

The corporate law reform of 2023

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The revision of Swiss company law that entered into force on 1 January 2023 introduced several instruments relevant to the finance of large listed companies. The capital band allows the general meeting to authorise the board to increase or reduce the share capital within a range of up to 50 per cent for a period of up to five years. It replaced the earlier authorised and conditional capital in part and offers greater flexibility for capital measures, including buy-backs and share issues for acquisitions. For the pharmaceutical groups, the capital band may simplify the cancellation of repurchased shares and the issue of shares for employee plans.¹

The reform also permits interim dividends based on interim financial statements, which allows companies to pay dividends during the financial year. Swiss companies had previously been limited to annual dividends based on approved annual accounts. Roche and Novartis have so far retained their practice of a single annual dividend, although the option gives them flexibility should they wish to change their distribution policy. A third innovation is the possibility of denominating the share capital in a foreign currency that is essential for the business, such as the US dollar or the euro, provided the currency is approved by the Federal Council.²

The option of foreign currency share capital is of particular interest to companies that report in dollars. Novartis has reported in US dollars since the early 2000s, while its share capital and dividend remain in Swiss francs. Roche, by contrast, reports in francs. A company that reports in dollars might consider moving its share capital to the same currency in order to align capital and accounts, although such a change would affect withholding tax calculations, capital contribution reserves and the expectations of Swiss investors who are used to franc dividends. As far as can be ascertained, neither group has made use of this option so far.³

1 Notes

1. On the capital band under Articles 653s–653v of the Swiss Code of Obligations, introduced by the revision of company law in force since 1 January 2023, see the Code of Obligations and the dispatch of the Federal Council on the revision of company law of 23 November 2016. To be verified. ↩
2. On interim dividends under Article 675a of the Code of Obligations and share capital in foreign currency under Article 621 para. 2 of the Code of Obligations and the corresponding ordinance of the Federal Council, see the Code of Obligations in the version in force since 1 January 2023. On the dividend practice of Roche and Novartis since 2023, see their annual reports. Status to be verified. ↩
3. On the reporting currency of Novartis (US dollars) and of Roche (Swiss francs), see their annual reports. Whether either group has adopted foreign currency share capital is to be verified. Status to be verified. ↩

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