

The report on non-financial matters

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The counter-proposal introduced into the Code of Obligations, at Art. 964a et seq., an obligation for large public-interest companies to draw up each year a report on non-financial matters.¹ This report covers environmental matters, in particular greenhouse gas targets, social matters, employee matters, respect for human rights and the fight against corruption. It describes the business model, the policies adopted, the measures taken, the principal risks and the performance indicators.²

The report must be approved by the board of directors and by the general meeting, and published. The Federal Council has in addition imposed on large companies, by ordinance, an obligation to report on climate matters, aligned with international recommendations, which has applied since the 2024 financial year.³ A revision intended to bring Swiss law closer to European requirements has been put out to consultation, with lower thresholds and stronger audit obligations.⁴

For the large trading houses and the Geneva banks, these obligations mean documenting and publishing their policies and risks in relation to sustainability and human rights, which increases the transparency of a sector that was long discreet. They also create a legal risk: an inaccurate or misleading report may give rise to the liability of those responsible for it.

1 Notes

1. SIX Exchange Regulation, Handbook Sustainability, “Transparency on non-financial matters pursuant to Art. 964a-c CO”: public-interest companies which, together with the companies they control, have an annual average of at least 500 full-time positions and exceed a balance sheet total of CHF 20 million or a turnover of CHF 40 million in two consecutive financial years; exemption for companies controlled by an entity subject to an equivalent obligation; Wilhelm Avocats, “La

The report on non-financial matters

nouvelle législation suisse en matière de responsabilité sociale des entreprises” (The new Swiss legislation on corporate social responsibility): Art. 964a-964l CO in force since 1 January 2022; CDBF, “Révision des obligations de reporting sur les questions de durabilité” (Revision of the sustainability reporting obligations): consultation opened on 26 June 2024 on lowering the threshold to 250 positions and introducing an external audit, closed on 17 October 2024. ↩

2. SIX Exchange Regulation, Handbook Sustainability, “Transparency on non-financial matters pursuant to Art. 964a-c CO”: the report covers environmental matters, “especially the applicable CO2 goals”, social matters, employee matters, respect for human rights and the fight against corruption, and includes “a description of the issuer’s business model”, “a description of the policies pursued”, including due diligence procedures, “a presentation of the measures taken”, the principal risks and “the key non-financial performance indicators”, on a comply-or-explain basis for the policies; Art. 964c CO: approval by the general meeting and accessibility of the report for at least ten years; Wilhelm Avocats, “La nouvelle législation suisse en matière de responsabilité sociale des entreprises” (“environmental matters, in particular CO2 targets, social matters, employee matters, respect for human rights and the fight against corruption”). ↩
3. Federal Council, press release of 23 November 2022: “The Ordinance on Climate Disclosures will enter into force on 1 January 2024”; Hristina Stoyanova, “Reporting on climate matters: the Swiss approach according to the Federal Council Ordinance”, CDBF, 15 December 2022: ordinance applicable to the large companies covered by Art. 964a CO (500 positions, CHF 20 million balance sheet total or CHF 40 million turnover), report on “the current and foreseeable impact of the climate on the company’s business activities” and on the effects of those activities on the climate, presumption of compliance where the eleven recommendations of the Task Force on Climate-related Financial Disclosures are applied, scenario-based forward-looking analyses for financial institutions, fine of up to CHF 100,000 under Art. 325ter SCC. ↩

4. CDBF, “Révision des obligations de reporting sur les questions de durabilité” (cdbf.ch/reperages): consultation opened by the Federal Council on 26 June 2024 with a view to extending the reporting obligation to companies with at least 250 employees and introducing an external audit; “The consultation procedure will end on 17 October 2024”; MLL Legal, “Rapports sur la durabilité : développements réglementaires dans l’UE et en Suisse” (Sustainability reporting: regulatory developments in the EU and Switzerland): “On 26 June 2024, the Federal Council opened a consultation procedure with the aim of adapting the Swiss provisions in force on sustainability reporting to the CSRD”, abandonment of the comply-or-explain principle and mandatory audit; Federal Council, preliminary draft amendment of the Code of Obligations (transparency on sustainability matters): thresholds of CHF 25 million balance sheet total, CHF 50 million turnover or 250 full-time positions, application of the European Union’s reporting standards “or other equivalent standards”.
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