

Investor Statement for the introduction of comprehensive human rights and environmental due diligence legislation in Switzerland

We are a group of 21 global institutional investors with CHF 459 billion in assets under management. We believe that sustainable development is of upmost importance for companies, their shareholders and all their stakeholders. For this reason, we encourage the companies in our investment portfolios to address material environmental, social and governance issues and to improve their respective practices. An increasing number of investors are sharing our view. According to a study by Swiss Sustainable Finance (SSF), the volume of sustainable investments in Switzerland grew by 31% between 2020 and 2021 and now stands at CHF 1,982 billion¹. The Swiss market is of great importance for us and we have significant holdings in many companies listed in Switzerland.

We call on the Federal Council and Members of Parliament to adopt comprehensive human rights and environmental due diligence legislation. In view of the legislative developments in the European Union, the recently approved Swiss provisions do not go far enough².

The concept of human rights and environmental due diligence is based on the UN Guiding Principles on Business and Human Rights (UNGPs) and is in line with the OECD Guidelines for Multinational Enterprises. According to these guidelines, companies must first review their business relationships and activities to identify potential risks to people and the environment. They must then take effective measures to address the identified potential and actual adverse impacts, and report transparently regarding these two steps.

The European Commission is developing a new law under the Corporate Sustainability Due Diligence (CSDD) Directive that will require due diligence for human rights and the environment. The first draft was published in February 2022.

We call for comprehensive human rights and environmental due diligence legislation to be developed that includes the following points:

- 1) Risk-based due diligence for human rights and environmental protection in accordance with international standards such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. These should cover the entire value chain, be risk-based and take place on an ongoing basis.
- 2) An independent supervisory authority with comprehensive competences, modelled after the draft EU Directive. This authority is responsible for monitoring and imposing effective but proportionate sanctions, including fines and compliance orders.
- 3) Civil liability adapted to Swiss law for human rights or environmental damage that could have been prevented by appropriate due diligence. Companies should be liable for damage caused by their subsidiaries and partners in the supply chain, regardless of where in the world they are located, but depending on the degree of involvement in the adverse effect.

Institutional investors also have a duty to conduct due diligence. We are responsible for assessing whether the operations of the companies in which we invest could have an adverse impact on human rights. If so, we have a duty to prevent and mitigate such impacts³. This has been described in detail in several international documents, e.g., the OECD Guide 'Responsible Business Conduct for Institutional Investors - Key Due Diligence Considerations under the OECD Guidelines for Multinational Enterprises' (2017)⁴.

¹ https://marketstudy2022.sustainablefinance.ch/downloads/SSF_2022_MarketStudy.pdf p.6

² <https://www.roedl.com/insights/supply-chain-law/globalisation-human-rights-due-diligence-supply-chain-reporting>

³ <https://www.unpri.org/download?ac=11953>

⁴ <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>

As investors, we are convinced that an analysis of how a company deals with material human rights and environmental challenges leads to better informed investment decisions. Reputational damage and operational difficulties due to human rights abuses and environmental pollution in supply chains can have a significant negative financial impact on our portfolio companies. Comprehensive due diligence requirements are therefore good for companies, investors and the economy as a whole. This type of targeted regulation increases the robustness of companies' risk management processes, creates transparency and helps investors make better investment decisions.

It is necessary to adapt the Swiss regulatory framework to ensure Switzerland keeps up with international developments. Failing to adapt may potentially create a competitive disadvantage for the Swiss financial industry as international investors are expecting investee companies to respect the highest standards in terms of human rights due diligence.

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