Switzerland

GLASS LEWIS

2025 Benchmark Policy Guidelines

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Guidelines Introduction

These guidelines are intended to supplement Glass Lewis' *Continental Europe Benchmark Policy Guidelines* by highlighting the key policies that we apply specifically to companies listed in Switzerland and the relevant regulatory background to which Swiss companies are subject, where they differ from Europe as a whole. Given the growing convergence of governance regulations and practices across companies subject to European Union rules and directives, although we recognise that Switzerland is not subject to EU laws since it is not a member, Glass Lewis combined its general approach to Continental European companies in a single set of guidelines, the *Continental Europe Benchmark Policy Guidelines*, which set forth the underlying principles, definitions and global policies that Glass Lewis uses when analysing Continental European companies.

While our approach to issues addressed in the *Continental Europe Benchmark Policy Guidelines* are not repeated here, we will clearly indicate in these guidelines when our policy for Swiss companies deviates from the *Continental Europe Benchmark Policy Guidelines*.

Corporate Governance Background

The legally-binding requirements for publicly-listed Swiss companies are primarily based on the Swiss Code of Obligations, which was initially approved on March 30, 1911.

Best practices for corporate governance are regulated by the Swiss Code of Best Practice for Corporate Governance (CBPCG), first adopted by a special panel commissioned by the SWX (now SIX) Swiss Exchange on March 25, 2002 and last reviewed in 2023.

The CBPCG operates on a comply-or-explain basis, whereby a thorough and acceptable explanation for a deviation from the provisions of the Swiss Code may be provided in lieu of compliance. As a result, Swiss companies remain relatively free to depart from some central tenets of the CBPCG.

Although Switzerland is not a member of the European Union, many Swiss best practices are based on pan-European principles. While we note that Swiss corporate governance does have some unique features, we believe that best practices broadly align with Continental European standards.

Regulatory Updates

Legal Updates

Following the March 2013 approval of a federal popular initiative, commonly referred to in English as either the Minder Initiative or the referendum "against rip-off salaries", the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*) includes additional provisions intended to protect the Swiss economy, private property, the shareholders of Swiss companies and promote sustainable corporate governance practices.

While Swiss companies initially had to comply with these requirements via a Transitional Provision (VegüV), the requirements were fully incorporated into the revised Swiss Code of Obligations as of January 1, 2023. Companies have until January 1, 2025 to fully adapt their articles of association to these and other changes.

The revised Code of Obligations, in fact, also includes new elements affecting shareholder rights. Notably, these include a lower threshold for shareholders to call a general meeting or add items to the agenda, rules on convening virtual meetings, and the so-called "capital band", a new type of proposal authorising companies to increase or decrease share capital by a defined percentage.

Additionally, the Swiss Parliament approved a counterproposal to the so-called Responsible Business Initiative ("RBI"), which had been filed by a public coalition in November 2016. The original bill foresaw the ability for third parties to hold Swiss domiciled companies, and their boards, accountable for events related to environmental and social misconduct occurring throughout the company's global supply chain, with the burden of proof being reversed from the plaintiff to the company. As the original RBI bill was rejected in a referendum held in November 2020, a counterproposal was reviewed and implemented in January 2022.

Pursuant to the new law, publicly-listed companies domiciled in Switzerland have to publish annual reports on ESG aspects. In particular, companies are required to describe their overall approach to environmental and social issues, any due diligence measures taken in this regard and their respective effectiveness, as well as the main environmental and social risks to which the companies are exposed. Companies are required to offer shareholders a vote on the non-financial report from the 2024 AGM. Currently, Swiss law does not prescribe whether the vote on the non-financial report has to be offered on an advisory or binding basis. On June 26, 2024, the regulator opened a consultation process on potential amendments to Swiss law, with the aim of increasing the alignment of the Swiss requirements on non-financial reporting with the latest EU regulations. The proposed amendments include a provision indicating that the vote on non-financial reporting was intended as binding; however, this text is still under consultation and has not been implemented into law so far.

Further, in November 2022, the Swiss parliament adopted a Climate Ordinance, effective from January 2024. This ordinance mandates that large public companies, banks, and insurers disclose both climate-related financial risks and the environmental impact of their activities.

Corporate Governance Updates

In 2023, economiesuisse, a corporate union, released an updated version of the CBPCG. This revision not only aligns the CBPCG with the recently updated Code of Obligations but also provides guidance on other areas, such as ESG-related matters emphasizing that sustainable business practices involve considering the interests of various stakeholders and pursuing economic, social, and environmental objectives holistically.[1]

The new CBPCG outlines a specific role for the board of directors in shaping the corporate culture. Specifically, board of directors should foster a corporate culture that promotes entrepreneurship, integrity, long-term thinking, and responsibility, while encouraging open communication and providing mechanisms for employees to report irregularities without fear of reprisals.[2] The role of the board of directors is further expanded to foster

[1] Preface of the Swiss Code of Best Practice for Corporate Governance (CBOPCG).

[2] Article 12 of the CBPCG.

dialogue with shareholders and key stakeholders on important matters and incorporate their key concerns in planning and decision-making processes.[3]

The revised CBPCG highlights that the compensation policy should not only serve to reward the board of directors, executive committee, and employees for their performance but also to motivate them to perform in alignment with the objectives of sustainable corporate development and the long-term growth of the company.[4]

The revised CBPCG puts forward a broadened concept of diversity for the composition of the board of directors to include not only gender but also competences, experience, age, background, and origin.[5]

The updated CBPCG provides detailed recommendations for handling conflicts of interests board members and the executive committee. The revised CBPCG expands the recommendation to inform the board chair in case of conflict of interest to also include the cases of proximity of interests.[6]

Finally, the revised CBPCG underlines the accountability of the board of directors for maintaining effective and efficient internal control systems, risk management, compliance, financial monitoring, and data handling.[7]

Summary of Changes for 2025

Glass Lewis evaluates these guidelines on an ongoing basis and formally updates them on an annual basis. This year we have made noteworthy revisions in the following areas, which are summarised below but discussed in greater detail in the relevant sections of this document:

Appointment of Auditor

We have added a new section to these guidelines to outline the regulations governing the appointment of the statutory auditor in Switzerland and our benchmark voting policies regarding the appointment of auditor. In particular, we have emphasised that, according to our benchmark policy, companies with long-tenured audit firms should provide detailed disclosure regarding the audit tender processes and a compelling justification supporting the board’s decision-making in this regard.

[3] Article 8 of the CBPCG.
[4] Article 39 of the CBPCG.
[5] Article 13 of the CBPCG.
[6] Article 19 of the CBPCG.
[7] Article 28 of the CBPCG.

A Board of Directors that Serves the Interests of Shareholders

Election of Board of Directors

Under Swiss law, a company is governed by a single board that may be comprised of some executive members, but should consist of mostly non-executive members.[8] A Swiss company may choose to separate the oversight and management roles of the Company's leadership by excluding executive members from the board of directors and forming a separate executive committee. Even if a company establishes an executive committee, the board of directors is always entrusted with the direction of a company and other oversight functions.[9] As a result, a two-tier board system is not strictly possible under Swiss law. Nevertheless, it is not uncommon that Swiss companies, in effect, separate the functions of the board of directors from the executive duties carried out by an executive committee.

Independence

In Switzerland, we typically categorise directors based on an examination of the type of relationship they have with the company:

[8] Article 15 of the Swiss Code of Best Practice for Corporate Governance (CBPCG).
[9] Article 716a of the Swiss Code of Obligations (CO).

Independent Director[10] — An independent director has no material,[11] financial, familial[12] or other current relationships with the company,[13] its independent auditor, executives, or other board members, except for board service and standard fees paid for that service.

Affiliated Director — An affiliated director has a material financial, familial or other relationship with the company, its independent auditor, or its executives, but is not an employee of the company.[14] This may include directors whose employers have a material relationship with the company or its subsidiaries or major shareholders.

We typically consider directors affiliated if they:

- Have — or have had within the past three years — a material relationship with the company, either directly or as a partner, shareholder, director or senior employee of an entity that has such a relationship with the company;[15]
- Have been employed by the company within the past five years;
- Receive fees that significantly exceed other directors on the company's board and the boards of its peers;

[10] Article 15 of the CBPCG states that an independent director is a non-executive member of the board of directors who was never, or was not within the past three years, a member of the executive management, and who has no comparatively minor business relation with the company.

[11] Per Glass Lewis' *Continental Europe Benchmark Policy Guidelines*, "material" means a relationship in which the value exceeds: (i) CHF 50,000 (or 50% of the total compensation paid to a board member, or where no amount is disclosed) for board members who personally receive compensation for a professional or other service they have agreed to perform for the company, outside of their service as a board member. This limit would also apply to cases in which a consulting firm that is owned by or appears to be owned by a board member receives fees directly; (ii) CHF 100,000 (or where no amount is disclosed) for those board members employed by a professional services firm such as a law firm, investment bank or large consulting firm where the firm is paid for services but the individual is not directly compensated. This limit would also apply to charitable contributions to schools where a board member is a professor, or charities where a board member serves on the board or is an executive, or any other commercial dealings between the company and the board member or the board member's firm; (iii) 1% of either company's consolidated gross revenue for other business relationships (e.g., where the board member is an executive officer of a company that provides services or products to or receives services or products from the company); (iv) 10% of shareholders' equity and 5% of total assets for financing transactions; or (v) the total annual fees paid to a director for a personal loan not granted on normal market terms, or where no information regarding the terms of a loan have been provided.

[12] Per Glass Lewis' *Continental Europe Benchmark Policy Guidelines*, familial relationships include a person's spouse, parents, children, siblings, grandparents, uncles, aunts, cousins, nieces, nephews, in-laws, and anyone (other than domestic employees) who shares such person's home. A director is an affiliate if the director has a family member who is employed by the company.

[13] A company includes any parent or subsidiary in a group with the company or any entity that merged with, was acquired by, or acquired the company.

[14] If a company classifies a non-executive director as non-independent, Glass Lewis will classify that director as an affiliate, unless there is a more suitable classification (i.e., shareholder representative, employee representative).

[15] Article 19 of the CBPCG states that board members should avoid conflicts of interests that may jeopardise their independence to safeguard the company's interests. If a board member has personal interests that affect the interest of the company or has to safeguard such interests for third parties, the member should inform the board chair. In case of conflicts of interests, the board of directors or a member designated by it should take measures based on the severity of the conflict to maintain independent safeguarding of the company's interests.

- Serve as chair of the board of directors and receive fees that align with those of Named Executive Officers;
- Have served on the board for more than 12 years;[16]
- Own or control 10% or more of the company's share capital or voting rights;[17]
- Have close family ties with any of the company's advisers, directors or employees; and/or
- Hold cross-directorships or have significant links with other directors through their involvement with other companies.[18]

Inside Director — An inside director is a shareholder representative that simultaneously serves as a director and as an employee of the company. This category may include a board chair who:

- Is a member of the executive committee, appears to have substantial involvement in operating decisions, or is designated as an executive chair;
- Appears to serve in this position on a full-time basis or is designated as a "Full-time Chair"; and/or
- Receives performance-based remuneration, to which other non-executive members of the board are not entitled.

Voting Recommendations on the Basis of Board Independence

Glass Lewis believes a board will be most effective in protecting shareholders' interests when at least a majority[19] of the directors are independent. Where 50% or more of the members are affiliated or inside directors, we recommend voting against some of the inside and/or affiliated directors in order to satisfy the majority threshold. However, we accept the presence of representatives of significant shareholders in proportion to their equity or voting stake in the company.

We refrain from recommending to vote against any directors on the basis of lengthy tenure alone. However, we may recommend voting against certain long-tenured directors when lack of board refreshment may have contributed to poor financial performance, lax risk oversight, misaligned remuneration practices, lack of shareholder responsiveness, diminution of shareholder rights or other concerns. In conducting such analysis, we will consider lengthy average board tenure (e.g., more than 9 years), evidence of planned or recent board refreshment, and other concerns with the board's independence or structure.

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[16] EU Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board. Annex II. Article 1 (h). Though Switzerland is not party to the EU, we believe that this requirement represents best practice in developed European markets. While we will classify board members as affiliates in accordance with this standard, we will evaluate voting recommendations based on this issue on a case-by-case basis.

[17] Per Glass Lewis' *Continental Europe Benchmark Policy Guidelines*, we view 10% shareholders as affiliates because they typically have access to and involvement with the management of a company that is fundamentally different from that of ordinary shareholders. More importantly, 10% holders may have interests that diverge from those of ordinary holders, for reasons such as the liquidity (or lack thereof) of their holdings, personal tax issues, etc.

[18] Article 15(2) of the CBPCG states that in the event of "cross-involvement" the independence of the member in question should be carefully examined by the board of directors on a case-by-case basis.

[19] Article 15 of the CBPCG states that at least a majority of directors should be non-executives. We note, however, that Section 4(B.b) of Circular 2017/1 of the Swiss Federal Banking Commission requires that at least one-third of the board of a banking entity consist of non-executive directors who are independent from the company's management, auditors, major business partners and major shareholders.

Glass Lewis strongly supports the appointment of an independent presiding or lead director with authority to set meeting agendas and lead sessions outside the insider or affiliated chair's presence. In accordance with best practice, we believe boards should appoint an independent lead director when the chair is an insider, especially when the board is insufficiently independent.

Voting Recommendations on the Basis of Committee Independence

We believe that company insiders should not serve on a company's audit and compensation committees. Further, we believe a majority of the members of these committees should be sufficiently independent from the company and its significant shareholders.[20] In addition, we will recommend voting against any audit committee chair who (i) is also the chair of the board of directors, unless a cogent reason is given[21] or (ii) is not independent of the company.

We believe a majority of the members of the nominating committee should be sufficiently independent of company management and other related parties.[22] However, we accept the presence of insider board chairs on the nominating committee in accordance with market practice in Switzerland. We also accept the presence of representatives of significant shareholders on this committee in proportion to their equity or voting stake in the company.

Other Considerations for Individual Directors

Our policies with regard to performance, experience and conflict-of-interest issues are not materially different from our *Continental Europe Benchmark Policy Guidelines*. The following is a clarification regarding best practice recommendations in Switzerland:

External Commitments

Glass Lewis generally recommends shareholders vote against directors serving on an excessive number of boards and on this point, our policies are not materially different from our *Continental Europe Benchmark Policy Guidelines*. We note that in Switzerland however, each company must identify in its articles of association how many external mandates a director may hold.[23]

In accordance with our *Continental Europe Benchmark Policy Guidelines*, we typically recommend shareholders vote against a director who:

- Serves as an executive officer[24] of any public company while serving on more than one additional external public company board; or

[20] Article 22 of the CBPCG states that the audit committee should consist of non-executive and independent members.
[21] Article 22 of the CBPCG states that the audit committee chair should not also serve as board chair.
[22] Article 25 of the CBPCG states that the nominating committee should consist predominantly of non-executive and independent members.
[23] Article 95(3)c of the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*) and Art. 626(2)1 of the CO.
[24] This policy applies to directors that serve in the top executive team of a publicly-listed company (i.e., executive committee, management board, etc.).

- Serves as a 'full-time' or executive member of the board[25] of any public company while serving on more than two additional external public company boards; or
- Serves as a non-executive director on more than five public company boards in total.

We will count non-executive board chair positions at European companies as two board seats given the increased time commitment generally associated with these roles.

Further, as executive directors will presumably devote their attention to the company where they serve as an executive, we will generally not recommend that shareholders vote against the election of a potentially overcommitted director at the company where they serve in an executive function. Similarly, we will generally not recommend that shareholders vote against the election of a potentially overcommitted director at a company where they hold the board chair position, except where the director:

- Serves as an executive officer of another public company; or
- Holds board chair positions at three or more public companies; or
- Is being proposed for initial election as board chair at the company.

Nevertheless, we adopt a case-by-case approach on this issue, as described in our *Continental Europe Benchmark Policy Guidelines*.

Board Structure and Composition

Our policies with regard to board-level risk management oversight and board diversity are not materially different from our *Continental Europe Benchmark Policy Guidelines*. The following is a clarification regarding best practice in Switzerland.

Role of the Board Chair

In Switzerland, the role, responsibilities, and time commitment of the board chair varies considerably between companies. Particularly in cases where the compensation of the chair suggests that their role may be akin to an executive or full-time position or where a company is proposing the election of a new board chair, we believe that shareholders benefit from explicit and forward-looking disclosure on the nature of the board chair's role.

Where the compensation of the board chair suggests that this role may be akin to an executive or full-time position and the information provided on the nature of the board chair's role is insufficient to allow an analysis of the appropriateness of this compensation, we may recommend that shareholders vote against the reelection of the nominating committee chair.

Where companies provide information on the role, responsibilities and time commitment of the board chair, this will be taken into consideration in our analysis of the proposed composition of the board and the board chair's compensation.

[25] This policy applies to directors that serve on a board in a 'full-time' or executive capacity without further defined responsibilities within the executive team (e.g., executive chair that is not a member of the executive committee, or a non-executive chair that serves in the role in a full-time capacity).

The Code of Best Practice for Corporate Governance states that when the role of board chair and CEO are held by the same person, an independent lead director should be appointed.[26] While there is no regulation in Switzerland mandating that the two roles should remain separate, best practice is increasingly moving to separation of the two roles. When Swiss companies combine the positions of board chair and CEO or when the board chair is considered to be an inside director, and the board is not sufficiently independent and/or the board has failed to appoint a lead independent director, we will generally recommend voting against the nominating committee chair.

Nevertheless, we adopt a case-by-case approach on this issue, and we will evaluate whether the Company has implemented additional safeguards to ensure independent oversight of the board of directors. In Switzerland, the vice chair of the board may often hold additional powers similar to the powers of a lead independent director. If the board has not specifically designated any of its independent members as lead independent director, we will take into account the vice chair's independence and their additional responsibilities as disclosed in the board's governing policies. Additionally, we will consider the overall independence of the board of directors, and we may grant exemptions if all other board member are considered independent.

This approach is in line with our *Continental Europe Benchmark Policy Guidelines*, and in consideration of prevailing best practice in Switzerland.

Board Diversity and Skills

The CBPCG recommends that a company's board of directors should aim for diversity in its members with regard to competences, experience, gender, age, background and origin.[27] In line with our *Continental Europe Benchmark Policy Guidelines*, we generally expect the boards of all main market companies, listed in the Swiss Performance Index ("SPI"), to not be composed solely of directors of the same gender. Further, we generally expect gender diverse directors[28] to comprise at least 30% of the boards of SMI and SMIM companies. Where a proposed board election does not align with these targets, we will generally recommend that shareholders vote against the chair of the nominating committee (or equivalent).

We will generally provide exceptions to these policies to boards consisting of four or fewer members where a company provides compelling disclosure as to why it has failed to ensure gender balance on the board. Further, we will take into account recent progress made to improve board diversity while maintaining the required balance of board skills and refreshment, when accompanied by a commitment to address the gender gap in upcoming election cycles.

Since 2021, Swiss companies are subject to comply-or-explain gender diversity targets, pursuant to which each gender should account for at least 30% of the board of directors and 20% of the executive committee. If targets are not achieved, companies will be required to include an explanation in the compensation report detailing the reasons for which the targets were missed and the measures in place to increase the representation of the under-represented gender.[29] While companies are not required to report on achievement against these targets

[26] Article 18 of the CBPCG.
[27] Article 13 of the CBPCG.
[28] Women, and directors that identify with a gender other than male or female.
[29] Article 734f of the CO.

for the board of directors and executive committee until 2026 and 2031, respectively,[30] we believe that a voluntary early adoption by Swiss companies would align with European best practice. Additionally, the CBPCG encourages the board of directors to implement measures in its personnel and succession planning efforts to promote underrepresented genders in both the board of directors and the executive committee.[31]

We will also provide an explicit assessment of skills and experience of nominees to the board of directors for all SMI companies. The purpose of this assessment is to provide further insight into the board refreshment process and allow for a more in-depth assessment of the composition of the board. We may utilise potential skills gaps to underline specific concerns with board or company performance and to assist case-by-case decisions when applying board election policies. Furthermore, where a board has not addressed major and continued issues of board composition, including the composition and mix of skills and experience of the nonexecutive element of the board, we will consider recommending voting against the chair of the nominating committee or equivalent as appropriate.

In our analysis of the proposed composition of the boards of directors of all Swiss companies, we assess whether a company has disclosed meaningful information on skills and diversity at board level, and whether a company has set measurable board-level gender diversity targets, in line with developing best practice. While the presence and quality of disclosure in this regard, standing alone, will not impact on voting recommendations, it may be taken into consideration when assessing concerns with a board's overall composition, performance, or its refreshment process.

Board Member and Candidate Disclosure

Article 15 of the CBPCG stipulates criteria to determine whether a director can be considered independent and most Swiss companies provide such an assessment of the independence of the board's directors against these criteria or a set of criteria developed and disclosed by the company.

Given that the disclosure of an independence assessment has become prevalent market practice in Switzerland and Europe, we may consider recommending against the reelection of the nominating committee chair in cases where shareholders have not been provided with an independence classification of incumbent board members. Further, we may also recommend that shareholders vote against the reelection of the nominating committee chair if disclosure of the backgrounds and relevant qualifications of incumbent and proposed board members is substantially below market practice. This shall apply in particular in cases where the board fails to maintain current and detailed curriculum vitae of its incumbent and proposed members, or fails to disclose personal and business relationships between board candidates and a company's corporate bodies and/or shareholders with a material interest.

[30] Article 4 of the Transitional Provisions to the Amendments.

[31] Article 13 of the CBPCG.

Board Oversight of Environmental and Social Issues

Glass Lewis believes that companies should ensure that boards maintain clear oversight of material risks to their operations, including those that are environmental and social in nature[32]. Accordingly, for large-cap companies and in instances where we identify material oversight concerns, Glass Lewis will review a company's overall governance practices and identify which directors or board-level committees have been charged with oversight of environmental and/or social issues.

We will generally recommend voting against the governance committee chair (or equivalent) of companies listed on the SMI index that fail to provide explicit disclosure concerning the board's role in overseeing material environmental and social issues.

Board Committees

Our policies with regard to the formation of committees and committee performance are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Swiss boards are recommended to set up separate audit[33] and nominating committees;[34] most Swiss companies comply. However, as outlined in our *Continental Europe Benchmark Policy Guidelines* and as stipulated in article 21 of the CBPCG, small-cap companies may refrain to set up an audit and/or nominating committee, since the functions assigned to such committees may be performed by the board as a whole. We recognise this is a valid alternative for companies with small boards;[35] however, when this is the case, we will generally expect companies to provide an explicit rationale for the decision and we will expect the board as a whole to meet the composition requirements we would generally seek in the relevant committee. Accordingly, we believe that boards that contain executive directors should at least establish a separate audit committee consisting solely of non-executive directors.

Compensation Committee

Compensation committees are mandatory in Switzerland and subject to a separate, individual election.[36] Further, a company must outline the duties and responsibilities of its compensation committee in the articles of association.[37] We generally recommend that shareholders vote for proposals to define the duties and responsibilities of the compensation committee in the articles of association so long as such provisions do not contradict Swiss law, Glass Lewis' guidelines, and general principles of good governance.

While shareholders have the right to vote on the prospective composition of the compensation committee in Switzerland, planned amendments to other board committees are often not disclosed until after the board's

[32] Article 9 of the CBPCG stipulates that the board should take employees, business partners, customers, society and the environment into account in its decisions.

[33] Article 22 of the CBPCG.

[34] Article 25 of the CBPCG.

[35] Generally three to five members, as defined in the *Continental Europe Benchmark Policy Guidelines*.

[36] Article 37 of the CBPCG, Article 698(2)3(2) of the CO, and Article 95(3)a of the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*).

[37] Article 733(5) of the C0.

initial meeting following the general meeting. Where the board has clearly disclosed its intentions with regard to post-AGM committee composition, we will take this into consideration in our analysis of the board of directors.

Audit Committee

For an audit committee to function effectively on investors' behalf, it must include members with sufficient knowledge to diligently carry out their responsibilities. We believe that companies should clearly outline the skills and experience of the members of the audit committee, and that shareholders should be wary of audit committees that include members that lack the requisite expertise.

With regard to the composition and expertise represented in the audit committee, the CBPCG recommends the audit committee chair should not also chair the board of directors. Further, the CBPCG recommends that the majority of audit committee members, including the chair, should be experienced in financial and accounting or auditing matters.[38] In addition, audit committee members should have relevant competences in the areas of compliance, risk management or non-financial reporting depending on the company's risk profile and needs.[39]

When we have been unable to determine the representation of such expertise on the audit committee through the director biographies and disclosure provided by a company, we may recommend that shareholders vote against the re-election of the audit committee chair and/or other committee members standing for re-election.

Election Procedures

Our policies with regard to election procedures are not materially different from our *Continental Europe Benchmark Policy Guidelines*. According to Swiss law, the board chair and all directors must be elected individually by shareholders at the annual general meeting for terms that may not exceed one year.[40] Additionally, members of the compensation committee must be elected on an annual, individual basis.[41]

If a nominee is up for election to both the board and the compensation committee, we will generally recommend voting against both election proposals wherever a concern regarding the director's performance on the committee, the independence of the committee or any other concern would lead to an against recommendation based on our guidelines.

[38] Article 22 of the CBPCG
[39] *Ibid.*
[40] Article 95(3)a of the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*).
[41] *Ibid*.

Transparency and Integrity in Financial Reporting

In Switzerland, shareholders are asked to vote on a number of proposals regarding the audited financial statements, the appointment of auditor[42] and the allocation of profits or dividends[43] on an annual basis. Our policies with regard to these matters are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Accounts and Reports

As a routine matter, Swiss company law requires that shareholders approve a company's annual and consolidated financial statements, within the six months[44] following the close of the fiscal year, in order for them to be valid.[45]

Non-Financial Reporting

Following the revision of the Code of Obligations, effective since January 1, 2023, Swiss law requires publicly-listed companies with more than 500 full-time employees to disclose additional non-financial information on material ESG aspects.[46]

Specifically, a company's non-financial report will need to comprise the following:

- A description of the policies adopted in relation to environmental, social and employee issues, as well as human rights and corruption, including any due diligence applied on these matters;
- A presentation of the measures taken to implement the aforementioned policies and an assessment of their effectiveness;
- A description of the main risks related to these issues and how the company is dealing with them, covering in particular: (i) risks arising from the company's own business operations and (ii) risks arising from its business relationships and its products and services, provided these are "relevant and proportionate".[47]

Furthermore, with regard to climate-related matters, companies will also be subject to a separate Climate Ordinance, effective from January 2024.

On each of the above points, companies will have to comply with the disclosure requirements or provide a justification for the lack of disclosure (comply-or-explain basis).[48]

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[42] Article 698(2.2) of the CO.
[43] Article 698(2.4) of the CO.
[44] Article 699(2) of the CO.
[45] Article 698(2.3) of the CO.
[46] Article 964a of the CO and Article 964b(1) of the CO.
[47] Article 964b(1 and 2) of the CO.
[48] Article 964b(5) of the CO.

Companies may opt to utilise national, European or international reporting frameworks, as long as the aforementioned disclosure requirements are fulfilled.[49]The CBPCG recommends companies be guided by internationally recognized standards and rules as appropriate.[50] With regard to climate-related issues, the Climate Ordinance stipulates that companies reporting in line with the TCFD framework will be considered in compliance with the relevant requirements.[51]

While external assurance is not a legal requirement, the CBPCG recommends external audits on the report and the integration of this process into the internal controls of the company.[52]

Further reporting and due diligence obligations apply to companies that, throughout their supply chain, source metals and minerals from conflict areas or source raw materials or goods from areas where there may be a risk of child labour.[53]

Companies will have to offer shareholders a separate vote on the non-financial report at the annual general meeting, commencing from the meetings to be held in 2024 on reporting year 2023.[54] While the law does not specify the legal effects of the vote, companies remain liable of fines in case of false statements, omissions or negligence in producing the non-financial report.

We will generally recommend that shareholders vote for proposals to approve a company's non-financial reporting, unless any of the following apply: (i) the company has failed to make the report publicly-available with sufficient time for shareholder review prior to the general meeting;[55] (ii) the company has failed to provide a sufficient response to material controversies in its reporting; (iii) there are material concerns regarding the completeness and/or quality of the reporting; or (iv) the company is listed on a blue-chip or mid-cap index and has failed to disclose its Scope 1 and 2 emissions.[56]

In addition, for large-cap companies and in instances where we identify material ESG oversight concerns, we will review the manner in which the board oversees ESG issues. In instances where the board has failed to provide explicit disclosure concerning its role in overseeing material ESG issues, we may recommend that shareholders vote against the approval of the company's non-financial reporting in addition to, or instead of, a recommendation to vote against accountable directors.[57]

[49] Article 964b(3) of the CO.
[50] Article 34 of the CBPCG.
[51] Article 3 of the Ordinance on Climate Disclosures.
[52] *Ibid.*
[53] Articles 964d and 964j of the CO. According to Article 6 of the Provision on Due-Diligence in the Supply Chain, this requirement only applies to companies with more than 250 full time employees.
[54] Article 964c of the CO.
[55] We generally believe that relevant disclosures should be made publicly available at least 21 days prior to a general meeting. Where the report has not been made available with sufficient time for shareholder review, we will generally recommend that shareholders abstain from voting on the report.
[56] Article 964b of the Swiss Code of Obligations require companies to report on a number of non-financial issues, including CO_2 emissions. This policy will apply to companies listed on the Swiss SMI or SMIM indices.
[57] Please refer to the "Board-Level Oversight of Environmental and Social Risk" section of these guidelines.

Appointment of Auditor

In Switzerland, the general meeting must approve the appointment of the statutory auditor.[58] The auditor's responsibilities include carrying out the financial audit, reviewing the proposed allocation of profits, verifying the existence of a risk-control system and, if applicable, auditing the compensation report.[59]

To maintain independence and impartiality, auditors need to rotate the lead audit partner at least every seven years.[60]

Our policies regarding the appointment of the auditor do not differ materially from our *Continental Europe Benchmark Policy Guidelines.* Swiss companies are not legally required to seek annual shareholder approval of the authority to set auditor fees. However, in line with our *Continental Europe Benchmark Policy Guidelines*, we believe transparency regarding the breakdown of fees paid to the auditor for audit and non-audit services is critical for shareholders' ability to assess an auditor's relationship with a company.

In addition, although Swiss law does not require regular audit firm rotation, we acknowledge the significance of preserving the independence and objectivity of audit firms by conducting periodic evaluations and considering potential modifications to audit mandates.

Accordingly, we may recommend shareholders vote against the (re-)appointment of the proposed auditor firm when companies do not provide disclosure on the tender process of the audit contract, and/or a timeline for tendering the audit contract, and/or a compelling justification for not having conducted a tender, especially when the audit firm's tenure exceeds 20 years.[61] In determining whether shareholders would benefit from rotating the company's audit firm, we may consider other factors indicating potential concerns with the performance of the auditor.

Independent Proxy

Shareholders at all Swiss companies must approve the appointment of an independent proxy on an annual basis.[62] Glass Lewis views this as a routine voting item and will recommend shareholders support such proposals. We believe all shareholders who will not attend the meeting in person should carefully consider whether they wish to either use the proposed independent proxy to act on their behalf, or to appoint an independent proxy of their choice.

[58] Article 698(2) of the CO.
[59] Article 728a(2) of the CO.
[60] Article 730a(2) of the CO.
[61] We will only apply this policy from 2026.
[62] Article 95(3)a of the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*) and Article 689c(1) of the CO.

Authorising a Proxy to Vote on Ad Hoc Proposals

In Switzerland, shareholders may be asked to authorise a proxy to vote on any new proposals presented by shareholders or the board of directors which are not included in the agenda for the meeting. We generally recommend that shareholders abstain from voting on any potential additional or amended shareholder proposals, and oppose any potential additional or amended board proposals.

The Link Between Compensation and Performance

Following the March 2013 approval of the Minder Initiative — also known as the referendum "against rip-off salaries" — public companies headquartered in Switzerland or that have shares traded on Swiss exchanges must comply with stringent constitutional requirements regarding the compensation of both executive and board members. Most notably, certain payments to executives are prohibited by Swiss law and shareholders are required to approve executive and board compensation.

With the exception of these issues, which are described below, our policies regarding executive compensation are not materially different from those outlined in our *Continental Europe Benchmark Policy Guidelines*.

Contents of Compensation Report

As a result of the legal structure outlined above, Swiss companies must draw up annual compensation reports which are subject to the reporting principles and accounting provisions applicable to companies' annual reports and financial statements.[63] The compensation report must similarly be audited by a company's independent auditor, and both the report and the auditor's findings must be published and available to shareholders at least 20 days prior to a company's annual general meeting.[64] While the Swiss Code of Best Practice for Corporate Governance includes some broad principles and guidelines for the drafting of a compensation report, these are considerably less prescriptive than the specific legal requirements to which most Swiss companies are subject.

A company's compensation report must include all direct and indirect payments to current members of the executive committee, the board of directors and the advisory board during the year under review.[65] The report must also include all payments made to former members of these corporate bodies if said payments relate to individuals' previous employment, though this excludes pension payments, disability insurance and life insurance.[66] All awards received by members of these corporate bodies — which include a base salary, bonus payments, equity awards, in-kind benefits, pension expenses and payments for additional services — must be included in the compensation report,[67] and the total remuneration paid to each member of the board of directors and the advisory board must be disclosed on an individual basis.[68] Further, the compensation report should provide details of total compensation paid and granted to the executive committee as a whole and the details of payments made to its most highly paid member.[69]

Similarly, a compensation report must include individualised information regarding outstanding loans and credit granted to members of these corporate bodies, as well as individualised information regarding outstanding

[63] Article 734 of the CO.
[64] Article 734(3) of the CO.
[65] Article 734a(1)(1-3) of the CO.
[66] Article 734a(1)(4) of the CO.
[67] Article 734a(2) of the CO.
[68] Article 734a(3)(1, 3) of the CO.
[69] Article 734a(3)(2) of the CO and Article 42 of the CBPCG.

loans and credit granted to former members of these corporate bodies, when said arrangements were not made in accordance with market standards.[70]

Additionally, the compensation report must include information regarding direct and indirect payments made to parties closely related to members of the executive committee, board of directors and advisory board if said payments are not made in accordance with market standards,[71] though when documenting these transactions, the identities of the related parties need not be given.[72] Where directors have received significant payments through related party transactions or loans not made in accordance with market standards and their identities are not disclosed, we may recommend voting against the compensation committee chair.

Following the adoption of the new Code of Obligations, the compensation report needs to include, among other things: (i) external mandates of executive committee members;[73] (ii) disclosure related to the comply-or-explain gender diversity targets for executive and non-executive directors;[74] and (iii) participation rights and option of such rights (currently to be displayed in financial statements).[75]

Compensation Elements Governed by Law and Articles of Association

Board members and executives in Switzerland are prohibited from receiving severance packages, sign-on bonuses, payments in advance, or transaction bonuses related to the takeover or transfer of business units.[76] However, we note that the following payments continue to be allowable under the law: (i) termination payments which executives are owed upon termination under a maximum notice period of one year; and (ii) payments made upon joining a company to compensate for the loss of compensation from a previous employer ("replacement awards" or "buy-outs").[77] Where such payments are made, Glass Lewis will carefully evaluate the terms thereof and believe shareholders should expect a reasonable level of disclosure to be provided by companies.

According to the updated Code of Obligations, post-termination non-competition payments must be capped at the executive's average total annual compensation for the three preceding fiscal years.[78] We expect companies to clearly disclose the terms of any non-compete agreements with members of the executive committee and provide meaningful disclosure on any proposed changes to such agreements.

Companies have to amend their articles of association in order to codify the compensation payable to members of the executive committee, board of directors and advisory board. Such provisions must include a description of the principles governing the allocation of performance based and/or equity-based incentives.[79] Where a

[70] Article 734b(1) of the CO.
[71] Article 734c(1) of the CO.
[72] Article 734c(2) of the CO.
[73] Article 734e of the CO.
[74] Article 734f of the CO.
[75] Article 734d of the CO.
[76] Article 95(3)b of the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*) and Article 735(c) of the CO.
[77] Article 735c(4) of the CO.
[78] Article 735c(2) of the CO.
[79] Article 95(3)c of the Swiss Constitution.

company seeks to amend these provisions, Glass Lewis will carefully evaluate such amendments. Loans, credits, pension payments, and any performance-based compensation or equity payments and options are also forbidden if not governed by a company‘s articles of association.[80]

Best Practice Disclosure

In addition to the above requirements and recommendations, Glass Lewis will consider the general alignment of the compensation report of a Swiss company with international best practice.

In particular, we recognise that Swiss companies often disclose the compensation of non-CEO executives on aggregate, due to the requirement outlined above, which mandates individual disclosure only for the company's highest-paid executive. Nonetheless, we find the absence of individual remuneration disclosure for the whole executive committee to represent a deviation from international best practice. As such, where pay is disclosed only on aggregate for other executives than the highest-paid executive, we expect a company to at least disclose the exact amount of extraordinary individual allocations, if present (e.g., one-off bonuses, replacement awards, non-competition payments, payments for interim roles).

Moreover, Swiss companies often disclose the value of long-term awards in terms of grants made during the reporting year, while disclosure of the value of long-term awards vested during the reporting year is not always present. Glass Lewis believes providing this information would better serve shareholders' interests and foster the transparency of the incentive system.

Votes on Executive Compensation

Binding Amounts

In Switzerland, all annual meetings must hold separate votes on the compensation of the executive committee, the board of directors,[81] which are both annual[82] and binding.[83] Outside of these provisions though, companies have some freedom in choosing how to conduct compensation votes at annual meetings. A company’s articles of association must describe the company’s procedures regarding how compensation votes are held,[84] specifically whether votes on aggregate compensation amounts are prospective or retrospective in character. In the case of variable compensation, prospective votes define a maximum budget payable during an upcoming fiscal year; retrospective votes approve levels of compensation based on executives’ attainment of performance objectives.

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[80] Article 735c(7-8) of the CO.

[81] Article 735(3)2 of the CO and Article 95(3)a of the Swiss Constitution (*Bundesverfassung der Schweizerischen Eidgenossenschaft*). While the same provision applies also to advisory boards, such boards are rarely present at Swiss listed companies.

[82] Article 735(3)1 of the CO.

[83] Article 735(3)3 of the CO.

[84] Art. 626(2)4 and 735(2) of the CO.

Glass Lewis believes shareholders are better served when companies offer retrospective votes on variable executive compensation given that these votes allow for a more meaningful review of the pay-for-performance link. Where a company opts for prospective votes on executive compensation, we will consider the overall compensation structure, the appropriateness of individual incentive limits and past granting practices before recommending in favour of the aggregate executive compensation amount. Further, Glass Lewis believes that shareholders asked to approve compensation on a prospective basis may reasonably expect particularly comprehensive disclosure including the intended breakdown of the amount between the different compensation elements and a discussion of the determination process leading to the total figure.

Additionally, we note that the calculation of a maximum variable compensation budget for the purpose of a prospective binding vote may account for the maximum value of long-term award *grants*, rather than the maximum payout opportunity of long-term awards *at vesting* (conversely, the value of short-term incentives is always included as maximum payout opportunity). In the interests of transparency and comparability, we believe accounting for a long-term incentive at maximum payout opportunity is preferable; however, should a company opt to account for a long-term incentive at maximum grant value, we believe this should be clearly disclosed in the Notice of Meeting.

"Zusatzbetrag"

If a company opts to submit executives' compensation for approval prospectively, the articles of association may include guidance on the allocation of specific additional compensation (*"Zusatzbetrag"*) for external appointments to the executive committee that may occur[85] after a prospective vote; this additional amount is designated for use on an interim basis, until such time as a vote can be held at the following annual general meeting.[86] We believe it is more appropriate for shareholders to express any concerns regarding an executive's compensation at the annual general meeting following the individual's appointment, so that the pay-performance link can be evaluated in a more meaningful manner.

Compensation Report

Companies may opt to continue holding advisory votes on their compensation practices in addition to the aforementioned binding votes. Glass Lewis believes that offering a separate advisory vote on the compensation report is in the best interests of shareholders. In our view, such a vote is better suited for shareholders to express their concerns regarding the overall executive compensation system by taking a broader view of a company's compensation policies.

Additionally, pursuant to the updated Code of Obligations, since 2023, companies offering the vote on variable executive compensation on a fully prospective basis are mandated to also hold the advisory vote on the compensation report.[87]

Glass Lewis will continue to analyse companies' compensation practices and policies as presented in the compensation report even if shareholders are only presented with votes on executives' aggregate compensation, regardless of whether such votes are prospective or retrospective in nature. Where a company

[85] Art. 735a(1) of the CO.
[86] Article 735a of the CO.
[87] Article 735(3)4 of the CO.

has provided shareholders with a non-binding vote on the compensation report, we will generally focus our analysis of the binding proposal on the appropriateness of the amount requested, using the non-binding proposal to address concerns with the overall compensation structure.

Best Practice Recommendations

Glass Lewis evaluates Swiss companies' say-on-pay proposals pursuant to policies that do not deviate materially from our *Continental Europe Benchmark Policy Guidelines*. The Swiss Code of Best Practice sets out very general recommendations for best practices regarding executive compensation, emphasising the following guidance:[88]

- Executive compensation policies should include fixed and variable components with a focus on medium and long-term sustainability;
- Variable executive compensation may be linked to compliance or sustainability indicators;
- The board of directors should provide for share-based compensation in order to align executives' interests with those of long-term shareholders. In case the board decides to award deferred cash-based payments, the board should take appropriate performance criteria into account;
- Incentive payments should be reduced or canceled if targets are not met;
- Employment contracts may provide for clawback provisions;
- Pay amounts should be set in consideration of the location of the company and in consideration of its stakeholders; and
- The compensation report should describe in detail the main criteria and mechanisms used in assessing and evaluating the variable elements of compensation.

When assessing an executive compensation system, its disclosure and any amendments proposed or implemented during the year, absent any egregious practice or deviation from the aforementioned requirements, we will focus our recommendation on the overall "direction of travel" demonstrated by the company, i.e., the effect of changes in relation to best practice, the improvement or deterioration of disclosure.

Further, in line with our *Continental Europe Benchmark Policy Guidelines*, we expect companies to explicitly respond to any significant shareholder dissent to any compensation proposals from the prior year's general meeting.

Conditional Capital Reserved for Equity-Based Compensation

In Switzerland, shareholders do not directly vote on equity compensation plans, but rather are asked to approve the underlying authority to increase the company's conditional share capital.[89] As described above, the terms and conditions of equity awards are defined in a company's articles of association. Any amendments to plan structures must be accomplished through a separate vote on amending a company's articles.

[88] Articles 39 through 42 of the CBPCG.
[89] Article 653 of the CO.

Companies may also acquire the necessary shares through a repurchase programme, or through capital increases. In most cases, Swiss companies opt for an increase in conditional capital, which may be valid for a period of up to five years and must be included in a company's articles of association.[90] In order to protect shareholders from excessive dilution, we generally expect authorities for the purpose of servicing equity-incentive plans to fall under 5% of a company's total issued share capital for executives, or under 10% of issued share capital for all participants (if other employees are included) in line with established market practice.

[90] *Ibid*.

Governance Structure and the Shareholder Franchise

In Switzerland, shareholders are asked to approve proposals regarding a company's governance structure, such as the ratification of board acts and amendments to the articles of association. While we have outlined the principal characteristics of these types of proposals that we encounter in Switzerland below, our policies regarding these issues are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Ratification of Board Acts

Pursuant to Swiss law, shareholders can release board members from liability with respect to a specific period of time or a particular business transaction.

The discharge from liability is binding for those shareholders who voted in favour of the proposal and can hinder legal claims against board members. In fact, it protects directors against claims for damages even though such claims are based on willful misconduct, fraud or criminal offences. However, directors can still be liable towards third parties under criminal law. Furthermore, the discharge is valid only with respect to facts that have been fully disclosed.

Shareholders who did not approve the ratification of board acts or who acquired shares following the ratification can file claims against the board within 12 months from the adoption of the relevant proposal.[91]

In accordance with best practice in Switzerland, we believe that the ratification of board acts should be presented as a separate voting item for each individual board member in cases where there are known shareholder concerns regarding the board or an individual member's performance during the past fiscal year. In cases where we would have recommended that shareholders vote against the ratification of an individual board member, but shareholders are only provided with the opportunity to ratify the board as a whole, we will generally recommend that shareholders oppose ratification for the entire board.

In cases where we believe that ongoing investigations or proceedings may cast significant doubt on the performance of the board in the past fiscal year, but that the potential outcome of such investigations or proceedings is unclear at the time of convocation of the general meeting, we will generally recommend that shareholders abstain from voting on such ratification proposals. In cases where abstain votes are neither counted as valid votes cast nor displayed in the minutes of general meetings, we will generally recommend that shareholders vote against ratification proposals under the aforementioned circumstances.

Absent compelling evidence that the board has failed to satisfactorily perform its duty to shareholders in the past fiscal year, we generally recommend that shareholders approve ratification proposals.[92]

[91] Article 758 of the CO.

[92] Recommendations on the ratification of board acts are taken on a case-by-case basis. The general conditions for recommendation against such proposals are detailed in our *Continental Europe Benchmark Policy Guidelines*.

Restrictions on Transferring Shares/Number of Votes

The articles of association of many Swiss companies allow for entrenched management by limiting the number of registered shares that may be transferred, by setting a limit beyond which the shareholder cannot register their shares, or by limiting the number of votes that a shareholder can represent, irrespective of the number of shares they may own.

Additionally, the articles of association of some Swiss companies specify shareholders may be restricted in the number of votes they may represent at a general meeting.[93] In accordance with our *Continental Europe Benchmark Policy Guidelines*, we recommend that shareholders vote against any proposal that increases restrictions on shareholders.

Right of Shareholders to Call a Special Meeting

Following the adoption of the amended Code of Obligations, shareholders holding at least 5% (previously: 10%) of a company's share capital are entitled to call a shareholder meeting; however, lower thresholds may be set in a company's articles of association.[94] When a company's board proposes to lower this threshold, we will generally recommend supporting the proposal.

Virtual Meetings

Pursuant to the revised Code of Obligations, companies are granted more flexibility in the organisation of the general meeting. In particular, the revised Code of Obligations allows companies to convene a general meeting on a virtual-only basis by utilising electronic means. In order to avail of this option, Swiss companies must first receive shareholder approval for amending its articles of association accordingly.[95]

Following the implementation of the required amendment to the articles of association, the general meeting can be held without a physical meeting place.[96]

In that case, the board will have the authority to determine the usage of electronic means required to participate in the meeting.[97] In addition, the board will be required to ensure that the identity of the participants is verified, that votes are transmitted in real-time, that shareholders are able to submit motions and participate in discussions, and that voting results cannot be manipulated.[98]

Glass Lewis unequivocally supports companies facilitating the virtual participation of shareholders in general meetings. We believe that virtual meeting technology can be a useful complement to a traditional, in-person

[93] Article 692(2) of the CO.
[94] Article 699(3) of the CO.
[95] Article 701d(1) of the CO.
[96] *Ibid*.
[97] Article 701e(1) of the CO.
[98] Article 701e(3) of the CO.

shareholder meeting by expanding participation to shareholders who are unable to attend a meeting in person (i.e., a "hybrid meeting").

With regards to virtual-only shareholder meetings, we believe that clear procedures should be set and disclosed to ensure that shareholders can effectively participate in the meetings and meaningfully communicate with the company's management and directors.

Our policies regarding virtual shareholder meetings do not differ materially from our *Continental Europe Benchmark Policy Guidelines*.

Disclosure of General Meeting Vote Results

Glass Lewis believes that access to detailed vote results from general meetings is important for shareholders in conducting their stewardship duties. Specifically, we believe that the disclosure of vote results assists shareholders in gaining a better understanding of the outcome of general meetings, establishing engagement priorities, and tracking companies' responses to material (minority) shareholder dissent on any of the agenda items. We believe that the non-disclosure of vote results can serve to disenfranchise minority shareholders, in particular at companies with a multi-class share structure or a controlling shareholder.

In Switzerland, the disclosure of vote results from a shareholder meeting represents an established best practice. Accordingly, we would note a concern in our analysis of the composition of boards of directors at companies that did not disclose vote results from their previous annual meeting. At companies listed on the SMI or SMIM index that did not disclose vote results from their previous annual meeting, we would generally recommend that shareholders vote against the re-election of the chair of the governance committee or equivalent (i.e., board chair or Lead Independent Director).

However, according to the revised Code of Obligations, since January 2023 Swiss companies have been mandated to disclose vote results, in exact percentages, within 15 days of the annual general meeting.[99]

[99] Article 702(5) of the CO.

Capital Management

In Switzerland, shareholders are rarely asked to approve share or convertible bonds issues, or to repurchase and reissue shares. More frequently, shareholders have been asked to approve a pool of authorised, but unissued, shares, which the board could use at its discretion. Following a revision of Swiss law effective since January 1, 2023, shareholders may be asked to approve a so-called “capital band” to authorise the board to decrease or increase a company’s share capital within certain limits. Authorities to increase share capital on a conditional basis, such as in conjunction with issuances of debt instruments or to service equity incentive plans, may exist on a standalone basis or integrated into the aforementioned capital-band authority. While we have outlined the principle characteristics of these types of proposals that we encounter in Switzerland below, our policies regarding these issues are not materially different from our *Continental Europe Benchmark Policy Guidelines*.

Capital Band

According to the revised law, shareholders may delegate the power to increase and/or decrease the share capital to the board.[100] Notwithstanding the aforementioned, shareholders must approve the length of the authority, which cannot exceed five years,[101] and the range of the capital band. Pursuant to the law, in fact, the capital band must contain a limit on potential capital increases which cannot exceed 50% of the issued share capital at the time of the approval, and a limit on potential capital reductions which also may not exceed 50% of the issued share capital at the time of the approval.[102]

In line with our *Continental Europe Benchmark Policy Guidelines*, we will generally recommend voting against any authority to issue shares for general corporate purposes which does not preserve preemptive rights above 20% of current issued share capital; further, we believe all general authorities to issue shares should have a common cap. Accordingly, we will recommend voting against any capital band authority allowing for share issuances without preemptive rights exceeding 20% of the share capital at the time of the issuance. In assessing the potential dilution to existing shareholders, we would take into account that, within the flexibility granted by the new capital band, companies may choose to first reduce their share capital down to the limit set in the proposed authority and only afterwards issue new shares without preemptive rights. With this second transaction, however, the company would be able to increase its share capital up to the original ceiling of the capital band, which was determined at the time of the authority approval and therefore based on the company’s share capital prior to the reduction. As a consequence, the capital increase could effectively result in a higher dilution to existing shareholders compared to the maximum upward percentage initially set out in the capital band proposal.

We may grant exceptions to this policy if companies provide a commitment that issuances without preemptive rights are nevertheless capped at 20% of the share capital at the time of any issuance across all previously existing or proposed capital authorities (including conditional capital authorities, but excluding authorities reserved for unique purposes such as equity incentive plans).

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[100] Article 653s(1) of the CO.
[101] Article 653s(1) of the CO.
[102] Article 653s(2) of the CO.

Conditional Capital

In conjunction with issuances of convertible debt instruments with options to convert into shares, or other types of share option grants, a company may request that shareholders approve a conditional increase in share capital in order to fulfill the company's obligations to bond or option holders. Swiss companies may also propose conditional capital authorities in order to provide access to shares to be issued under equity-based compensation plans for executives (see "Conditional Capital Reserved for Equity-Based Compensation").

Authorities to conditionally increase a company's share capital may be integrated into the capital-band authority or be implemented on a standalone basis.

We note that pursuant to Swiss law, the conditional increase in the share capital cannot exceed 50% of the existing share capital.[103] In line with our *Continental Europe Benchmark Policy Guidelines*, we recommend voting against any conditional capital proposal that does not preserve preemptive rights for share issues in excess of 20% of current issued capital. Glass Lewis will recommend voting against any proposal that does not explicitly extend a 20% cap on share issues without preemptive rights to general authorities to issue shares previously existing and/or proposed at the meeting, other than those reserved for unique purposes such as equity incentive plans.

Authority to Repurchase Shares

If Swiss companies intend to buy back shares, the number of shares which may be repurchased is limited to 10% of the company's capital (or 20% if registered shares are repurchased under a share transfer restriction agreement and are specifically designated to be cancelled).[104] While companies are not required to seek shareholder approval of the buyback programme, they must seek shareholder approval of the allocation of reserves to a fund to be used for a buyback programme, if it does not have sufficient available reserves. In practice, many Swiss companies voluntarily submit share buyback programmes for prospective shareholder approval. We will recommend voting for such proposals when we have no concerns regarding the planned buyback programme.

Authority to Cancel Shares and Reduce Capital

Pursuant to Swiss law, companies cannot hold more than 10% of their share capital as treasury stock, or 20% if the additional shares are acquired under a share transfer restriction agreement, unless otherwise approved by shareholders. Accordingly, if the 10% limit is exceeded, companies are required to cancel the excess shares within a two-year period.[105]

Companies occasionally seek shareholder approval to hold shares in treasury in excess of these legal limits. We will support such proposals only when a company states that any treasury shares held in excess of 20% of the company's issued capital are intended to be cancelled and we have no other concerns regarding the buyback programmes.

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[103] Article 653a of the CO.

[104] Article 659 of the CO.

[105] Article 659(3) of the CO.

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