



ESG Regulation in Switzerland - overview



KPMG Law Switzerland

Due to a rapidly evolving regulatory landscape and the increasing market demand, compliance with ESG principles has become a legal imperative for companies operating in Switzerland and around the globe. In fact, an increasing number of legal provisions impose strict ESG requirements and severe penalties for non-compliance. Legal departments are facing various challenges, such as managing climate risks, supply chain sustainability, shareholder activism and board accountability. KPMG Law Switzerland offers comprehensive support in ESG legal matters.

How KPMG Law can support you



Our expertise in social responsibility and corporate governance

Drawing on our wide range of expertise, we help your company comply with ethical standards and implement sustainable corporate governance and social systems.

We can assist you with:

- Preparing a company-specific legal overview with the regulations that are actually applicable to the company and to what extent (hard law / soft law).
- Establishing guidelines for compliance with the various obligations to avoid civil, administrative or criminal consequences and defining an adequate compliance structure so that the company does not take any incalculable or uncontrollable risks.
- Preparing the necessary documents (drafting of contracts, guidelines, policies, regulations, reports, management system, risk management plan etc.)

Environmental

- Federal Act on the Protection of Nature and Cultural Heritage (NCHA)
- Ordinance on the Protection of Nature and Cultural Heritage (NCHO)
- Environmental Protection Act (EPA)

Social

- Swiss Code of Obligations (and Ordinance)
- Labor Law
- Gender Equality Act (GEA)
- Swiss Federal Act on Data Protection (FADP)

Governance

- Transparency on non-financial matters (Swiss Code of Obligations)
- Swiss Federal Act against Unfair Competition (UCA)
- Swiss Federal Act on Cartels and other Restraints of Competition (CartA)
- Anti-Bribery Provisions (within Swiss Criminal Code)
- Anti-Money Laundering Act (AMLA)

01

Payments by commodity companies to government entities

- ▶ **What:** obligation to report on payments made to government entities
- ▶ **Deadline:** 2022 fiscal year
- ▶ **Who:** companies subject to ordinary audit, active in the extraction of minerals, oil or natural gas or in the harvesting of timber of primary forests
- ▶ **Exemptions:**
 - companies required to prepare consolidated financial statements (consolidated report on group payments)
 - Swiss company included in the group payments with another Swiss/ foreign company

- ▶ **How:**
 - List payments made to government entities from the production or exploitation of primary forests
 - Indicate the amount of payments to the various government entities for each specific project
 - If payment in kind, state the purpose, value, method of valuation and volume of the service

02

Child labor, mineral and metal extraction

- ▶ **What:** supply chain due diligence and reporting obligations
- ▶ **Deadline:** 2023 fiscal year
- ▶ **Who:**
 - companies circulating minerals containing tin, tantalum, tungsten or gold ,or metals from conflict-affected and high-risk areas (annual thresholds)
 - companies offering goods or services for which there is a reasonable suspicion of child labor (in particular goods or services from Asia, Africa or South America)

- ▶ **Exemptions:**
 - Minerals and metals: below certain thresholds
 - Child labor:
 - If no reasonable suspicion : document finding in a report
 - Exception for SMEs
 - Exception for low-risk companies
- ▶ **How:**
 - Duty of care: supply chain management system guaranteeing traceability
 - Annual report, published electronically, signed and approved by the highest management body and accessible for 10 years
 - Audit for minerals and metals

Fiscal 2022

Obligation to report on payments made to governments by commodity companies

Fiscal 2023

Duty of care and reporting on mineral and metal protection and child labor operations

Fiscal 2023

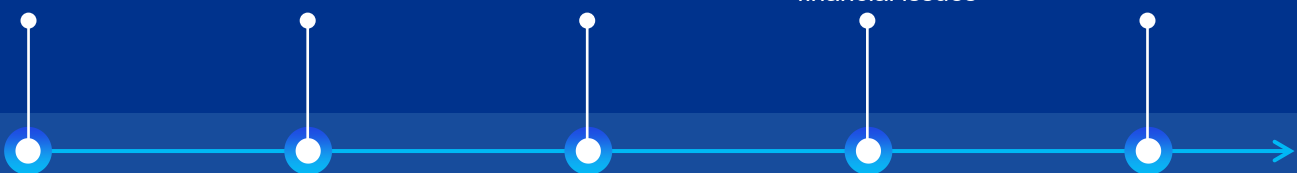
Obligation to draw up an annual report on non-financial issues

Fiscal 2024

Obligation to include a report on climate issues in the report on non-financial issues

To come (by 2050)

Obligation to reduce greenhouse gas emissions to net zero by 2050



03

Non-financial matters (environmental and social)

- ▶ **What:** obligation to draw up an annual report on non-financial matters
- ▶ **Deadline:** 2023 fiscal year
- ▶ **Who:** listed companies and certain companies under FINMA supervision reaching 500 employees and CHF 40m in sales or CHF 20m on the balance sheet
- ▶ **Coming soon:**
 - Lowering the threshold from 500 to 250 employees

- ▶ **How:**
 - Report on environmental, social, personnel, human rights and anti-corruption matters
 - Describe the measures taken, the due diligence procedures implemented and their effectiveness
 - Published electronically, signed and approved by the supreme management body and the body responsible for approving the annual financial statements (OGM) and accessible for 10 years
 - *Comply or explain*; if the company does not apply a concept with regard to some of the questions mentioned, it must provide a clear explanation of the reasons for its renunciation

04

Climate matters

- ▶ **What:** obligation to include a report on climate issues in the report on non-financial issues
 - ▶ **Deadline:** 2024 fiscal year
 - ▶ **Who:** companies required to produce an annual report on non-financial matters (see above)
- Recommendation:** implementation by SMEs on a voluntary basis (growing interest from investors, potential partners and stakeholders)

- ▶ **Coming soon:**
 - Switzerland's climate targets: net zero by 2050
 - Reduction of greenhouse gas emissions, with thresholds for the various sectors to be reached by 2040 and 2050.
 - **All companies** must reduce their emissions to reach net zero by 2050

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