International
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Legal Guides

Environmental, Social & Governance Law 2021

A practical cross-border insight into ESG law

First Edition

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1 Setting the Scene – Sources and Overview

1.1 What are the main substantive ESG-related regulations?

The general approach of the Swiss legislature and government is to rely on existing legal duties, transparency and market solutions. Nevertheless, over the recent past, there have been a number of ESG initiatives translating into rules and interpretations spanning climate change, social considerations and governance:

- The Swiss CO_2 Act: Switzerland ratified the Paris Agreement on climate change on October 6, 2017. In the wake of the ratification, the Swiss parliament revised the Swiss Act on greenhouse gas of December 23, 2011 (the "Swiss CO_2 Act"). The revision was adopted in September 2020. It is expected to become effective in 2022 subject to popular referendum, which was requested in January 2021. The primary objective of the revision is to establish the foundation for the Swiss climate policy for the next decades in line with the Paris Agreement. One of the goals of the new law is to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient developments. However, it does not (yet) integrate sustainability-related disclosures and regulations for climate-compatible investments (unlike the approach taken in the European Union). For further developments in this area, please see question 1.4 below.
- Climate Change and Prudential Supervision: The Swiss prudential regulator, the Financial Market Supervisory Authority ("FINMA"), monitors climate-related financial risks to which regulated financial institutions are exposed as part of its supervisory remit. Under the Swiss Federal Act on Banks and Savings Banks of November 8, 1934, regulated financial institutions are required to identify, assess and adequately deal with risks, including significant climate-related financial risks and, where necessary, to develop instruments and processes to address these risks.
- Consumer Protection: On the basis of the recently enacted Swiss Financial Services Act of June 15, 2018 ("FinSA") and the Swiss Code of Obligations governing advisory or asset management contracts, assets managers are duty-bound to inform their clients about financial risks, conduct a suitability analysis and manage the assets of their clients with due care. While FinSA is still in its infancy, legal commentators consider that such duties encompass an obligation to explain climate-related risks to clients (the scope of that obligation depends on the sophistication of the client) and to consider climate-related risks in the investment-making process, with potential liability exposure in case of negligent management. However, Swiss legal commentators generally do not yet recognise a duty of financial services providers to explore the client's preference in terms of sustainable finance.
- Public Pension Funds Investment Mandates: A number of Swiss Cantons require their public pension funds to integrate ESG criteria in their investment decision-making, either on the basis of a law or an investment regulation. At the federal level, it is now admitted that the scope of the fiduciary duties set out in the Federal Law on Occupational Old Age, Survivors' and Invalidity Pension Provision of December 20, 1946 allows for consideration of ESG considerations.
- Due Diligence Duties and Corporate Responsibility of Multinationals: Switzerland signed up to the UN Guiding Principles on Business and Human Rights in 2011. That led the Swiss government to adopt a four-year "National Action Plan" in 2016, a set of guiding principles on business and human rights, which was most recently updated in January 2020. The plan was heavily criticised by a coalition of non-governmental organisations, which submitted a popular initiative on corporate responsibility. (See question 1.4 below.)
- Transparency Obligations for Resources Extraction Companies: Under the reform of Swiss corporate law adopted in June 2020, Swiss companies that are subject to a full audit and, directly or indirectly, extract minerals, oil, natural gas or primary forest wood, will be required to publish annually a special report reporting each payment or series of payments made to governmental authorities (including government-controlled enterprises) in the aggregate amount of CHF 100,000 or more per financial year. This requirement will apply for the first time in respect of the financial year starting one year after January 1, 2021. Companies that do not extract but trade in natural resources will not be captured by the new transparency requirements. However, as part of an international concerted action, the Swiss government has authority to submit trading companies to the same transparency obligations.
- Executive Compensation: In 2013, the Swiss people adopted a popular initiative (the so-called "Minder initiative") in an effort to curb the perceived excesses in board and executive compensation. The Swiss government gave effect to the initiative by way of regulation (the Ordinance against Excessive Compensation in Listed Companies, or

"OaEC", effective January 1, 2014) pending the adoption of the corporate law reform in June 2020. Provisions of the OaEC will be rolled into the Swiss Code of Obligations effective in 2022. The provisions have come to represent the pivot of corporate governance for listed companies in Switzerland. They apply to corporations organised under Swiss law with stock listed on a Swiss or non-Swiss stock exchange. The hallmark of the initiative is a binding say-on-pay regime.

- Governance and Electoral Process: The OaEC regulates many corporate governance aspects of listed companies, setting the maximum term in office of board members and management (board members are up for re-election every year), banning golden parachutes, golden hellos and specified types of transaction bonuses, establishing the authority of the general meeting of the shareholders to elect each director individually (rather than *en bloc*) and to elect the chairman of the board, as well as the members of the compensation committee (displacing the authority of the board in this respect). The OaEC also requires Swiss pension funds to vote on specified corporate governance matters, including the election of directors, and to report annually as to how they exercise their voting rights.
- Gender Equality: In an effort to promote gender equality, the corporate law reform adopted in June 2020 introduces minimum target gender quotas under a "comply or explain" model. Specifically, the reform provides that women should account for at least 30% of the board of directors and at least 20% of executive management for large, publicly traded companies. Any such company that does not meet these provisions will be required to state in its remuneration report the reasons for such imbalance, and the actions that are being taken to improve the situation. The introduction of the quotas is subject to multi-year conformance periods. In addition, as further described in question 1.2 below, the Federal Act on Gender Equality of March 24, 1995 has been modified to include reporting obligations on wages.

1.2 What are the main ESG disclosure regulations?

The main disclosure obligations for companies listed on the SIX Swiss Exchange ("SIX") that underpin ESG investing and engagement in Switzerland are contained in the listing rules, the OaEC, and sector-specific disclosure obligations:

- Corporate Governance Disclosure: SIX issued the Directive on Information relating to Corporate Governance (the "DCG") and related guidance. The DCG mandates the inclusion of a "corporate governance section" in the annual report containing important information on management and control mechanisms at the highest corporate level.
- Executive Compensation Disclosure: Among other categories of information, the DCG mandates the inclusion of disclosure on compensation of board members and management. The corporate governance section must include basic principles and elements of compensation and shareholding programmes, together with a description of the authorities and procedures for setting board and executive compensation.
- Remuneration Report: The DCG is supplemented by the OaEC, which mandates the annual publication of a remuneration report presenting statistical information on the compensation of board members and management. This disclosure must be verified by an external auditor. Required to be disclosed are not only the aggregate amounts but also the comprehensive compensation packages of each of the board's members, as well as the highest total compensation package among the members of senior management. The DCG extends these disclosure requirements to all issuers with a primary listing on SIX, whether incorporated in Switzerland or not.
- Sustainability Report: Since 2017, SIX has made available to listed issuers an elective regime for the publication of an annual sustainability report. Issuers that decide to opt in are then required to compile a sustainability report in accordance with an internationally recognised standard. Permissible standards include (i) the Global Reporting Initiative, (ii) the Sustainability Accounting Standards, (iii) the UN Global Compact, and (iv) the European Public Real Estate Sustainability Best Practices Recommendations. SIX reviews the conformance of the annual sustainability reports with the chosen standards. Out of more than 250 listed companies, approximately 30 companies have opted in.
- Wage Equality: In July 2020, the Federal Act on Gender Equality of March 24, 1995 was modified to include reporting obligations on wage inequality. In broad terms, companies with 100 or more employees will be required to complete an equal-pay analysis every four years, the first by June 30, 2021 at the latest. The analysis must be audited by an independent, approved third party by the end of June 2022. The results of the analysis must be shared with the workforce and, if the company is listed, with its shareholders (in the appendix to the annual report).
- Transparency Obligations for Resources Extraction Companies: Please see question 1.1 above.
- Non-financial Reporting and Supply Chain Transparency Obligations: Please see question 1.4 below.
- General Disclosure Obligations: The recently enacted FinSA and its implementing ordinance regulate the content of prospectuses for primary and secondary offerings, as well as listings in Switzerland. In general terms, ESG risks, which are typically conceived as either physical or transition risks, should be disclosed insofar as they have an effect on the financial risk profile of an investment.
- No Taxonomy or Further Reporting Obligations: Other than as described above, Swiss corporations, including listed companies, are currently under no obligation to specifically report on ESG-related issues as a matter of Swiss law.

1.3 What voluntary ESG disclosures, beyond those required by law or regulation, are customary?

As SIX's opt-in regime is elective (please see question 1.2 above), SIX-listed companies remain free to omit any ESG disclosure (beyond the minimum content required as set forth in question 1.2 above) or alternatively to include sustainability topics in their annual report or to publish a separate sustainability report on their own without SIX review.

Broadly, there is still a large variance in the practice followed by SIX-listed companies that have not opted in, although the emerging trend points towards a reduction in the number of SIX-listed companies with no reporting on sustainability and an increase in companies reporting on responsibility or sustainability in their annual report disclosure. SIX-listed companies with separate sustainability reports (without opt-in) remain a minority. Similarly, there is a wide variety in ESG key performance indicators, or "KPIs", reported upon by SIX-listed companies.

1.4 Are there significant laws or regulations currently in the proposal process?

There have been two recent, significant developments:

- Swiss Responsible Business Initiative: This popular initiative, which was certified in October 2016, was intended to specify the due diligence obligations and liability standard of Swiss companies with respect to human rights and environmental standards. The initiative was rejected on November 29, 2020, paving the way for the counterproject adopted by the Swiss parliament to become effective, subject to a 100-day referendum period. The counterproject introduces reporting obligations for large, public interest companies on environmental and social matters that mirror the regime prevailing in the EU under Directive 2014/95/EU. It also introduces supply chain due diligence obligations modelled on the EU "Conflict Minerals" Regulation 2017/821 and extends these obligations to child labour. It is expected that if and when the counterproject becomes effective, there will be significant implementing regulation.
- Paris Agreement – Policy Alignment with the European Union: The centrepiece of current EU regulatory developments is the fast-paced Action Plan on Financing Sustainable Growth. In June 2020, the Swiss government published a report on sustainable finance taking position on a range of EU initiatives. On December 11, 2020, the Swiss government then announced that it would prepare binding implementation of the recommendations of the Task Force on Climate-related Financial Disclosures by Swiss companies in all sectors of the economy and that the State Secretariat for International Finance, in close cooperation with the Federal Office for the Environment, had been tasked with proposing by autumn 2021 any necessary amendments to the financial market legislation to prevent "greenwashing". The Swiss government made it clear in that announcement that international developments, especially in the EU, had to be taken into account to ensure that Swiss financial products remain exportable.

1.5 What significant private sector initiatives relating to ESG are there?

Switzerland has seen a multiplication and acceleration of private sector initiatives, in particular in the financial sector, a key contributor to the economy:

- Support for Sustainable Finance by Industry Groups: Among other initiatives, in September 2018, the Swiss Bankers Association announced that sustainable finance was one of its strategic priorities. The Swiss Bankers Association published its first ESG position paper in September 2019, which was then updated in June 2020. Together with the members of the Swiss Sustainable Finance ("SSF") working group, the Swiss Bankers Association also developed guidelines for the advisory process for private clients. In parallel, the Swiss Funds & Asset Management Association, together with SSF, published key messages and recommendations for its members in an effort to actively support asset managers when incorporating sustainability criteria into their investment process. Furthermore, a report published by the Swiss Insurance Association in June 2020 showed that private insurers apply sustainability criteria to an estimated 86% of their capital investments. In mid-2018, the Swiss Pension Fund Association incorporated sustainability factors into its Guidelines for Pension Fund Investments, a voluntary stewardship code.
- Voting Guidelines of Proxy Advisors: Homegrown proxy advisors, such as Ethos, have developed corporate governance and responsibility voting guidelines. Proxy advisors' recommendations carry substantial weight in Switzerland because, under the OaEC (please see question 1.1 above), Swiss pension funds are required to vote on specified corporate governance matters.
- Guidelines for Institutional Investors Governing the Exercise of Shareholder Rights in Swiss Listed Companies: These guidelines were published in January 2013 by Swiss trade associations and proxy advisers. These non-binding guidelines are aimed at institutional investors and intend to enhance good corporate governance by describing best practices for the exercise of shareholders' rights by institutional investors.

2 Principal Sources of ESG Pressure

2.1 What are the views and perspectives of investors and asset managers toward ESG, and how do they exert influence in support of those views?

An important market study published by SSF in June 2019 painted an ambivalent picture for the Swiss market:

- Record Growth in Sustainable Investments: The study shows that investors and asset managers significantly ramped up their sustainable investments. SSF estimated that total volume increased by 83% to reach CHF 716.6 billion in 2018, mostly among institutional investors.
- Swiss Market at a Crossroads? The portfolios of Swiss pension funds and insurance companies were reviewed to analyse their alignment with a two-degree climate goal in line with the Paris Agreement. Despite the record growth in sustainable investment, this analysis revealed that participating Swiss investors were aligned more closely with a four-to-six-degree scenario. This study was refreshed in 2020. While there has been further progress in the last three years, it appears that the Swiss financial market continues to have significant exposure to oil and coal production. According to the 2020 study, to set the Swiss financial market on the climate track, more measures are needed in all financial sectors.
- Ways in which Investors Exert Influence: Swiss investors resort to a panoply of approaches to exert influence. These can be broken down into pre- and post-investment decision approaches. The first category includes exclusions (*e.g.*, for companies active in fossil fuels) (increasing fast in 2018), norms-based screening (in particular against the UN Global Compact, also increasing fast), best-in-class selection (which remained at a modest level in 2018), and ESG integration (*i.e.*, the explicit and systematic inclusion of ESG considerations in investment analysis and investment decision-making, the approach most frequently adopted among Swiss investors and asset managers in 2018). Pre-investment decision approaches also encompass impact investing and sustainable thematic investments (both relatively modest in 2018). Post-investment decision approaches include ESG voting and ESG activist engagement (increasing rapidly in Switzerland in 2018).

2.2 What are the views of other stakeholders toward ESG, and how do they exert influence in support of those views?

One key stakeholder in Switzerland is the banking industry. As the umbrella organisation of the Swiss banks, the Swiss

Bankers Association lobbies for the removal of existing regulatory hurdles in Switzerland and levelling the playing field for sustainable investment products.

In its two-prong strategy, the Swiss banking industry group first encourages its members to sign up to international transparency efforts on risks resulting from ESG factors, to integrate sustainability principles into various areas of the banking business (including lending practices), to participate in voluntary climate compatibility tests, and to expand the offering of green, sustainability and other ESG instruments. Second, the Swiss Bankers Association lobbies for framework conditions intended to promote sustainable investments via improved transparency, better market access, up-to-date investment rules for institutional investors, and tax reliefs.

The pandemic and rescue financing of the airline companies Swiss and Edelweiss and related suppliers, one of the most hotly debated topics in 2020, provided a crucible for ESG considerations. Forty-six organisations and political parties put in an open letter to the Swiss government arguing that any rescue financing should be accompanied by conditions with clear climate objectives. In May 2020, the Swiss parliament agreed a near CHF 2 billion global rescue backstop financing. Unlike in France, the financing, however, did not have any environmental conditions attached to it in light of the strategic importance of the aviation industry for Switzerland.

2.3 What are the principal regulators with respect to ESG issues, and what issues are being pressed by those regulators?

Aside from popular initiatives, which have been a key contributor to ESG regulatory developments in Switzerland over the years (please see questions 1.1 and 1.4 above) and the Swiss government (Federal Council), the principal regulator for ESG issues is FINMA. FINMA monitors climate-related financial risks as part of its prudential supervisory remit. Governance of regulated financial institutions is also subject to strict scrutiny from FINMA from a regulatory perspective. In the first half of 2020, FINMA stepped in to stop banks from distributing dividends in order to preserve their capital basis in light of the impact of COVID-19. In addition, in April 2019, the Swiss National Bank and FINMA joined the Network for Greening the Financial System, which aims to assess the relevance of climate risks on a macro level and promote the implementation of best practices.

2.4 Have there been material enforcement actions with respect to ESG issues?

FINMA can open investigations and enforcement proceedings to remedy failings from a regulatory point of view. Enforcement proceedings, however, are confidential unless FINMA determines that public information is necessary from a prudential point of view. There is thus little publicity around enforcement actions.

2.5 What are the principal ESG-related litigation risks, and has there been material litigation with respect to ESG issues, other than enforcement actions?

In broad terms, Switzerland does not have a litigious culture. Swiss law favours shareholder accountability of the board of directors to address agency issues (please see question 1.1 above) over liability claims (there are virtually no cases of directors' individual liability claims outside the bankruptcy context). In the financial industry, Swiss law emphasises quick and inexpensive mediation in conflicts that may arise between a provider of financial services and its clients (via the institution of so-called ombudsman offices). Furthermore, Swiss law does not recognise the concept of class actions, often making it uneconomical for shareholders, clients or other stakeholders to support the cost of a lawsuit.

By way of example, in 2019, the Zurich commercial court dismissed claims for damages linked to the emissions-rigging scandal initiated by a consumer group against the German car manufacturer Volkswagen and Swiss importer AMAG. The Zurich commercial court had already refused to hear a separate collective action by the same consumer group seeking to establish that Volkswagen and AMAG had misled buyers and violated Swiss law.

2.6 What are current key issues of concern for the proponents of ESG?

Corporate governance has been front and centre of the ESG debate for many years in Switzerland (please see question 1.1 above). Over the recent past, climate change has emerged as the next key topic and one of the main areas of concern. The Swiss government and FINMA are devoting significant time and resources in the evaluation of a framework for sustainable investments that are geared towards climate change.

3 Integration of ESG Into Business Operations and Planning

3.1 Who has principal responsibility for addressing ESG issues? What is the role of the management body in setting and changing the strategy of the corporate entity with respect to these issues?

In the governance framework of Swiss listed companies, the board of directors has the core duty of setting the overall strategy and organisation of the company (fulfilment of that duty cannot be delegated to management), while management has primary responsibility for the day-to-day implementation:

- In practice, given the critical importance of ESG matters, including in terms of reputation, the board's duty to set the overall strategy of the company will often also encompass the duty to develop the long-term ESG strategy of the company. The board is usually responsible for adopting the relevant policies to achieve its strategies, working with management to identify which ESG issues are most pertinent to the company's business and key stakeholders, to oversee the development of appropriate goals, and to monitor the implementation of policies and processes.
- It is not unusual for ESG monitoring and planification tasks to be allocated to a special committee of the board. It typically ensures that the board is well informed as to ESG considerations and gives advice on sustainability measures and emerging ESG trends. It can also monitor the company's performance against select indices and review material, non-financial issues affecting the company's financial performance, as well as the material interests of the company's shareholder base and other significant stakeholders.
- Management sets the objectives to be achieved in order to implement the board's overall strategy, monitors their achievement and generally reports to the board on these issues. In turn, management of large companies often have their own committees dedicated to overseeing ESG issues (*e.g.*, on global sustainability, roundtable issues, the World Health Organization's code of compliance, and group compliance).

3.2 What governance mechanisms are in place to supervise management of ESG issues? What is the role of the board and board committees?

Swiss listed companies with a developed ESG policy typically have in place a combination of governance mechanisms. These include bottom-up reporting protocols, clear lines of duties and allocation of responsibilities, as well as tailored KPIs. In line with the Swiss model of corporate governance, the board fulfils a supervisory role, especially concerning material risks that may affect the financial performance of the company, and is often aided by a nomination or governance and sustainability committee in that role (please see question 3.1 above).

3.3 What compensation or remuneration approaches are used to align incentives with respect to ESG?

There is still a wide variety of approaches. A number of listed companies ostensibly do not take into account ESG achievements when setting executive compensation. At the other end of the spectrum, some companies allocate a numerical weight to ESG topics in the executives' pay-for-performance scorecards (for example, achievement of non-financial strategic goals could represent 40% of overall performance-based compensation and ESG topics could be 20% of that), although what these ESG topics are can be broadly defined. Some other companies report a qualitative approach. For example, a number of companies indicate that ESG topics are considered at various stages of the compensation determination process, whether that is the setting of objectives, the funding of a performance award pool, performance assessment or compensation decisions, or that the compensation committee factors in ESG objectives when proposing bonuses.

3.4 What are some common examples of how companies have integrated ESG into their day-to-day operations?

Common examples include sensitising employees on sustainability strategy and rewarding employees for good work, due diligencing contracting parties, including suppliers or services providers (across the board), sounding key investors on ESG topics, adopting ESG-related policies, creating internal committees, hiring consultants, and enhancing transparency with key stakeholders.

4 Finance

4.1 To what extent do providers of debt and equity finance rely on internally or externally developed ESG ratings?

Market participants that offer sustainable financial products in Switzerland usually rely on internally developed or external ESG ratings in an effort to evaluate the ESG impact of their financial products or services. However, it should be noted that there are no generally accepted standards or best practice methods in Switzerland for ESG ratings.

An external ESG rating is necessary for bonds listed on SIX to be classified as green or sustainable bonds. The ESG aspects of such bonds have to be reviewed by an external auditor. Furthermore, bonds issued by the Swiss Confederation are externally rated with regard to sustainability aspects.

4.2 Do green bonds or social bonds play a significant role in the market?

There are no official definitions of the terms "green bond", "social bond" or "sustainability bond" in Switzerland. In practice, issuers often adopt the terminology of the International Capital Market Association ("ICMA") Guidelines. Under that terminology, "green bonds" are bonds that (re-)finance environmental projects, while "social bonds" (re-)finance social projects. If a bond finances both green and social projects, it is usually called a "sustainability bond" (together with green bonds and social bonds, the "ESG bonds"). However, SIX, the main marketplace for listed bonds in Switzerland, only distinguishes between green and sustainability bonds.

As of October 5, 2020, a total of 39 green bonds and one sustainability bond were listed on SIX, with aggregate principal value of approximately CHF 14.7 billion. Consequently, ESG bonds do not yet play a significant role in the Swiss market.

4.3 Do sustainability-linked bonds play a significant role in the market?

Sustainability bonds do not yet play a significant role in the Swiss market. As of October 5, 2020, there was only one sustainability bond listed on SIX, which had a principal amount of CHF 100 million.

4.4 What are the major factors impacting the use of these types of financial instruments?

The main factors driving volumes of ESG bonds are primarily increased investor demand for sustainable finance instruments on the one hand, and higher issuance costs on the other hand. ESG bonds often carry a higher coupon than normal bonds and are associated with additional implementation costs for monitoring the use of proceeds. Moreover, issuance levels of ESG bonds may be affected by the absence of a binding regulatory framework in Switzerland (please see question 4.5 below), which may create uncertainty for issuers and investors alike. It is noteworthy that the offer and choice of sustainable finance instruments have increased in the last few years in order to meet increased investor demand.

4.5 What is the assurance and verification process for green bonds? To what extent are these processes regulated?

There is no binding framework regulating the verification of ESG bonds in Switzerland as yet. However, the disclosure requirements for prospectuses pursuant to FinSA require the disclosure of the material risks associated with financial instruments that are offered to the public or admitted to trading on a Swiss trading venue, including as to verification.

In the absence of binding regulation in Switzerland, issuers of ESG bonds often adhere to non-binding international standards, such as the Green Bond Principles or the Social Bond Principles of ICMA, which include, among other things, a recommendation to the issuer to conduct an external audit. Adherence to such international standards is mandatory for listed bonds to be flagged as green or sustainable bonds by SIX.

5 Impact of COVID-19

5.1 Has COVID-19 had a significant impact on ESG practices?

It is still relatively early to assess whether COVID-19 has had the effect of displacing or delaying ESG goals of Swiss listed companies. Many Swiss companies have not yet reported on the full impact of COVID-19. Also, a substantial proportion of companies conducted their annual general meetings "behind closed doors" in 2020. From the point of view of the international investor community, which is particularly relevant for Swiss companies given their international footprint, there is, however, evidence that investors continue to focus on ESG topics, with a number of global asset managers intimating that the pandemic would not derail their plan to hold companies accountable on climate change objectives and governance issues.

6 Trends

6.1 What are the material trends related to ESG?

Material trends on the fast-moving ESG scene include:

- Climate Change: The Swiss government and the financial sector have declared that they are committed to a sustainable Swiss financial centre, with a focus on the environment as an immediate priority. Switzerland plans to submit its long-term climate strategy to the UN climate secretariat in early 2021, thus fulfilling one of the terms of the Paris Agreement (Art. 4.19). The starting point for the long-term climate strategy is the net zero emissions target for 2050, which the Federal Council adopted in August 2019. The strategy shows emission paths for different areas – transport, building, industry, waste, agriculture and food as well as financial markets – so that it can address key sectors in a targeted way. These emission paths refer to the Energy Perspectives drawn up by the Federal Office of Energy and published in late November 2020. Taking a range of scenarios, they show emission pathways towards net zero emissions, the necessary technological developments for attaining this target and the role played by negative emissions technologies.
- Transparency: Investors have expressed the concern that the difference in reporting standards, coupled with the fact that they are voluntary, allows companies to cherry-pick data. On September 22, 2020, the International Business Council of the World Economic Forum ("WEF") released a set of universal ESG metrics and disclosures to measure stakeholder capitalism.
- International Harmonisation: Switzerland is currently closely monitoring recent developments internationally, in particular in the European Union. There are now a number of platforms and networks where experiences and approaches can be discussed and methodological support provided. Their aim is to ensure that the strategies are as ambitious, well designed and internationally comparable as possible. One example is the 2050 Pathways Platform, in which almost 30 countries, including Switzerland, are now involved.

6.2 What will be the longer-term impact of COVID-19 on ESG?

Echoing the international debate, ESG proponents have been sharpening the social lens. In March 2020, the UN Principles for Responsible Investment exhorted investors to engage with companies that are failing to protect employees' safety or their financial security. Similarly, in April 2020, the WEF endorsed six stakeholder principles for the COVID-19 era, including keeping employees safe, securing shared business continuity with suppliers and customers, ensuring fair prices for essential supplies, offering full support to governments and society, and maintaining the long-term viability of companies for shareholders. As COVID-19 is having a profound impact on how businesses organise their operations and workforce and the impact that the pandemic may have on certain categories of employees, it is likely that social considerations will continue to garner increased attention.

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