeds 750 million euros, including those operating in the field of finance. The tax base will be defined by the OECD rules referred to as GloBE.

On July 1, 2021, an agreement was reached on the major principles laid down for the two pillars and on the minimum rate of 15%. A joint declaration was endorsed by 130 countries (a figure that subsequently rose to 133 and then 138), including Switzerland.

The number of States that will introduce pillar 2 remains uncertain. The only ones that have already made a commitment to do so in 2024 are the EU Member States, the United Kingdom, Canada, Japan, Malaysia, South Korea and Switzerland.

The United States is one of the countries that approved pillars 1 and 2 in 2021. However, in August 2022 the US Congress adopted a “Corporate Alternative Minimum Tax” which diverges significantly from the OECD principles.

On June 22, 2022, the Federal Council adopted a Dispatch concerning the Federal Decree on specific taxation of large groups of companies. It proposes an additional tax to implement this reform in Switzerland. The Confederation would receive 25% of the revenue raised by the additional tax and would use these resources for the benefit of the Swiss economy. The remaining 75% would revert to the cantons and municipalities.

In late December 2022, the Federal Chambers adopted the solution proposed by the Federal Council. The Federal Decree will be put to a people’s vote on June 18, 2023.

The Federal Council simultaneously arranged a consultation on an initial Ordinance relating to minimum taxation. This sets out the additional taxes that Switzerland might levy on the basis of the GloBE rules. The taxation procedure will also have to be defined in an Ordinance. These Ordinances will remain in force until they are revoked by a federal law. The Federal Council will not have more than six years to draft such a law.

# Framework Conditions

## 4. Relations with the European Union

### ■ Bilateral relations with the EU

On May 26, 2021, the Federal Council announced that it did not intend to sign the Framework Agreement negotiated between Switzerland and the EU. The Government gave as its reason for this unilateral decision the fact that substantial divergences still existed on central points. The main reference here is to accompanying measures and the Directive on the rights of EU citizens.

In December 2022, the Federal Council published its report entitled “Assessment of Swiss-EU Relations”. This reviews the options available to our country, namely a free trade relationship, continuation of the bilateral approach, membership of the EEA and membership of the EU. It concludes that the bilateral approach remains the most favourable solution for Switzerland.

At the end of March 2023, following eight sessions of exploratory discussions and 19 technical discussions conducted by the Swiss and European delegations, the Federal Council decided the approach to adopt in the drafting of a negotiating mandate. The package approach proposed by the Government will serve as a basis for the discussions.

The intention is to prepare a full package comprising specific new agreements covering, in particular, electricity, food safety and health. This approach was preferred to a single horizontal agreement covering institutional matters, such as the transposition of laws, oversight and dispute settlement.

The Federal Council has instructed the Federal Department of Foreign Affairs (FDFA) to define the major features of the negotiating mandate by the end of June 2023.

The Financial Center insists on the need for cross-border banking services to be included among the topics for negotiation. Within the SBA, the banks have accordingly devised an approach based on a licence (or “specific to the institutions”). In essence, the proposal is that interested institutions should register with a central European authority (for instance the EBA or ESMA) in order to obtain a passport enabling them to actively provide banking and investment services throughout the EU. By registering, Swiss banks would undertake to comply with current European law when they provide services to clients domiciled in the EU.



**The Federal Council prefers a package approach to a single horizontal agreement for settling institutional issues with the EU**

### ■ Stock market equivalence: measure aiming to protect the Swiss stock market infrastructure

As a reminder, in June 2019 the EU refused to recognize the equivalence of the Swiss stock market. In order to address this situation, the Confederation activated a protective measure on July 1, 2019. More specifically, this Ordinance specifies an obligation to obtain recognition for foreign platforms that allow trading in the shares of Swiss companies; such recognition may be withheld by the Federal Council. This Ordinance has been extended until December 31, 2025.

On June 22, 2022, the Federal Council adopted a Dispatch addressed to Parliament with the aim of incorporating the Swiss stock exchange protective measure into ordinary law. The aim is to replace the current Ordinance by a federal law. However, the Federal Council’s ultimate objective is to secure unlimited recognition of stock market equivalence by the EU.

On February 27, 2023, the National Council unanimously approved this amendment to the Financial Market Infrastructure Act with the aim of incorporating the Swiss stock exchange protective measure into this Act.