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Switzerland
Shareholder Activism

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This country-specific Q&A provides an overview of shareholder activism laws and regulations applicable in Switzerland.

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Switzerland: Shareholder Activism

1. What are the principal sources of laws and regulations relating to shareholder rights and activism? Do insider trading and/or market abuse rules apply to activist activity?

The primary sources of laws and regulations relating to shareholder activism are the Swiss Code of Obligations (CO) governing the rights and obligations of companies' boards of directors and shareholders in general as well as the Financial Market Infrastructure Act (FMIA) enacted on 1 January 2016 and its related ordinances, containing additional rules for listed companies and their shareholders.

Companies listed on the SIX Swiss Exchange are also bound by, inter alia, the Listing Rules (LR-SIX), the Directive on Ad hoc Publicity (DAH) and the Directive on Information relating to Corporate Governance (DCG).

The insider trading rules governed by FMIA apply to activist activity. If the intentions of the activist are deemed as inside information, the activist may not communicate the information to anyone, including other shareholders, before making it public unless the communication to other shareholders is required to comply with legal obligations or in view of entering into an agreement. An activist wanting to purchase shares in a company does not constitute insider trading for such activist.

The price manipulation rules governed by FMIA equally apply to activist activity. In particular, the dissemination of false or misleading information against one's better knowledge may lead to criminal prosecution.

2. How is shareholder activism viewed in your jurisdiction by regulators, shareholders (both institutional and retail) and the media?

The corporate community is generally critical of shareholder activism because of its rather short-term orientation. The legislator and regulators have not expressed a position on shareholder activism but tend to lower the hurdles for shareholder minority rights. Retail shareholders will form an opinion on a case-by-case basis. Institutional shareholders will analyse the requests of the activists and decide whether to support them. Only occasionally will they vote with the activist.

Swiss media extensively reports on activism targeted at large and/or well-known companies, whereby the tone of coverage varies depending on the circumstances and the media outlet. Coverage of activism targeted at less known medium- and small-cap companies tends to be limited to financial media.

3. How common are activist campaigns and what forms do they take? Is activism more prevalent in certain industries? If so why?

The number of activist campaigns involving Swiss companies is, compared with other jurisdictions, in particular the United States, still moderate. However, Switzerland is a key target for activist shareholders in Europe. Since 2015, there have been 48 campaigns against companies of all sizes. After a decrease in activist activity in the years 2020 and 2021, presumably mainly due to the Covid-19 pandemic, a steady increase in activist activity can be observed since 2022.

It seems that basic materials, technology and services are regularly targeted industries, but the financial industry, luxury goods and industrial goods and the healthcare sector have also attracted interest from activists. However, there are no regulatory reasons that facilitate shareholder activism in certain industries over others.

In recent years Switzerland has seen shareholder activists engage in various campaigns with high public attention, including:

- activist investor Steven Wood, holding approximately 0.5 percent of watch manufacturer Swatch's shares, sought election to the board of Swatch in April 2025, criticizing the company's financial performance and calling for a renewed focus on premium brands. His candidacy was rejected by 79.2 percent of the voting rights at the annual shareholders' meeting in May 2025, largely due to the founder family's control of 44 percent of voting rights through voting shares. However, Wood received support from over 60 percent of the holders of bearer shares, highlighting governance concerns. Proxy advisors also recommended the removal of several long-standing board members due to issues with board independence and executive compensation;

- in September 2024, following the annual shareholders' meeting of 2024, at which, upon proposal by zCapital and with the support of proxy advisors, the shareholders voted on several amendments to Baloise's articles of association, including the removal of a long-standing provision capping shareholders' voting rights at 2 percent regardless of the size of their stake, activist investment firm Cevian disclosed a stake of 9.4 percent in Swiss Insurer Baloise, making it Baloise's largest shareholder. Cevian was putting pressure to overhaul Baloise's strategy and add more insurance expertise to Baloise's board of directors. Ahead of the shareholders' meeting 2025, Baloise announced, the board of directors would propose three new board members, one of whom is a representative of Cevian, while two serving board members would not stand for re-election. However, three days before Baloise's annual shareholders' meeting of 2025, Baloise and its competitor Helvetia announced their intention to join forces in a merger of equals. On the day of the annual shareholders' meeting 2025, Cevian sold its stake in Baloise to Helvetia's largest shareholder, who supports the combination, paving the way for the merger of equals with Helvetia; and
- Petrus Advisers, who have a stake of less than 3 percent in the Geneva-based banking software company Temenos, in October 2022 published a letter in which they sharply criticized the company's management and called for a correction of the company's strategy, followed by a letter in November 2022 calling for the dismissal of the CEO and the resignation of the chairman of the board. Thereafter, the CEO resigned in January 2023 and the chairman of the board did not run for re-election at the annual shareholders' meeting of 2023.

4. How common is it for shareholders to bring litigation against a company and/or its directors and what form does this take?

Shareholders may bring litigation against a company and/or its directors in particular in form of the following actions:

- derivative actions for damages suffered by the company;
- action for direct shareholder's damages;
- action for repayment of benefits to the company;
- action to challenge resolutions of the shareholders' meeting; and
- action for the convening of a shareholders' meeting.

Litigation by shareholders against the company or its directors is relatively uncommon, due to the high threshold for successful legal action. Such litigation is primarily pursued in cases of serious breaches of duty or conflicts of interest.

5. What rights do shareholders/activists have to access the register of members?

In Switzerland, shareholders do not have a right to access the share register of a company. To foreign shareholder activists, it may come as a surprise that they are not entitled to address their concerns with other shareholders by using the company's share register. Publicly available is only information regarding shareholders with a stake of at least 3 percent subject to (public) disclosure (see below).

6. What rights do shareholders have to requisition a shareholder meeting and to table a resolution at the meeting?

Shareholders representing 5 percent of the voting rights or capital of listed companies (in non-listed companies, the threshold is 10 percent) may request that a shareholders' meeting be convened.

Furthermore, shareholders representing 0.5 percent of voting rights or capital in listed companies (in non-listed companies, the threshold is 5 percent) are entitled to demand that certain agenda items be tabled at the next shareholders' meeting.

In addition, all shareholders have the right to propose motions and counter-motions (eg, regarding board elections) at shareholders' meetings to the agenda items tabled for the shareholders' meeting.

7. Where a shareholder requisitions a meeting, who is responsible for the costs of calling and holding the meeting?

If shareholders request the convening of a shareholders' meeting, the respective meeting must still be convened by the board of directors, with the costs borne by the company.

8. Are there any rights to circulate statements to shareholders?

In connection with a request that a shareholders' meeting be convened or that items be placed on the agenda, the

requesting shareholder has the right to add a brief explanation, which must be included in the notice convening the shareholders' meeting. That aside, Swiss companies are not obliged to distribute information prepared by a requesting shareholder to other shareholders. The lack of access to the share register prevents activists from circulating statements to all shareholders (except via public statements eg on dedicated websites and the media). Activists may only contact shareholders with a stake of at least 3 percent subject to (public) disclosure (see below).

9. Who is entitled to attend and speak at a shareholders' meeting?

According to Swiss law, shareholders and directors have the right to attend a shareholders' meeting. Guests or media representatives may only attend a shareholders' meeting based on a provision in the articles of association or at the discretion of the board of directors.

Every shareholder has the right to speak at a shareholders' meeting, irrespective of the number of shares they hold. However, the chairperson may limit the speaking time to ensure that the shareholders' meeting proceeds without undue delay.

10. What percentage of share capital is needed to appoint or remove a director? What is the process?

Elections (or re-elections respectively) of directors must take place annually, with each director required to be elected individually. The election of a director requires a majority of more than 50 percent of the votes represented at the shareholders' meeting. The deselection of a director does not require its own agenda item and can be sought by activist shareholders simply by voting against the re-election tabled by the company.

Any shareholder is entitled to nominate a director for election to the board of directors at the shareholders' meeting, as a motion to the relevant existing agenda item. Furthermore, shareholders representing 0.5 percent of voting rights or capital in a listed company (in non-listed companies, the threshold is 5 percent) are entitled to demand the nomination of a director before the shareholders' meeting to be included in the notice convening the shareholders' meeting.

11. What percentage of share capital is needed to block a shareholder resolution?

Shareholders representing at least 33 percent of the voting rights plus one share may block special resolutions (capital transactions, mergers, spin-offs, etc), shareholders holding at least 50 percent of the voting rights may force ordinary resolutions (eg, appointment of a director). As these thresholds typically relate to the total votes represented at the shareholders' meeting and given that shareholder representation typically ranges between 50 and 70 percent, the shareholdings actually required to pass the aforementioned thresholds are usually lower.

12. Do holders of other instruments (e.g. options, warrants, contracts for difference, swaps, cash-settled derivatives) have any of the above rights?

The rights outlined above are only available to shareholders. Instruments that do not grant (or only grant a future right to acquire) shareholder status do not provide access to shareholder rights.

13. Is stamp duty payable on share acquisitions? Can this be avoided/mitigated (e.g. through use of derivatives)?

A turnover tax of 0.15 percent of the transaction price is charged on the purchase of shares in Swiss Companies listed on a Swiss stock exchange. Turnover tax can under certain circumstances be avoided for the time being through the use of derivatives. However, once shareholder status is obtained at a later stage, the turnover tax will be triggered.

14. To what level can you acquire shares without having to publicly (or privately) disclose your position?

Any shareholder must disclose if he attains, falls below or exceeds the threshold percentages of 3, 5, 10, 15, 20, 25, 33 , 50 or 66 of the voting rights of the company. The disclosure must be made towards the company and the stock exchange within four trading days following the triggering event. Shareholders must disclose, inter alia, the number of voting rights and the legal and beneficial owner. This information is available on the website of the respective stock exchange (eg, SIX Swiss Exchange). Accordingly, only a position of less than 3 percent can be established without triggering a disclosure obligation.

15. Is the disclosure threshold different if the issuer is subject to a takeover offer?

The aforementioned disclosure thresholds apply irrespective of the applicability of the provisions on takeover offers. In addition, once a takeover offer has been publicly announced, the parties involved and shareholders subject to public disclosure, must report all their transactions in the company's shares and equity derivatives on a daily basis.

16. Are there any rules which restrict the speed at which you can build a position?

There are no rules that explicitly limit the speed at which a position can be built by an activist shareholder.

17. Are there circumstances in which a mandatory takeover is required?

Shareholders acting alone or in concert with other shareholders with the intention to control the relevant company are obliged to launch a mandatory takeover offer if they exceed the threshold of 33 percent of the voting rights of a listed company. The articles of association of a company may raise the relevant threshold up to 49 percent of the voting rights (opting up) or rule out the duty to launch a takeover offer completely (opting out).

18. Does collective shareholder action or 'acting in concert' have any consequences in your jurisdiction (e.g for disclosure purposes or the rules on mandatory offers)?

If shareholders are acting in concert, their shareholdings are aggregated, and they need to disclose as a group. Shareholders are considered to be acting in concert in relation to the disclosure obligation, if they are coordinating their conduct by contract or by any other organised method with a view to the acquisition or sale of shares or the exercise of voting rights. With regard to the duty to launch a mandatory takeover offer if the relevant threshold of 33 is exceeded, the shareholdings are aggregated subject to the additional requirement, that the cooperation relates to the acquisition of shareholdings or the exercising of voting rights with a view to control the company.

19. Do the same rules and thresholds apply to other instruments (e.g. options, warrants, short positions, contracts for difference, swaps, cash-settled derivatives)?

Given that market transparency is the primary objective, disclosure requirements apply to all derivative instruments (eg, conversion rights and option rights), short positions and other derivative instruments with cash settlement.

In contrast, only derivatives that can directly or indirectly lead to the acquisition of shares or enable voting rights to be exercised are included in the calculation for the threshold for the obligation to launch a mandatory takeover offer.

20. If an activist makes a takeover offer, what impact might any prior share purchases have on the minimum offer price or the form of consideration that must be offered?

The offer price must be at least equal to the current stock market price (being the 60 trading days VWAP, if deemed illiquid, a valuation replaces the stock market price) and may not be lower than the highest price paid by the offeror for shares in the target company within the last 12 months.

For mandatory takeover offers, an exchange for other shares may be provided, but a cash consideration as an alternative must always be offered. For voluntary takeover offers, a cash alternative must only be offered if the activist has acquired 10 or more percent of the company's shares for cash in the last 12 months prior to the launch of the offer.

21. What measures are available to companies to protect against an activist campaign?

A potential target company may implement a set of defensive measures, particularly defensive provisions in the articles of association concerning, inter alia, transfer restrictions, voting rights restrictions (3 and 5 percent are the most common thresholds), super voting shares (ie, shares with a nominal value reduced by up to 10 times by keeping the one-share, one-vote principle, normally assigned to an anchor shareholder) and super majorities relating to specific resolutions or to a quorum at the shareholders' meeting. Such structural defences may be an efficient tool to hinder short-term interested shareholders. In addition, Swiss regulation already provides for certain effective impediments an activist

must overcome, including, especially, the disclosure requirements and the mandatory takeover offer obligation (at 33 percent) as well as the lack of access to the company's share register. It is a difficult balancing act for the activist to engage in conversations with other shareholders and to avoid triggering disclosure obligations or even a mandatory takeover offer obligation owing to an acting in concert.

If shareholder activists emerge, the company should be prepared to address and consider their legitimate concerns open-mindedly in a private setting. If no satisfactory solutions can be negotiated, the board of directors will typically focus on a clear, comprehensive and committed communication strategy. Furthermore, the company may engage with major shareholders and significant proxy advisory firms, to secure their support.

22. What duties do directors owe to a company and its shareholders? Highlight any that are particularly relevant in the context of an activist campaign.

Directors must act in the best interest of the company. Furthermore, they must treat all shareholders equally under equal circumstances, which applies also to activist shareholders. Directors must therefore apply the same standard of care to an activist shareholder's proposal as to any other proposal or matter and must act in the best interest of the company. Also, directors (formally or informally) representing a shareholder on the board of directors must appropriately deal with their conflicts of interest when facing their shareholder's activist campaign.

23. What rights does a company have to require parties to disclose details of their interests (direct and indirect) in the company's share capital?

Listed Swiss companies nowadays almost exclusively issue registered shares. Voting rights require entry in the share register, which means the interests in registered shares are known to the company if the shareholder intends to vote its shares. Holdings without intention to vote must only be disclosed once the disclosure threshold of 3 percent of the voting rights is reached.

24. Are there restrictions on companies selectively disclosing inside information to activists?

Listed Swiss companies nowadays almost exclusively issue registered shares. Voting rights require entry in the share register, which means the interests in registered shares are known to the company if the shareholder intends to vote its shares. Holdings without intention to vote must only be disclosed once the disclosure threshold of 3 percent of the voting rights is reached.

25. Are settlement agreements between a company and an activist permitted in your jurisdiction? How common is it for activist campaigns to be resolved in this way?

Settlement agreements between a company and an activist shareholder are permitted in Switzerland. However, the board of directors must act in the best interest of the company and may not give undue preferential treatment to individual shareholders or groups. If the settlement agreement contains information that is relevant to the stock price, an ad hoc announcement must also be published. The entering into settlements with activist shareholder is rarely disclosed in Switzerland but does occur from time to time.

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