

PANORAMIC

**PUBLIC M&A**

Switzerland



LEXOLOGY

# Public M&A

Contributing Editor

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Simpson Thacher & Bartlett LLP

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## STRUCTURES AND APPLICABLE LAW

**Types of transaction****How may publicly listed businesses combine?**

## Public tender offers

Swiss-listed companies are usually acquired by way of a public tender offer, whereby the offer consideration may include cash, securities or a combination thereof. 'Mix and match' offers, where a tendering shareholder may choose between cash and securities, or a combination thereof, are also possible.

Swiss law distinguishes mandatory from voluntary public tender offers. A person or group of persons acting in concert, directly or indirectly, acquiring more than 33.33% of the voting rights (whether exercisable or not) in a target must submit an offer for all listed securities of the target (full offer). The threshold for the obligation to launch a public tender offer may be increased up to 49% (opting-up) in the articles of association of the target. Alternatively, the articles of association of a Swiss-listed company can provide for an opting-out, whereby an acquirer of a controlling stake in the company will not have the obligation to submit an offer for all listed shares. In contrast to a mandatory offer, a voluntary offer may be limited to a certain number of securities in the target (partial offer). A voluntary offer that would result in the threshold triggering a mandatory offer being exceeded must nonetheless be structured as a full offer.

## Statutory mergers

Control over a Swiss publicly listed company may also be obtained by means of a statutory merger pursuant to the [Merger Act](#). Statutory mergers can take two forms: in a merger by absorption, a company is merged into another company and dissolved, while in a merger by amalgamation, the merging companies are merged into a newly incorporated company and dissolved. In both cases, the assets and liabilities of the dissolving company or companies are transferred to the surviving or newly incorporated company by operation of law (universal succession). The merger consideration may consist of cash, securities of the surviving or newly incorporated company, shares of another company (eg, the parent company in a triangular merger) or a combination thereof. Statutory mergers of listed companies are rare in Switzerland.

## Other transaction structures

Particularly in a cross-border context, where usual transaction structures might not be suitable, other transaction structures could be used:

- asset transfers either by means of an asset deal (where singular succession applies and each asset is to be transferred individually) or a business transfer pursuant to the Merger Act (where universal succession applies and all assets and liabilities are transferred in a bulk transfer);
- quasi-mergers, in which the foreign company is merged with a subsidiary of the Swiss company incorporated in the same foreign jurisdiction and the shareholders

of the Swiss company receive cash or shares in the parent bidder company (reverse triangular merger);

- particularly in cross-border mergers of equals, parallel public tender offers by a newly incorporated company for both 'target' companies;
- synthetic mergers in which companies are combined by virtue of a contractual arrangement only; or
- joint ventures in which companies would contribute businesses into a jointly owned subsidiary.

Law stated - 1 Januar 2026

## Statutes and regulations

### What are the main laws and regulations governing business combinations and acquisitions of publicly listed companies?

The main laws and regulations governing business combinations and acquisitions of publicly listed companies are:

- the [Code of Obligations](#), which contains Swiss contract law, notably on purchase contracts, and corporate law governing private and listed companies;
- the [Financial Market Infrastructure Act](#), which, with its implementing ordinances, governs public tender offers. It also contains disclosure obligations and market conduct rules that may be relevant in a transactional context (eg, insider trading rules);
- the Merger Act, which governs statutory mergers, demergers and asset deals by bulk transfer. In a cross-border context, certain provisions of the [Private International Law Act](#) have to be considered as well;
- the listing rules of the relevant stock exchange, which need to be complied with (eg, the [Listing Rules of the SIX Swiss Exchange](#));
- the [Financial Services Act](#), which governs the listing of new shares on a Swiss stock exchange, including prospectus obligations and exemptions thereto; and
- the [Cartel Act](#) and its implementing ordinance, which govern merger control aspects.

Law stated - 1 Januar 2026

## Cross-border transactions

### How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?

The most common structures for cross-border transactions are:

- public tender offers – the regulations on public tender offers do not discriminate offers by foreign bidders and shares in a foreign company may serve as offer consideration;
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quasi-mergers by way of a reverse triangular merger in which the foreign company is merged with a subsidiary of the Swiss company incorporated in the same foreign jurisdiction and the shareholders of the Swiss company receive cash or shares in the parent acquirer company;

- statutory cross-border mergers (and demergers), provided that the non-Swiss jurisdiction involved recognises such cross-border transactions; and
- synthetic mergers in which companies are combined by virtue of a contractual arrangement only.

**Law stated - 1 Januar 2026**

### **Sector-specific rules**

#### **Are companies in specific industries subject to additional regulations and statutes?**

Currently, Switzerland has no foreign direct investment control regime. Such control regime applicable to foreign state-controlled investors is expected to come into force in 2027, however. The control regime will further be limited to investments in security-critical sectors, including defence, security and space, energy and utility infrastructure, water supply, government-critical IT and cybersecurity, healthcare and life sciences, financial services, transportation and logistics infrastructure, food supply and telecommunications.

Further regulatory review or approval may be required for foreign investments in companies engaged in certain regulated industries and sectors, such as the financial sector, telecommunication services, nuclear industry, postal services, public transportation, aviation, power and gas installations, radio and television broadcasting, health and education, defence and private security industry, and lottery and gambling industry.

Notification of the Swiss Financial Market Supervisory Authority (FINMA) is required for the acquisition of more than 10% of the capital or voting rights in a Swiss-regulated bank or insurance company. A notification shall also occur when equity interests are increased or decreased, and exceed or fall below 20%, 33% or 50% of the capital or voting rights. FINMA may prohibit a transaction or impose certain conditions on the acquiring shareholder or the transaction.

**Law stated - 1 Januar 2026**

### **Transaction agreements**

#### **Are transaction agreements typically concluded when publicly listed companies are acquired? What law typically governs the agreements?**

In a public tender offer, if the target's board decides to recommend the offer, the target typically enters into a transaction agreement with the bidder. Among other things, the agreement usually fixes the offer price and the conditions of the offer as well as the obligations of the target's board to support the offer. The bidder would typically seek to obtain a binding tender commitment from major shareholders. The agreements are typically governed by Swiss law.

In a merger, the companies involved enter into a merger agreement. In a statutory merger, the merger agreement is subject to shareholder approval, must be filed with the commercial register and remains publicly available. The statutory merger agreement must set out, among other things, the merger consideration and, as applicable, the exchange ratio. Prior voting commitments of major shareholders are often sought. The statutory merger agreement is governed by Swiss law.

Law stated - 1 Januar 2026

## FILINGS AND DISCLOSURE

### Filings and fees

**Which government or stock exchange filings are necessary in connection with a business combination or acquisition of a public company?  
Are there stamp taxes or other government fees in connection with completing these transactions?**

To launch a public tender offer, the bidder must publish an offer prospectus and can, on a voluntary basis, publish a pre-announcement on the offer. The offer prospectus and the pre-announcement are subject to review by the Swiss Takeover Board. A bidder can submit the offer prospectus and a pre-announcement to the TOB for review before publication. The review is subject to fees.

Statutory mergers need to be filed with the Commercial Register. The merger becomes effective with this registration. The merger documentation can be pre-cleared with the Commercial Register before filing.

To list new shares at a Swiss exchange, the issuer has to submit a listing application to the exchange's admission board. In addition, unless an exemption applies, a listing prospectus needs to be published. The prospectus is subject to prior review by the stock exchange's review body. The review is subject to fees.

Business concentrations must be notified to the Swiss Competition Commission prior to closing if a business involved has been established to have a dominant position in an affected market in Switzerland or if the following thresholds are exceeded:

- worldwide turnover of at least 2 billion Swiss francs or Swiss turnover of at least 500 million Swiss francs of businesses involved; and
- Swiss turnover of at least 100 million Swiss francs of at least two businesses involved.

The thresholds are determined based on the last financial year prior to the combination. Specific rules exist for Swiss-regulated banks or insurance companies.

A public tender offer can be made conditional upon merger clearance being granted. Phase I takes one month and a Phase II investigation an additional four months. The merger control procedure is subject to fees.

Upon the expected implementation of the Swiss foreign direct investment (FDI) regime in January 2027, takeovers by foreign state-controlled investors that require prior approval under applicable law must be notified to the State Secretariat for Economic Affairs (SECO)

prior to closing of the transaction. SECO may either approve the transaction within one month (Phase I) or initiate an in-depth review, which must be decided within three months (Phase II) of the initiation, following consultation with the Federal Intelligence Service. The deadlines may be extended or the Federal Council may grant urgent approval to protect public order or security. Alternatively, a domestic undertaking may apply for a binding preliminary ruling in advance. The FDI approval procedure is subject to fees.

A person who intends to acquire or dispose of securities in a Swiss-regulated bank or insurance company and hereby reaches or crosses certain thresholds in capital or voting rights (10%, 20%, 33% or 55%) has to notify the Swiss Financial Market Supervisory Authority (FINMA). FINMA may prohibit the acquisition or make it subject to conditions.

The sale of securities with the involvement of Swiss securities dealers is subject to Swiss securities transfer tax of, in principle, 0.15% (for Swiss issuers) or, in principle, 0.3% (for foreign issuers). In addition, transactions at Swiss stock exchanges may be subject to levies by such stock exchange.

The transfer of assets other than securities might be subject to value-added tax (VAT). VAT notification procedure may be available.

The sale of the majority of the shares in a real estate company is subject to real estate gains tax and/or real estate transfer tax in many cantons.

The issuance of shares in a Swiss company is subject to 1% issuance stamp duty. Exemptions are available for statutory mergers and quasi-mergers.

**Law stated - 1 Januar 2026**

### **Information to be disclosed**

**What information needs to be made public in a business combination or an acquisition of a public company? Does this depend on what type of structure is used?**

Public tender offer

To launch a public tender offer, the bidder must publish an offer prospectus. The offer prospectus sets forth the offer consideration, the offer conditions, the shares subject to the offer, information on the bidder, its beneficial owners, persons acting in concert with the bidder, qualified shareholders, existing participation in the target by the bidder, shares acquired or disposed by the bidder in the 12 months preceding the offer and information on the financing of the offer together with a financing confirmation by a review body. The offer prospectus also has to describe the intentions of the bidder, as well as any agreements of the bidder with the target (eg, transaction agreement), members of the target's board or executive management, or its shareholders.

A bidder can voluntarily publish a pre-announcement containing the main terms of the offer and explaining certain effects of the prospectus, in particular with regard to the offer price. The bidder is required to publish the offer prospectus within six weeks of the publication of the pre-announcement.

The board of the target must publish a report that provides all information necessary for the target's shareholders to make an informed decision on whether to accept the offer or not. The report may be part of the offer prospectus (in the case of a friendly offer) or published separately during the main offer period (in the case of a hostile offer). In the report, the board can include a recommendation to its shareholders to either accept or reject the offer. The board can also resort to only discuss the advantages and disadvantages of the offer without making a recommendation. The report must further disclose any conflicts of interest, any planned defensive measures and the intentions of the qualified shareholders (to the extent that these are known to the board). In addition, the board often requests a fair opinion from an investment bank or financial adviser. A fairness opinion serves to determine a value range for the securities of the target using various valuation methods. This enables shareholders to assess whether the offer price is appropriate or not. A fairness opinion is usually published together with the report of the board.

The Swiss Takeover Board publishes its decision on an offer when the pre-announcement or offer prospectus is published. The bidder is required to maintain a website on the offer.

#### Mergers

Statutory mergers are subject to shareholder approval. For the benefit of the shareholders, the companies involved have to prepare a report. Among other things, the report must provide legal and economic explanations regarding the purpose and consequences of the merger (including, but not limited to, effects on employees and creditors), as well as the determination of the exchange ratio. The report has to be reviewed by an audit firm and forms part of the documentation that has to be filed with the commercial register; it remains publicly accessible.

#### Listing of new shares

If new shares are listed on a Swiss stock exchange and no exemption applies, a listing prospectus needs to be prepared and filed. The listing prospectus contains comprehensive information on the issuer and the listed securities, including a description of the business and risk factors. The prospectus is subject to prior review by the stock exchange's review body.

#### Disclosure of price-sensitive facts

A company listed on a Swiss stock exchange must inform the market of any price-sensitive facts that have arisen in its sphere of activity and that are not of public knowledge (ad hoc publicity). Public tender offers and other public transactions, as well as significant developments to them, are typically treated as price-sensitive.

The market must be informed as soon as the issuer is aware of the main points of the price-sensitive fact. However, disclosure may be postponed if the facts are based on a plan or decision of the issuer, and disclosure is likely to prejudice the legitimate interests of the issuer. These requirements are usually met when a public transaction is negotiated. During postponement, the issuer has to protect the confidentiality of the information and, in particular, maintain insider lists. If the transaction is leaked to the market, the disclosure has

to be made immediately. This applies even if a contractual commitment is entered into to keep the approach by a potential bidder or the negotiations confidential.

#### Disclosure of shareholdings

A shareholder or group of shareholders who directly or indirectly acquires or disposes securities in a Swiss publicly listed company or a foreign company primarily listed in Switzerland and hereby reaches or crosses the thresholds of 3%, 5%, 10%, 15%, 20%, 25%, 33.33%, 50% or 66.66% in voting rights must notify the company and the relevant stock exchange. The disclosure notice is published over the stock exchange.

Shares, purchase positions (long call or short put positions) and sale positions (short call or long put positions) are reported separately. The disclosure obligation is imposed on the beneficial owner of shares or, if applicable, on the third party entitled to freely exercise voting rights. Furthermore, the name and place of residence of the beneficial owner and other persons involved, as well as the date and type of transaction triggering the disclosure obligation, are disclosed.

If a disclosure obligation for the bidder or a person acting in concert arises after the publication of a public tender offer, the disclosure can be made after the end of the additional offer period.

#### Disclosure of transactions

During a public tender offer, the bidder, any person acting in concert with the bidder and any shareholder or group of shareholders holding more than 3% of the voting rights has to report any transactions in securities of the target and, in the case of an exchange or mixed offer, of the securities offered as exchange, to the Swiss Takeover Board. Such information is publicly available on the Swiss Takeover Board website. Furthermore, after the main offer period, the bidder has to publish the interim results of the offer and after the additional offer period, the bidder has to publish the final results and indicate whether the conditions of the offer are fulfilled (if any).

Members of the board and the executive management of a company listed on a Swiss stock exchange have to report any transactions in securities of such issuer that have been carried out with their influence. The date, type and value of the transaction, the number of shares and the position of the manager (executive or non-executive) have to be disclosed. Shares tendered into a public tender offer can be reported after the completion of the additional offer period.

**Law stated - 1 Januar 2026**

### **Disclosure of substantial shareholdings**

**What are the disclosure requirements for owners of large shareholdings in a public company? Are the requirements affected if the company is a party to a business combination?**

A shareholder or group of shareholders who directly or indirectly acquires or disposes of securities in a Swiss-listed company and hereby reaches or crosses certain thresholds of

voting rights must notify the company and the relevant stock exchange. The disclosure notice is published over the stock exchange.

During a public tender offer, a large shareholder who acts in concert with the bidder (eg, by virtue of a tender agreement) can postpone such notification until after the end of the additional offer period.

During a public tender offer, the bidder, any person acting in concert with the bidder and any shareholder or group of shareholders holding more than 3% of the voting rights has to report any transactions in securities of the target and, in the case of an exchange or mixed offer, of the securities offered as exchange, to the Swiss Takeover Board.

In a public tender offer, agreements of shareholders holding more than 3% of the voting rights with the bidder and their intention to tender their shares have to be disclosed the board report.

Law stated - 1 Januar 2026

## DIRECTORS' AND SHAREHOLDERS' DUTIES AND RIGHTS

### Duties of directors and controlling shareholders

**What duties do the directors or managers of a publicly traded company owe to the company's shareholders, creditors and other stakeholders in connection with a business combination or sale? Do controlling shareholders have similar duties?**

Under Swiss law, directors and senior managers of a company must perform their duties with due care, safeguard the interests of the company in good faith and treat shareholders equally under the same circumstances.

In the context of a public tender offer, performing such duties entails the following:

- Publishing a report with all information required for shareholders to decide on a tender offer. The board can recommend the offer (subject to fiduciary out) or its dismissal or explain its advantages and disadvantages. The board can recommend an offer without having undertaken a competitive process;
- Abstaining from any defensive measure that could prevent the success of the offer without shareholder approval;
- Making available the same information to all bidders (ie, access to due diligence); and
- Disclosing any conflicts of interest and take appropriate measures to prevent any negative effects for shareholders.

In a statutory merger, the board of the merging companies must publish a report describing the terms and conditions of the contemplated merger and its consequences for the companies involved and their stakeholders. Companies involved in a statutory merger must also inform and consult their employees in due time before the merger becomes effective. In the case of non-compliance, the employees can enjoin the registration of the merger with the commercial register.

Controlling shareholders do not carry fiduciary duties towards the company or its minority shareholders, unless they act as shadow or de facto directors of the company.

Law stated - 1 Januar 2026

### Approval and appraisal rights

What approval rights do shareholders have over business combinations or sales of a public company? Do shareholders have appraisal or similar rights in these transactions?

Public tender offer

A public tender offer is not subject to the approval of the general meeting of shareholders of the target. Each shareholder can accept or refuse the offer individually with regard to its shares, except in the case of a squeeze-out. Shareholders have no appraisal right. They are, however, protected by the best price rule and, in most cases, by the minimum price rule. The delisting of the company requires qualified shareholder approval by two-thirds of the votes represented.

Shareholders holding at least 3% of the securities at the time of the offer may constitute themselves as a party to the procedures before the Swiss Takeover Board, the Swiss Financial Market Supervisory Authority and the competent courts.

Statutory merger

A statutory merger (or demerger) requires qualified shareholder approval by two-thirds of the votes represented. If the merger consideration comprises cash only (squeeze-out merger), those with 90% of all voting rights outstanding need to approve the merger.

Shareholders can file an appraisal action against the surviving company after a statutory merger (including a squeeze-out merger) and the court will grant an adequate compensation payment if the merger consideration is deemed inadequate.

Law stated - 1 Januar 2026

## COMPLETING THE TRANSACTION

### Hostile transactions

What are the special considerations for unsolicited transactions for public companies?

A bidder is not required to approach a target before announcing a tender offer. Swiss targets can take various defensive measures to impede a hostile takeover.

Before a tender offer is launched, a company can take the following defensive measures:

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Limit, in the articles of association, the percentage of voting rights that any shareholder can register in the companies share register (usually between 2% and 5%);

- Limit, in the articles of association, the percentage of voting rights that any shareholder or a group of shareholders can exercise in a general meeting of shareholders (eg, 5%);
- Introduce, in the articles of association, a qualified quorum and/or voting majority for the removal of the above limitations;
- Introduce, in the articles of association, a 'poison pill' in the form of a capital band allowing for the issuance of new shares under the exclusion of subscription rights of the existing shareholders explicitly in the case of a tender offer;
- Accept change-of-control provisions in material agreements allowing for their termination or 'poison puts' in financing instruments providing for an early redemption;
- Provide for accelerated vesting in option plans; and
- Have loyal anchor shareholders. Voting shares that can have up to 10 times more voting power than ordinary shares can increase effectiveness.

Swiss law requires the board to act in the best interest of the company and treat shareholders equally, which may limit the availability of defence measures. Furthermore, Swiss law requires the annual (re)election of directors of Swiss-listed companies, limits the notice period of members of the board and the executive management to one year, and prohibits unusually high severance payments ('golden parachutes').

After a tender offer is launched (ie, after the publication of a pre-announcement (if any) or the offer prospectus until the publication of the final results), the board of the target must not take any action that would significantly affect the assets or liabilities of the target, in particular:

- the sale or encumbrance of assets being designated as main target by the bidder ('crown jewel');
- the sale or acquisition of assets representing more than 10% of total assets or the earnings of the target ('scorched earth');
- golden parachutes;
- the issuance of shares without granting pre-emptive rights to existing shareholders; and
- transactions in own shares or consideration shares, or issuance of options or conversion rights, except for employee participation or in fulfilment of pre-existing obligations.

The target has to inform the Swiss Takeover Board (TOB) of any intended defence measures. The limitations do not apply to actions that are approved by the target's shareholders' meeting. Defensive measures that obviously violate Swiss corporate law are not permitted in any case. The search for a white knight is always permissible. The target is required to make the same information that a friendly bidder received available to a hostile bidder. Unequal treatment requires permission by the TOB based on prevailing interests of the target.

**Break-up fees – frustration of additional bidders**

Which types of break-up and reverse break-up fees are allowed? What are the limitations on a public company’s ability to protect deals from third-party bidders?

In a public tender offer, break-up fees are, in principle, permissible and no explicit legal limits exists as to their amount. Based on the TOB’s practice, however, the break-up fees must not deter potential competing bidders or coerce shareholders into tendering, which would be the case if the amount is disproportionate to the costs that the bidder incurred in connection with the offer (cost coverage) or the company’s financial standing. Reverse break-up fees are relatively rare (but increasingly agreed) in public transactions, but do not permit an increase in the break-up fees. The scope of break-up fees is typically limited to offers that are not completed due to a competing offer or a failure of the target to comply with its obligations towards the bidder or satisfy offer conditions.

In light of the fiduciary duties of the board, in practice similar considerations are applied for the determination of break-up fees in other transactions requiring shareholder approval (eg, statutory mergers).

**Government influence**

Other than through relevant competition regulations, or in specific industries in which business combinations or acquisitions are regulated, may government agencies influence or restrict the completion of such transactions, including for reasons of national security?

Upon the implementation of the Swiss foreign direct investment regime, expected in January 2027, investments in security-critical sectors such as defence, security and space, energy and utility infrastructure, water supply, government-critical IT and cybersecurity, healthcare and life sciences, financial services, transportation and logistics infrastructure, food supply and telecommunications will require prior approval by the State Secretariat for Economic Affairs. The regime will, however, apply only to takeovers by state-controlled foreign investors. In addition, individuals or companies subject to sanctions may be barred from investing in Switzerland.

Foreigners or foreign-controlled companies can acquire real estate or real-estate companies (listed companies being exempted) only under certain conditions and governmental approval may be required.

**Conditional offers**

**What conditions to a tender offer, exchange offer, merger, plan or scheme of arrangement or other form of business combination are allowed? In a cash transaction, may the financing be conditional? Can the commencement of a tender offer or exchange offer for a public company be subject to conditions?**

Voluntary public tender offers can be made subject to conditions that meet the following cumulative requirements:

- The bidder must have a justified interest in the condition, which is usually assumed if the condition is directly related to the offer and objectively comprehensible;
- The satisfaction of the conditions must be beyond the bidders' control;
- The terms of the conditions are clear; and
- The condition must not be unfair or unlawful.

To the extent a condition can be satisfied only with the bidder's contribution, the bidder has to take all actions that are reasonably required. With the announcement of the interim results of the offer (ie, after the main offer period), the bidder must declare a condition fulfilled or waive it. With the approval of the TOB, this determination can be postponed until the closing of the offer (eg, for regulatory approvals).

Typical conditions include:

- a minimum acceptance threshold (not more than two-thirds of the outstanding shares, unless the bidder already holds or has secured a significant stake);
- regulatory approvals or no injunction;
- no material adverse change that are clear and provide for specific amounts or percentages that are not immaterial (the loss of 5% in turnover or 10% of earnings before interest and taxes, and earnings before interest, taxes, depreciation and amortisation or equity have repeatedly been accepted by the TOB);
- no defensive measures by the shareholders' meeting (eg, no resolution regarding the distribution of major dividends or other changes of capitalisation exceeding certain thresholds, typically 10% of the total assets);
- achievement of control of the target (eg, the election of the directors nominated by the bidder or the registration of the bidder in the share ledger of the target as a shareholder with voting rights); or
- in exchange offers, the issuance and listing of the consideration shares.

Mandatory public tender offers can only be made subject to conditions if required by qualified reasons, which are recognised for regulatory approval, such as (1) a no-injunction clause (2) if the acquired shares do not give voting rights to the bidder, and (3) a crown-jewel defence.

In cash offers, financing conditions are not permissible.

In transactions other than public tender offers (eg, -statutory mergers), any conditions are permissible, subject to general principles of law (eg, the principle of good faith).

**Law stated - 1 Januar 2026**

## Financing

**If a buyer needs to obtain financing for a transaction involving a public company, how is this dealt with in the transaction documents? What are the typical obligations of the seller to assist in the buyer's financing?**

In a public tender offer, the bidder has to secure the financing until the publication of the offer prospectus ('certain funds' requirement). The main aspects of the funding have to be described in the offer prospectus, including its source. An independent review body must review the funding and confirm in the prospectus that the bidder has taken the necessary measures to ensure that the funds are available on the closing date or, in the case of an exchange offer, the date when the securities are issued. In the case of a third-party financing, the auditor must perform a detailed review of the financing agreements. In the case of equity financing, consultation of the bidder's balance sheets and a commitment to keep the funds available are sufficient.

Typically, the target undertakes no obligations with regard to the financing. In cash offers, financing conditions are not permissible.

No certain funds requirement applies in other transaction structures such as a statutory merger.

**Law stated - 1 Januar 2026**

## Minority squeeze-out

**May minority stockholders of a public company be squeezed out? If so, what steps must be taken and what is the time frame for the process?**

Cancellation of securities

If the bidder holds more than 98% of the voting rights in the target after completion of a public tender offer, the bidder can within three months request the court to cancel all outstanding shares (and derivatives). Upon payment of the offer price or transfer of the offer shares to the former shareholders, the target issues the cancelled shares to the bidder. Shareholders have no appraisal rights.

Squeeze-out merger

With the approval of 90% of all voting rights outstanding, a squeeze-out merger can be implemented in which minority shareholders do not receive shares in the surviving company, but cash or consideration shares in another company. Typically, a bidder would merge the target with a wholly owned subsidiary of the bidder and the shareholders would receive the consideration offered in the public tender offer. Dissenting shareholders can challenge the merger or the adequacy of the merger consideration in court.

Other options

If, after completion of the public tender offer, the bidder holds less than 90% in the target, it can try to acquire more shares via the stock exchange or off-market. The best price rule applies on such purchase for six months following the expiry of the additional offer period. Delisting of the shares, which requires the approval by the general meeting of shareholders with two-thirds of the voting rights represented and an application to the stock exchange, may induce shareholders to sell their shares. A bidder could also further dilute minority shareholders by contributing a business or other assets into the target against issuance of new shares.

Law stated - 1 Januar 2026

### **Waiting or notification periods**

**Other than as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations or acquisitions involving public companies?**

In a public tender offer, after the publication of the offer prospectus, a mandatory cooling off period of 10 trading days applies. The offer must be open for acceptance for a minimum of 20 and a maximum of 40 trading days. The interim result has to be published within four trading days after the expiry of the acceptance period. If the offer is successful, an additional acceptance period of 10 trading days must be granted. The final result must be published within four trading days of the expiry of the additional period. The offer has to be completed within 10 trading days of the end of the additional offer period. The TOB may approve shorter or longer periods (eg, to align with merger control procedures).

In a statutory merger, shareholders are granted at least 30 calendar days for reviewing the merger agreement, the report of the board, the financial statements and the auditors' report.

Law stated - 1 Januar 2026

## **OTHER CONSIDERATIONS**

### **Tax issues**

**What are the basic tax issues involved in business combinations or acquisitions involving public companies?**

Public tender offers

For individuals who are tax residents in Switzerland, capital gains from the sale of private assets are usually tax-free.

For companies that are tax residents in Switzerland, capital gains are generally subject to federal, cantonal and municipal corporate income taxation, ranging from approximately 12% to 20% (effective tax rate from profits before taxes), depending on the canton of residence. Capital gains from the sale of a qualifying investment (with at least a 10% participation) held for at least one year may qualify for 'participation relief', resulting in almost full capital gains tax exemption.

The tax basis for the bidder is the offer price. No goodwill can be booked that could be written off in the future.

The sale of securities with the involvement of Swiss securities dealers are subject to Swiss securities transfer tax of, in principle, 0.15% (for Swiss issuers) or, in principle, 0.3% (for foreign issuers). In addition, transactions on Swiss stock exchanges may be subject to levies by such stock exchange.

#### Statutory mergers

For individuals who are tax residents in Switzerland, capital gains are usually tax-free. A share-for-share transaction (including cash payments) is therefore usually tax-neutral for individual shareholders residing in Switzerland, unless deemed an indirect partial liquidation. A surplus on the nominal value (plus proportional additional paid-in capital) resulting from the merger may be subject to income tax. Furthermore, cash payments from a squeeze-out or for fractional shares may be subject to income tax.

For companies that are tax residents in Switzerland, no corporate income tax is levied if the tax base for the new shares remains the same. Cash payments from a squeeze-out or for fractional shares may be subject to corporate tax. Corporate shareholders can potentially claim participation relief for such payments if they hold a participation representing either a value of at least 1 million Swiss francs or at least 10% of the stated capital of the other company.

Shares issued as part of a statutory merger are exempt from the 1% issuance stamp duty, the securities transfer stamp duty of 0.15% (for shares in a Swiss company) or 0.3% (for shares in a foreign company). The same applies for a quasi-merger, in which the shareholders of the target receive newly issued shares in the acquiring company if the respective conditions are met.

#### Sale of assets

If a transaction is structured as an asset deal, capital gains from the sale of a business would be fully taxable by a Swiss seller (individuals and companies). These tax consequences can be avoided if the sale is structured as a tax-neutral reorganisation in which their company first spins off the business into a new company and the seller then sells the shares in the new company.

The purchaser records the purchased assets in its book at the purchase price. To a certain extent, goodwill can be recorded separately and depreciated. The operational earnings of the acquired entity can be applied towards servicing interest payments on the acquisition debt.

The transfer of assets other than securities might be subject to value-added tax of 8.1%. Value-added tax notification procedure may apply. In certain cantons, the transfer of real estate is subject to real estate gains tax and (or) real estate transfer tax.

**Law stated - 1 Januar 2026**

## | Labour and employee benefits

## What is the basic regulatory framework governing labour and employee benefits in a business combination or acquisition involving a public company?

Swiss employment law requires that employees' representatives or, in the absence thereof, the employees directly are informed of a business transfer and, if measures affecting the employees are planned, consulted. In a statutory merger, the information or consultation has to take place before the approval by the shareholders. The employer does not have to consider the result of the consultation, but employees can enjoin the registration of a statutory merger with the commercial register if they have not been properly informed or consulted. Employees transfer automatically with the business. Their rejection of the transfer will lead to the termination of their employment relationship with the statutory notice period.

In a public tender offer, Swiss employees do not need to be informed or consulted, but consultation obligations of other jurisdictions may apply.

Mass dismissals are subject to particular notification and consultation obligations. Furthermore, a social plan may need to be implemented.

Collective employment agreements may set out additional requirements in relation to the above and particular rules apply with respect to Swiss pension plans in M&A transactions.

**Law stated - 1 Januar 2026**

## Restructuring, bankruptcy or receivership

### What are the special considerations for business combinations or acquisitions involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?

Transactions with companies that are in insolvency proceedings may require an agreement with the creditors and court ratification. Possible transaction forms are a merger with the insolvent company in which creditors agree to convert their debt into equity (eg, to use the listed company as a special purpose acquisition company vehicle and list the merging company) or, more commonly, an asset deal separating the business from the debt. The flexibility to structure a successful transaction is higher if the insolvency proceeding is structured as a composition moratorium and not as bankruptcy.

**Law stated - 1 Januar 2026**

## Anti-corruption and sanctions

### What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations with, or acquisitions of, a public company?

Switzerland has signed or acceded to the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Council of Europe Criminal Law Convention on Corruption and the United Nations Convention against Corruption.

Switzerland's criminal law provides for criminal sanctions for any person who offers, promises or grants a Swiss official a bribe or another undue advantage that is not directly linked to an act or omission. In parallel, Swiss officials are prohibited from demanding or accepting such bribes or undue advantages. Bribing of foreign officials and Swiss private individuals is subject to the same criminal sanctions as demanding or accepting bribes from Swiss private individuals. Businesses may themselves become criminally liable if bribery is committed in the course of their operations and the company has not established due procedures to prevent bribery. Compliance programmes and employee training may be required to mitigate legal risks.

When Switzerland imposes sanctions, it typically does this in alignment with other states or supranational organisations, such as the United Nations (see [current list of sanctions](#)). Sanction violations are subject to criminal sanctions. In the context of public M&A transactions, due diligence is critical for identifying corruption and economic sanctions-related risks.

Law stated - 1 Januar 2026

## UPDATE AND TRENDS

### Key developments

**What are the current trends in public mergers and acquisitions in your jurisdiction? What can we expect in the near future? Are there current proposals to change the regulatory or statutory framework governing M&A or the financial sector in a way that could affect business combinations with, or acquisitions of, a public company?**

Foreign direct investment control

On 19 December 2025, the Swiss Parliament adopted the new [Swiss Federal Screening Act](#) (ISA), introducing a mandatory foreign direct investment (FDI) review and approval regime for acquisitions of certain Swiss companies by state-controlled foreign investors. The law is subject to a facultative referendum and the Federal Council will have to issue implementing ordinances. Entry into force is therefore expected no earlier than January 2027.

The law reflects Switzerland's traditionally liberal approach by limiting the approval requirements to takeovers of domestic private or public undertakings by foreign state-controlled investors that endanger or threaten public order or security in Switzerland. FDI approval will only be required if the target company operates in a security-critical sector and meets the applicable turnover thresholds:

- Target companies in the most sensitive sectors, such as defence, security and space, energy and utility infrastructure (electricity grids, power plants, gas pipelines), large-scale water supply and government-critical IT, fall within the scope of the FDI control if they have, on average over the two financial years preceding the submission of the application, employed at least 50 full-time employees worldwide or generated a worldwide annual turnover of at least 10 million Swiss francs.
- Acquisitions of companies engaged in other sectors, such as healthcare and life sciences, financial services, transportation and logistics infrastructure, food supply

and telecommunications, only require prior approval by the State Secretariat for Economic Affairs( SECO) if they had a worldwide annual turnover of at least 100 million Swiss francs in the last two financial years.

In addition, the Federal Council is authorised to subject further categories of domestic companies to the approval requirement for a limited period of 12 months (with the possibility of extension for a further 12 months) if this is necessary to ensure public order and security.

The approval procedure is based on the merger control procedure. The foreign investors must notify SECO of the intended takeover. SECO may either approve the transaction within one month (Phase I) or initiate an in-depth review, which must be decided within three months (Phase II) of the initiation. Until approval is granted, the effectiveness of the transaction is suspended under civil law.

By restricting its FDI regime to foreign state-controlled investors, Switzerland has opted for a relatively non-interventionist approach. Private foreign investors are not subject to investment control. It is estimated that only a small, single-digit number of transactions will require approval each year. Switzerland therefore remains open to FDI, with the existing differentiated, sector-specific regulatory framework continuing to apply to foreign private investors.

#### Revision of Financial Market Infrastructure Act

On 19 June 2024, the Federal Council opened a consultation process regarding a revision of the [Financial Market Infrastructure Act](#). Among other things, the Federal Council proposes:

- to remove the 3% disclosure threshold for shareholders of listed companies, in line with international standards, and consider only shareholder holding 5% or more as material;
- to require that foreign shareholders holding more than 10% in a listed company designate an address for service in Switzerland;
- to expand the rules on insider trading and market manipulation, and
- to introduce statutory rules on disclosure of management transaction and price-sensitive information by listed companies (which is so far governed by the stock exchange regulations only).

No update has been published at the date of writing as to when (or even, whether) these amendments would be submitted to parliament.

#### ESG and non-financial reporting

Listed companies are required to produce an annual report on environmental (including on climate), social and labour matters, as well as on human rights and anti-corruption. The report has to include a roadmap to net-zero. Further reporting obligations exist for commodity companies as well as with regard to conflict minerals and child labour. In 2024, the Federal Council opened a consultation process regarding potentially stricter corporate sustainability reporting for Swiss companies intending to bring the current Swiss non-financial matter reporting provisions in line with EU standards. Against the background

of the EU Omnibus Package, no update on the result of the consultation process has been published.

The increased interest in environmental, social and governance (ESG) issues is having an increased impact on M&A transactions, as companies subject to these rules will need to disclose how targets they acquired comply with these rules. Acquirers are therefore screening potential targets with an increasing focus on ESG to ensure that their policies and practices match their own or can be brought up to their own standards without undue delay. ESG issues are likely to become part of the pre-acquisition due diligence process.

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