



# GLOBAL EXPANSION GUIDEBOOK CORPORATE

*Switzerland*



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## INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Corporate*.

### GLOBAL EXPANSION GUIDEBOOK SERIES

To compete and be successful today, companies need to develop and scale their businesses globally. Each country presents its own set of unique laws, rules and regulations and business practices that companies must understand to be successful. In order to help clients meet the opportunities and challenges of expanding internationally, we have created a handy set of global guides that cover the basics companies need to know when going into and doing business in new countries. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, intellectual property and technology, executive compensation, and tax laws in key jurisdictions around the world.

### CORPORATE

The *Global Expansion Guidebook – Corporate* has been created based on our research, our experience and feedback we have received from clients in both established and emerging businesses that have expanded internationally. We hope it will be a helpful resource for you.

The *Global Expansion Guidebook – Corporate* covers corporate basics in 54 key jurisdictions across the Americas, Asia Pacific, Europe and the Middle East. We touch on a wide range of corporate issues for companies expanding internationally, including establishing a corporate presence and choice of entity, liability considerations, tax presence and tax filings, capital requirements, the formation process, director, officer and shareholder requirements, registration processes, office lease processes and possible exit strategies.

With more than 600 lawyers, DLA Piper's global Corporate group is one of the largest in the world, with one of the widest geographical footprints of any global law firm and experience across the legal areas companies need as they expand internationally. With both global experience and local knowledge, we partner with our clients wherever they do business to find solutions and manage their risk in relation to their challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to seek advice regarding the specific matters that concern you. If you wish to speak to any of our contributors, you may find their contact details at the end of the guide.

We hope you find this guide valuable, and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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## SWITZERLAND



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### FORM OF ENTITY

#### Stock corporation

Legal form intended for large-sized companies with high capital requirements, but also popular among smaller companies. Managed by a board of directors, which is elected by the general meeting of shareholders. The articles of incorporation may limit the transferability of a company's shares.

### ENTITY SET UP

This is an overview of certain aspects of Swiss corporate law as of the date hereof which does not purport to be comprehensive, and may not be relied upon as legal or other advice or in any other way.

#### Stock corporation (*Aktiengesellschaft, AG / Société Anonyme, SA*)

- Unlimited number of shareholders allowed but at least 1 founder (individual or legal entity)
- The stock corporation has sole liability for its debts and liabilities

Taxed on its earnings at a corporate level and shareholders are taxed on any distributed dividends

- Board of directors is the managing body and has the authority to represent the stock corporation with respect to third parties. The day-to-day management may be delegated to third parties by respective board resolution and enacting of organizational by-laws and
- Annual audit report required (waiver possible for small companies).

#### Limited liability company (*Gesellschaft mit beschränkter Haftung, GmbH / Société à Responsabilité Limitée, SARL*)

- Unlimited number of quotaholders allowed but at least one founder (individual or legal entity).
- The limited liability company has sole liability for its debts and liabilities, although articles of incorporation may impose obligation to pay in additional capital.

- Taxed on its earnings at a corporate level and quotaholders are taxed on any distributed dividends.
- In absence of any rules to the contrary, the management is delegated to all partners.
- Generally, annual audit report required (waiver possible for small companies).
- Legal form intended for small and medium-sized companies.

## MINIMUM CAPITAL REQUIREMENT

### Stock corporation

Minimum stated capital of CHF100,000 (or an equivalent amount denominated in a foreign currency that is of importance for the business activity). When issuing registered shares, 20 percent of the share capital, but minimum of CHF50,000 (or, if the share capital is denominated in a foreign currency, an amount equivalent to CHF50,000 in the foreign currency) must be paid-in at the time of incorporation.

## LEGAL LIABILITY

### Stock corporation

Shareholders of a stock corporation are generally not liable for any debt or liability of a corporation, except for the payment of share price.

## TAX PRESENCE

### Stock corporation

A stock corporation is taxed at 2 levels (so-called economic double taxation). First, the stock corporation pays a corporate tax on its corporate income; when the stock corporation distributes profits to shareholders, they pay income tax on those dividends. Capital tax is only levied on a cantonal and communal level.

## INCORPORATION PROCESS

### Stock corporation

Incorporation meeting with the notary public; filing of the incorporation documents with the commercial register; registration of the stock corporation in the commercial register.

## BUSINESS RECOGNITION

### Stock corporation

Well regarded and widely used; more than 48 percent of the companies in Switzerland are organized as stock corporations.



## SHAREHOLDER MEETING REQUIREMENTS

### Stock corporation

Required to hold annual general meeting of shareholders to vote on certain items, such as election of directors. The general meeting may be replaced by circular resolutions if all shareholders are represented and no shareholder requests an oral deliberation.

## BOARD OF DIRECTOR MEETING REQUIREMENTS

### Stock corporation

Annual meeting of the board of directors is required.

## ANNUAL COMPANY TAX RETURNS

### Stock corporation

Must annually file tax returns with federal and cantonal tax authorities.

## BUSINESS REGISTRATION FILING REQUIREMENTS

### Stock corporation

Registration in commercial registry is required.

## BUSINESS EXPANSION

### Stock corporation

No need to change as business expands.

## EXIT STRATEGY

### Stock corporation

Where the corporation is dissolved for reasons other than insolvency or a court judgment, the general meeting of shareholders passes a resolution; the board of directors subsequently notifies the dissolution for entry in the commercial register.

## ANNUAL CORPORATE MAINTENANCE REQUIREMENTS

### Stock corporation

Annual board of directors and general meeting of shareholders; annual report generally consisting of annual accounts and management report.

## DIRECTOR / OFFICER REQUIREMENTS

### Stock corporation

If there are several directors, one director must be appointed as chairman. The board of directors appoints a secretary (responsible for protocol of board of directors meeting and other administrative duties; not required to be member of the board or management). No requirement to delegate day-to-day management to officers, but articles of incorporation may authorize the board of directors to do so.

For more information on directors' duties, see our [Global Guide to Directors' Duties](#).

## LOCAL CORPORATE SECRETARY REQUIREMENT

### Stock corporation

None required.

## LOCAL LEGAL OR ADMIN REPRESENTATIVE REQUIREMENT

### Stock corporation

At least 1 director or officer with single signatory power or 2 directors or officers with joint signatory power by 2 must be resident in Switzerland.

## LOCAL OFFICE LEASE REQUIREMENT

### Stock corporation

None required, but in absence of local offices, a c/o address is required.

## OTHER PHYSICAL PRESENCE REQUIREMENTS

### Stock corporation

Requirement to choose a domicile.

## SUFFICIENCY OF VIRTUAL OFFICE

### Stock corporation

Sufficient for incorporation; however, a written declaration by the holder of the domicile needs to be supplied confirming that they allow the stock corporation to have its domicile at the address stated.

## **PROVISION OF LOCAL REGISTERED ADDRESS BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER**

Stock corporation

Possible.

## **PROVISION OF LOCAL DIRECTOR OR CORPORATE SECRETARY BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER**

Stock corporation

No restrictions regarding the provision of local director or corporate secretary by law firm or 3rd-party service provider.

## **NATIONALITY OR RESIDENCY REQUIREMENTS FOR SHAREHOLDERS, DIRECTORS AND OFFICERS**

Stock corporation

At least 1 director or officer with single signatory power or 2 directors or officers with joint signatory power by 2 must be resident in Switzerland.

## **RESTRICTIONS REGARDING APPOINTMENT OF NOMINEE SHAREHOLDERS OR DIRECTORS**

Stock corporation

Generally none for nominee directors. In contrast, the stock corporation may (in case of registered shares with restriction of transferability) refuse entry in the share register where the acquirer fails to declare expressly that they have acquired the shares in their own name and for their own account.

## **SUMMARY OF DIRECTOR'S, OFFICER'S AND SHAREHOLDER'S AUTHORITY AND LIMITATIONS THEREOF**

Stock corporation

The board of directors is elected by the general meeting of shareholders and is the managing body. It has the authority to represent the stock corporation with respect to third parties and has certain non-transferrable duties that cannot be delegated to officers (eg, overall management, determination of the organization, organization of the accounting, financial control and financial planning systems, appointment, supervision and



dismissal of officers and compilation of the annual report). Officers may be appointed by the board of directors to oversee day-to-day operations of the corporation.

## **PUBLIC DISCLOSURE OF IDENTITY OF DIRECTORS, OFFICERS AND SHAREHOLDERS**

### **Stock corporation**

Identity of directors and officers is publicly disclosed; identity of shareholders is generally not publicly disclosed, except for the identity of the first subscribers of shares upon establishment of a stock corporation or in capital increases, and the disclosure obligations pursuant to the Financial Market Infrastructure Act (FMIA) with regard to shares listed on the stock exchange.

## **MINIMUM AND MAXIMUM NUMBER OF DIRECTORS AND SHAREHOLDERS**

### **Stock corporation**

There must be at least one shareholder. No maximum number exists. For directors, the minimum number is one, while there is no maximum number.

## **MINIMUM NUMBER OF SHAREHOLDERS REQUIRED**

### **Stock corporation**

1 shareholder is sufficient.

## **REMOVAL OF DIRECTORS OR OFFICERS**

### **Stock corporation**

The general meeting of shareholders is entitled to dismiss the members of the board of directors.

## **REQUIRED AND OPTIONAL OFFICERS**

### **Stock corporation**

None required; any optional officer is allowed, if the board of directors is authorized to delegate powers in the articles of incorporation.

## **BOARD MEETING REQUIREMENTS**

### **Stock corporation**

At least one annual board of directors meeting is required; circular resolutions are possible. Minutes need to be kept of the board's discussions and resolutions and signed by the chairman and the secretary.

## QUORUM REQUIREMENTS FOR SHAREHOLDER AND BOARD MEETINGS

### Stock corporation

For shareholders' meetings, subject to certain decisions that require a qualified majority of 2/3 of the represented voting rights and an absolute majority of the nominal value of represented shares, no attendance quorum applies and resolutions may be taken with simple majority of represented shares. Further, a stock corporation's articles of incorporation may stipulate additional quorum requirements.

For board meetings, subject to a stock corporation's articles of incorporation and/or organizational regulations, no attendance quorum applies and decisions may be taken by simple majority of the cast votes.

## MUST A BANK ACCOUNT BE OPENED PRIOR TO INCORPORATION, AND MUST THE BANK ACCOUNT BE LOCAL?

### Stock corporation

In case of incorporation by cash, it is required to pay in the share capital in cash to a special blocked account to be opened with a Swiss bank before the incorporation meeting.

## AUDITING OF LOCAL FINANCIALS. IF SO, MUST THE AUDITOR BE LOCATED IN LOCAL JURISDICTION, AND MUST THE COMPANY'S BOOKS BE KEPT LOCALLY?

### Stock corporation

Auditors must audit the stock corporation's books annually and submit a report thereon to the board of directors and the shareholders. Waiver of audit is possible for small companies. Generally, the auditor must be located in Switzerland. The stock corporation's books must be kept locally.

## REQUIREMENT REGARDING PAR VALUE OF STOCK

### Stock corporation

The nominal value of a share must be larger than zero.

## INCREASING OF CAPITALIZATION IF NEEDED

### Stock corporation

Effectuated by share capital increase (ordinary or conditional) to be reflected in articles of association, which requires a resolution or authorization from the general meeting of shareholders. In addition, the board of directors may be authorized in the articles of association to increase and/or decrease the share capital within a defined bandwidth (so-called capital band).

## SUMMARY OF HOW FUNDS CAN BE REPATRIATED FROM YOUR JURISDICTION (IE DIVIDENDS OR REDEMPTION)

### Stock corporation

Free equity can be repatriated abroad from Switzerland via dividend or redemption. Withholding tax (35 percent) may arise.

## RESTRICTIONS ON TRANSFERABILITY OF SHARES

### Stock corporation

Shares may generally be transferred freely. Board of director's consent is only needed in case of registered shares and a corresponding provision in the articles of incorporation.

## OBTAINING A NAME AND NAMING REQUIREMENTS

### Stock corporation

The business name must indicate the legal form and must be clearly distinct from every other business name of businesses already registered in Switzerland. A reservation of a business name is not possible.

## SUMMARY OF "KNOW YOUR CLIENT" REQUIREMENTS

### Stock corporation

No general KYC requirements except for financial intermediaries and dealers, as defined in the Swiss Anti-Money Laundering Act.

However, reporting requirements regarding the identity of the owner of bearer shares and regarding the ultimate beneficial owner of shareholders holding more than 25 percent of the voting rights or capital in a stock corporation may apply to unlisted stock corporations.

## APPROVAL REQUIREMENTS FOR AMENDING CHARTER DOCUMENT

### Stock corporation

Generally, the shareholders' meeting must formally approve a resolution to any amendment to the articles of incorporation.

## LICENSES REQUIRED TO CONDUCT BUSINESS IN JURISDICTION

### Stock corporation

In general, no license requirements except for specific sectors such as, for example, banking and insurance.

## PROCESS OF PURCHASING AND UTILIZING A SHELF COMPANY

### Stock corporation

Although not uncommon in practice, purchase of a shelf stock corporation and its subsequent reactivation may be held void and involves various and substantial legal and financial risks. It is therefore not advisable under Swiss law.

## KEY CONTACTS



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