PANORAMIC

JOINT VENTURES

Switzerland



LEXOLOGY

Joint Ventures

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FORM

Types of joint venture

What are the key types of joint venture in your jurisdiction? Is the 'joint venture' recognised as a distinct legal concept?

The joint venture is recognised as a legal concept in Switzerland, although there is no statutory definition of this term or a body of law that is exclusively applicable to joint ventures. Swiss joint ventures take two distinct forms, depending on their legal structure:

- contractual joint ventures; and
- equity or corporate joint ventures.

The advantages and disadvantages of those two types originate predominantly from the fact that in one case the joint venture parties can act through a corporate structure. Contractual joint ventures often (but not always) qualify as simple partnerships in the sense of article 530 et seq of the Swiss Code of Obligations and are based on a set of relatively simple contracts. They allow for more flexibility in terms of formation, operation and termination than equity joint ventures. That said, it is not always in the interests of the joint venture parties to operate as a group directly in the relevant market and there is no limited liability.

By contrast, equity joint ventures include an independent legal entity, which is often established for this very purpose. This means that mandatory Swiss law rules applicable to the formation, operation and termination of the joint venture company must be observed. While this is not particularly onerous to the joint venture parties, it is still a factor to consider. The equity joint venture has its main benefits when the common goal requires a distinct entity for marketing purposes or dealing with third parties, or limited liability is a key concern.

Law stated - 31 August 2024

Common sectors

In what sectors are joint ventures most commonly used in your jurisdiction?

The joint venture is an instrument that is used in a variety of sectors in Switzerland; for example, construction, heavy industry, beverages, transport, sports marketing, energy and media.

Law stated - 31 August 2024

PARTIES

Rules for foreign parties

Are there rules that relate specifically to foreign joint venture parties?

Swiss law does not distinguish between foreign and domestic joint venture parties, and it does not prohibit or complicate cross-border joint ventures. However, if the joint venture conducts a regulated business, foreign involvement may be subject to certain regulations.

For example, control of a Swiss bank by foreigners requires a special permit and the direct or indirect acquisition of real estate used for living accommodation purposes by non-residents is subject to approval. In addition, nationals of third countries outside the European Union and the European Free Trade Association (EFTA) are subject to an immigration regime under which only a limited number of work permits are available. Therefore, joint venture parties from outside the European Union and the EFTA may find it difficult to staff a joint venture company with a workforce from their country of origin. However, highly trained employees and specialists will usually receive a work permit.

Law stated - 31 August 2024

Ultimate beneficial ownership

What requirements are there to disclose the ultimate beneficial ownership of a joint venture entity?

In the majority of cases, Swiss equity joint ventures include a company limited by shares (*Aktiengesellschaft*). Any person who acquires shares in a company limited by shares that is not listed on a stock exchange and thus reaches or exceeds the threshold of 25 per cent of the share capital or votes (alone or acting in concert) must, within one month, give notice to the company of the first name, surname and address of the natural person for whom it is ultimately acting.

Law stated - 31 August 2024

SETTING UP AND OPERATING A JOINT VENTURE

Structure

Are there any particular drivers in your jurisdiction that will determine how a joint venture is structured?

The structure of the joint venture is mainly driven by the joint venture parties' needs.

Law stated - 31 August 2024

Tax considerations

When establishing a joint venture, what tax considerations arise for the joint venture parties and the joint venture entity? How can tax charges be lawfully mitigated?

Contractual joint ventures are not subject to taxation, offer full tax transparency, and profits and losses accrue directly to the joint venture parties.

In the case of an equity joint venture, the incorporation of the company is subject to Swiss stamp duty of 1 per cent for its nominal share capital exceeding 1 million Swiss francs. This stamp duty may be mitigated if the joint venture entity is established by contribution in kind of parts of the joint venture parties' businesses.

Corporate profits are taxed at federal, cantonal and communal (municipal) levels. The federal profit tax rate is 8.5 per cent (effective tax rate 7.83 per cent). Tax rates vary between the 26 cantons and between the communes within the cantons, which allows for tax planning. Overall effective profit tax rates as of 2023 are between approximately 8 per cent (canton of Zug) and approximately 22 per cent (canton of Bern). However, because of the Organization for Economic Co-operation and Development minimum tax rate, large, internationally active corporate groups with an annual turnover of at least €750 million have been subject to a new minimum tax rate of 15 per cent since 1 January 2024.

Capital tax is raised on the company's equity at variable rates depending on the canton where the company is domiciled, but it is usually below 5 per cent.

A company may apply for a tax holiday if certain conditions are met. Tax incentives are granted on a case-by-case basis, and their extent and duration largely depend on the size of the investment and the importance attributed to the economic development of the canton or region concerned. Such incentives may be either relief or exemption from income and annual capital tax for up to 10 years.

Overall, the joint venture parties should carefully analyse the situation and obtain tax advice before they establish the joint venture entity. The Swiss tax regime is very competitive. Searching for a beneficial tax structure within Switzerland will most certainly lead to an attractive result.

Law stated - 31 August 2024

Asset contribution restriction

Are there any restrictions on the contribution of assets to a joint venture entity?

There are no restrictions on the contributions of assets to a joint venture entity, provided that the relevant assets are tradeable, are available to the company immediately after the contribution, can be capitalised in the balance sheet and the company can liquidate them, if necessary. Contrary to foreign jurisdictions, the obligations of third parties to provide services to the company are not considered contributable assets.

Law stated - 31 August 2024

Interaction between constitution and agreement

What is the interaction between the constitution of the joint venture entity and the agreement between the joint venture parties?

The articles of association (constitution) of the joint venture entity and the agreement between the joint venture parties are, in principle, separate items and do not directly interact with one another. The joint venture parties will mirror their agreement in the articles of association to safeguard certain aspects of their agreement. In particular, this includes the purpose of the joint venture entity, maintaining the balance of power (ie, the shares that the parties hold) between the parties, transfer restrictions of shares, the number of board members, the overall composition of the board and termination of the company if

a specific goal is reached. The extent to which this is possible is limited by applicable law. However, since the articles of association are publicly available in Switzerland but the joint venture agreement is not (and there is also no requirement for registration), joint venture parties usually prefer not to include too many details in the articles of association. Additional organisational matters are usually included in the organisational by-laws, which is an internal document. Conflicts between the articles of association and the agreement between the joint venture parties often create a conflict of interests for the board.

Law stated - 31 August 2024

Party interaction

How may the joint venture parties interact with the joint venture entity? Are there any restrictions?

If the joint venture entity is a company limited by shares, the joint venture parties will typically be the shareholders and benefit from all of the shareholders' rights, including the right to obtain the annual report and the audit report (article 697a of the Swiss Code of Obligations (CO)) and the limited right of information (article 697 of the CO), which may be refused only where providing such information would jeopardise the company's trade secrets or other interests warranting protection. In certain circumstances, the board of directors will want to withhold some information if this is required in the interest of the joint venture entity. However, the board of directors may, in principle, share all information with the shareholders informally, as long as all shareholders are treated equally, there are no conflicts with the interests of the joint venture entity and the information is not restricted for other reasons (eg, data protection in relation to customer information). In any event, each joint venture party should ensure that it may nominate a board member. By contrast, in contractual joint ventures, the parties have the right to information on the status of the joint venture's affairs, to inspect its books and documents, and to obtain a summary statement of its financial position (article 541 of the CO).

Law stated - 31 August 2024

Exercising control

How may the joint venture parties exercise control over the joint venture entity's decision-making?

For the protection of the joint venture parties, the joint venture agreement may, for example, require that shareholders' meetings be duly constituted only if all shareholders (ie, joint venture parties) are present in the meeting or that specific decisions require an elevated quorum (eg, changes to the joint venture vehicle, such as liquidation, a merger or changes to the capital structure). Furthermore, casting votes in favour of a joint venture partner can be provided for in the agreement in the case of deadlock.

Minority shareholders do not enjoy strong protection under Swiss law. However, any shareholder – including minority shareholders – may challenge the validity of resolutions that violate statutory law or the articles of association. In addition, the joint venture agreement can provide for the additional protection of minority investors by, for example,

requiring the consent of all joint venture parties for particularly important decisions, such as those relating to capital expenditure exceeding a specified amount or the sale of important assets.

Law stated - 31 August 2024

Governance issues

What are the most common governance issues that arise in connection with joint ventures? How are these dealt with?

Joint venture corporations face different governance challenges to, for example, public companies. While public companies may be concerned with stopping self-dealing, the major goal of a joint venture will be to balance the goals of the joint venture undertaking with the individual goals of the partners. Balancing these interests may become a challenge where the founders of a joint venture have representatives on the board of directors and these representatives endorse the interests of the founders. Independent committees and codes of conduct could be used to level out the interests. Further, specialised committees may be helpful, especially where the joint venture engages in the technology or manufacturing business. Focusing on technical issues and resolving disputes relating to technical matters can then be dealt with by such committees.

Law stated - 31 August 2024

Nominee directors

With an incorporated joint venture, what controls exist in your jurisdiction in relation to nominee directors? How should a nominee director balance the potentially conflicting interests of the joint venture company and the appointing shareholder?

The members of the board of directors of a Swiss company limited by shares are elected by a meeting of shareholders. From that perspective, a board member nominated by a shareholder is no different from his or her fellow board members. In practice, such a nominee director often has an agreement with the appointing shareholder, which may result in conflicting duties towards the appointing shareholder, on the one hand, and the joint venture entity, on the other. When the nominee director decides within his or her margin of discretion, it is considered acceptable that he or she acts based on the instructions of the appointing shareholder. If, however, there is a conflict of interest, the interests of the joint venture entity must take precedence or the nominee director may incur personal liability. This risk can be mitigated to expressly define the support of the joint venture business as a purpose of the joint venture entity in its articles of association.

Law stated - 31 August 2024

Competition law

What competition law considerations are engaged by the formation and operation of the joint venture? Is approval needed?

Generally speaking, two types of joint venture can be distinguished from a competition law perspective. They are subject to different competition rules.

Full-function joint ventures are joint ventures that perform, on a lasting basis, all the functions of an autonomous economic entity. If the joint venture is a new entity, business activities from at least one of the controlling undertakings must be transferred to the joint venture for it to be caught by merger control. Such transactions must be notified to the Swiss competition authorities prior to their implementation if the following thresholds are both met:

- the worldwide turnover of the undertakings concerned is at least 2 billion Swiss francs or the turnover in Switzerland is at least 500 million Swiss francs; and
- at least two of the undertakings concerned each reported a turnover in Switzerland of at least 100 million Swiss francs (article 9 of the Federal Act on Cartels).

If the joint venture has no sufficient connection to Switzerland (ie, the joint venture has no intention to operate and generate turnover in Switzerland), a notification may not be required. In each case, however, this should be discussed with the competition authorities.

Cooperative joint ventures are joint ventures that are not full-function joint ventures. These are assessed under the rules applying to horizontal agreements. Such transactions can be notified pursuant to article 49a of the Federal Act on Cartels prior to their implementation.

Law stated - 31 August 2024

Provision of services

What are the key considerations in your jurisdiction in structuring the provision of services to the joint venture entity by joint venture parties?

Generally, the provision of services to the joint venture entity should not create particular issues, to the extent that the board of directors does not outsource its non-transferable and inalienable duties (eg, the overall management of the company, and the organisation of the accounting, financial control and financial planning systems as required for the company's management).

Law stated - 31 August 2024

Employment rights

What impact do statutory employment rights have in joint ventures?

The Swiss jurisdiction provides for a dual system for the granting of residence and work permits to foreigners, which distinguishes between EU and European Free Trade Association (EFTA) nationals (based on the Agreement on Free Movement of Persons) and non-EU or EFTA nationals, or third-country nationals.

EU and EFTA nationals require a work permit only for gainful employment lasting for more than three months, irrespective of their qualifications.

By decree of the Federal Council, qualified employees from third countries are admitted to the Swiss labour market, in limited numbers only, if they are well qualified and fulfil certain statutory requirements such as being a qualified employee. Statutory requirements include, among others, providing proof that a person cannot be recruited from the labour market in Switzerland or another EU or EFTA member state. Certain exceptions can be made to the admittance requirements, for example, for the transfer of a cadre of specialists within international businesses or joint ventures. However, quotas for work permits exist on both the cantonal and the federal levels, and also apply to such exceptional work permits for qualified workers. The Services Mobility Agreement allows UK professionals to work in Switzerland for up to 90 days without a work permit.

Law stated - 31 August 2024

Intellectual property rights

How are intellectual property rights generally dealt with on the creation, operation and termination of a joint venture in your jurisdiction?

All assets contributed to the contractual joint venture are then jointly owned by the joint venture parties. Therefore, intellectual property rights are often transferred to the joint venture by way of a licence agreement, whereby the ownership remains with the parties.

However, it is also possible to transfer an intellectual property right to the joint venture entity as a contribution in kind. The valuation of a contribution of an intellectual property right in kind may pose problems, in the event of the bankruptcy of the joint venture corporation or in the event that the contributing party leaves the joint venture corporation. In both cases, an initial under- or overvaluation may lead to liability towards creditors, shareholders or the leaving party.

Regardless of whether the joint venture is organised contractually or by corporation, it is highly advisable to agree on the rights and obligations of the joint venture parties in relation to the ownership and use derived from the joint venture's operations, both during the operational life of the joint venture and in the case of a termination of the joint venture. These should be clearly established in the partnership agreement or the licensing agreement.

Joint venture parties should keep in mind that Swiss law provides for the employer's ownership of inventions and designs created by employees (article 332 of the CO).

Law stated - 31 August 2024

FUNDING THE JOINT VENTURE

Typical funding

How are joint ventures generally funded in your jurisdiction? Are there any particular requirements relating to funding and security packages?

In relation to contractual joint ventures, the joint venture agreement should specify the amount and the kind of contributions to be made by each party whereby such contributions can be made in the form of cash, assets or labour and services. Any contribution made to the contractual joint venture is jointly owned by the joint venture parties. Therefore, assets

will often be transferred with the right to use or benefit while the ownership of the assets remains solely with the contributor. Usually, the contractual joint venture will cease to exist where one party exits the venture, but the parties are free to stipulate a deviation from that rule in the joint venture agreement. Therein, the parties may also stipulate how the assets contributed by the departing party shall be treated (ie, if they remain with the joint venture or if the leaving party shall be remunerated, in which case the amount of the remuneration or the method to calculate such remuneration shall also be stipulated in the agreement).

Joint venture entities in the form of companies limited by shares must have a minimum registered share capital of 100,000 Swiss francs. Contributions can be made in cash or in kind, whereby the valuation of contributions in kind may be an issue. Subsequent to the initial capital contribution, the corporate venture can be funded by issuing shares or by incurring debt. Subsequent funding bears the risk of a dilution of voting rights. Further to traditional debt financing (ie, borrowing from banks), instruments such as venture capital and project finance or capital market instruments can provide the required funding. Moreover, the shareholders' agreement of a company limited by shares may require the joint venture parties to provide further funding or guarantees.

Law stated - 31 August 2024

Capital injection restrictions

Are there any legal or regulatory restrictions on the injection of capital into, or the distribution of profits or the extraction of cash by other means from, the joint venture entity?

Any capital injection into a joint venture company, distribution of profits or other extractions of cash are subject to mandatory Swiss law.

Regarding capital injections, the Swiss Code of Obligations (CO) provides for three types of capital increase: ordinary capital increase (article 650 of the CO), contingent capital increase (article 653 of the CO) and capital band (article 653s of the CO), which allows to change the share capital within a predetermined range. Capital may further be injected into the corporation by way of capital contributions by shareholders (***à fonds perdu*** payments; that is, payments without consideration). However, since no shares are issued following a capital contribution, the joint venture parties will usually ensure that each party participates in the capital contribution pro rata to its holdings in the joint venture entity.

As for the distribution of profits, under Swiss law, corporate joint ventures may distribute dividends only on the basis of an audited balance sheet that has been approved at the shareholders' meeting. Further, the dividend must either be paid out of accrued profit or distributable reserves, subject to the allocation of profit to the general legal reserves under statutory law. Generally, shareholders do not have a right to request a corporation to repurchase its shares and neither may the corporation deprive the shareholder of its shares. Certain exceptions to this principle exist, for example, in the event of a shareholder's failure to fully pay up the subscription price (article 681 of the CO) or in the event of a squeeze-out (in the context of a public tender offer or a merger).

Law stated - 31 August 2024

Tax considerations

What tax considerations should be taken into account in the operation of the joint venture?

The distribution of dividends is subject to 35 per cent withholding tax. Based on a double taxation treaty (if applicable), a full or partial refund of the withholding tax may be possible. For intra-group dividends, the notification procedure may be available. Switzerland has an excellent double taxation treaty network, with over 100 treaties currently in place for income tax purposes.

Interest payments on loans are subject to Swiss withholding tax only in the case of bonds, bond-like debts and collective fundraising.

There is no group relief or consortium relief between the joint venture entity and the joint venture parties available.

Law stated - 31 August 2024

Accounting and reporting issues

Are there any noteworthy accounting or reporting issues for the joint venture parties regarding their investment in the joint venture?

There are no noteworthy accounting or reporting issues.

Law stated - 31 August 2024

DEADLOCK, EXIT AND TERMINATION

Deadlock provisions

What deadlock provisions are commonly included in joint venture agreements in your jurisdiction?

In an equity joint venture, the parties can give the chairperson a casting vote to unlock a deadlock at board level. However, in a 50:50 joint venture, this will give one party a considerable advantage. This effect can be mitigated by alternating the right of appointing the chairperson at regular intervals or by electing an independent person to the board who acts as chairperson. Sometimes, joint venture agreements provide for the appointment of an independent party who decides the dispute or to implement a joint committee of the joint venture parties (to the extent that the dispute does not relate to non-transferable and inalienable duties of the board or the meeting of shareholders), or even Russian roulette and blind bid clauses. However, the more innovative a solution appears, the higher the risk that it will not work in practice and instead lead to further issues. Unlocking a 50:50 deadlock is a delicate task and it is difficult to balance any solution with the concept of common control. Therefore, prioritising simple solutions or alternative means to avoid conflicts is recommended.

Law stated - 31 August 2024

Exit provisions

What exit provisions are commonly included? Does the law restrict any forms of mandatory transfer provision or any basis of calculation?

Joint venture projects usually include rather detailed buy and sell arrangements, which grant the parties the right or the obligation to sell their share in the joint venture entity upon the occurrence of certain pre-defined events (eg, a breach of contract). The law does not restrict the mandatory transfer of shares or a specific basis for calculation. However, it may be necessary to enforce the respective provisions before a court if there is a dispute between the joint venture parties.

Law stated - 31 August 2024

Tax considerations following termination

What are the tax considerations on termination of the joint venture?

On the level of the joint venture entity, federal, cantonal and communal profit tax will become due following the realisation of all gains on hidden assets in the event of a liquidation of the joint venture entity. Any distribution of dividends by the joint venture entity to its shareholders (including any transfer of assets that is not done at arm's length) will be subject to a 35 per cent Swiss withholding tax. On a Swiss shareholder level, liquidation surpluses represent taxable income unless they are a repayment of existing capital contributions. A participation exemption may be applicable to this income as well.

Law stated - 31 August 2024

DISPUTES

Choice of law and resolution methods

In your jurisdiction, are there constraints on the choice of law or the method of dispute resolution provided for in joint venture agreements?

In relation to the joint venture agreement, the parties are free to choose the applicable law and the method of dispute resolution (eg, courts of a particular state or an arbitral tribunal).

Law stated - 31 August 2024

Mandatorily applicable local law

What mandatory provisions of local law will apply irrespective of the choice of governing law?

Under Swiss law, the enforceability of any agreement is limited by the principle of public policy. The enforcement of a foreign judgment made by a court of a state bound by the Lugano Convention is subject to the provisions of the Lugano Convention. A foreign

judgment made by a court of a state not bound by the Lugano Convention may not be recognised by the courts of Switzerland if:

- the judgment was made by a court that has no jurisdiction;
- the judgment is not final and binding; or
- grounds for refusal according to article 27(2) of the Swiss Federal Code on International Private Law are established.

Law stated - 31 August 2024

Remedy restrictions

Are there any restrictions on the remedies a tribunal can grant that would have a bearing on the arbitration of joint venture disputes? Are there any restrictions on the arbitration of shareholder claims?

If the joint venture parties resort to litigation and the arbitral award provides for a specific performance of the joint venture entity, such specific performance may not be enforceable. Instead, the joint venture agreement should provide for liquidated damages.

Law stated - 31 August 2024

Minority investor protection

Are there any statutory protections for minority investors that would apply to joint ventures?

The minority shareholders of a company limited by shares enjoy only a few specific statutory rights. While Swiss law does not provide for their right to nominate a representative to the board of directors, minority shareholders do have the right to request a shareholder's meeting or to request that an item be added to the agenda of the meeting, where the minority shareholders represent at least 10 per cent of the share or voting capital or holds 5 per cent of the share capital or of the votes, respectively (article 699 et seq of the Swiss Code of Obligations (CO); for listed companies different thresholds apply). Minority investors are further protected by article 704 of the CO, which stipulates that a double majority is necessary for certain important decisions in the shareholders' meeting and by article 706 of the CO, which allows all shareholders to challenge the validity of shareholders' resolutions violating statutory law or the company's articles of association.

By contrast, in contractual joint ventures where the parties have a simple partnership, the minority investors have by default (and unless stipulated otherwise) additional rights: resolutions are made with the consent of all partners, each party has an equal share in profits and losses regardless of the nature and amount of his or her contributions, each party has a right to receive information, etc.

Law stated - 31 August 2024

Liabilities

How can joint venture parties have liabilities to each other beyond what is expressly agreed in the joint venture agreement?

In a contractual joint venture, each party is liable to the other parties for any loss or damages caused through his or her fault (article 538, paragraph 2 of the CO). Towards third parties, the partners have personal, unlimited, joint and several liability for obligations contracted jointly or through representatives, unless stipulated differently in the joint venture agreement (article 544, paragraph 3 of the CO). Restriction of liability is possible only where a party expressly acts in its own name. However, such liability among the parties is not given if a party acted tortiously.

By contrast, only corporate assets are liable for the obligations of a corporate joint venture. Swiss law provides for the personal liability of members of the board of directors and persons engaged in business management or auditing for any damages or losses arising from an intentional or negligent breach of their duties. Corporate law distinguishes the following types of liability:

- liability for administration, business management and liquidation (article 754 of the CO);
- liability for the issue prospectus (article 752 of the CO); and
- liability of auditors (article 755 of the CO).

The founders of a corporation, members of the board of directors and all people engaged in the founding of the corporation become liable towards the corporation, the individual shareholders and creditors for any losses if they:

- wilfully or negligently conceal, disguise, or give inaccurate or misleading information on contributions in kind, acquisitions in kind or the granting of special privileges to shareholders or other persons in the articles of association, statutory report or a capital increase report, or otherwise act unlawfully in approving such a measure;
- wilfully or negligently induce the incorporation of the company on the basis of a certificate or deed containing inaccurate information; or
- knowingly contribute to the acceptance of subscriptions from insolvent persons.

As a consequence of the limited liability, shareholders will at most lose their proportion of the share capital in the case of a bankruptcy of the corporation. However, the shareholders may have entered into a pooling agreement, in which case they constitute a simple partnership among themselves.

Law stated - 31 August 2024

Disclosure of evidence

Are there any particular issues that can arise in joint venture disputes in your jurisdiction concerning disclosure of evidence?

Swiss law does not provide for pretrial disclosure. Rather, the parties determine which evidence they will present to the court in their written briefs. If such a document is, however,

in the possession of the other party, the court may order production on request. Pretrial requests are only possible where evidence may become unobtainable over time or where one party has a legal duty to produce documents. Under Swiss law, certain individuals (a party's family members and certain professionals, such as attorneys or journalists) are not required to give testimony or to produce documents. However, these privilege rights differ in scope. In-house counsels (including attorneys working in an operating joint venture) do not benefit from this legal privilege.

Law stated - 31 August 2024

MARKET OVERVIEW

Jurisdictional advantages

What advantages does your jurisdiction offer for parties wishing to set up and operate joint ventures?

The Swiss jurisdiction offers a quick and easy system for establishing joint venture companies and the necessary flexibility to create a joint venture agreement that is tailor-made for the joint venture parties' needs. A favourable tax regime and easy access to a qualified workforce are also incentives for establishing a joint venture in Switzerland.

Law stated - 31 August 2024

Requirements and restrictions

Are there any particular requirements or restrictions relating to joint ventures in your jurisdiction that could deter international investors?

A joint venture entity is subject to mandatory Swiss corporate law, which may limit the structure the joint venture parties would like to implement. For example, article 716a of the Swiss Code of Obligations (CO) lists a number of non-transferable and inalienable duties of the board of directors, such as the overall management of the company, the determination of the company's organisation and notification to the court in the event that the company's balance sheet shows negative equity. This concept of self-management of a company does not always go well together with a joint venture: if the joint venture parties are in agreement, the board will, to a large extent, execute decisions made elsewhere. If the joint venture parties are in disagreement, the board may find itself in deadlock. However, this issue is mitigated by the fact that article 716a of the CO is applied rather selectively. Overall, it seems that these issues are not really a problem in practice.

Law stated - 31 August 2024

UPDATE AND TRENDS

Key developments of the past year

What are the current trends affecting joint ventures in your jurisdiction? What recent developments in legislation and case law have had an impact on joint ventures?

Swiss companies generally have a high appetite for joint ventures. Unlike the rest of the world, they see joint ventures as their most important growth strategy (compared to mergers and acquisitions).

As most joint ventures resort to arbitration in the case of disputes, there is no recent published case law relevant to joint ventures.

Law stated - 31 August 2024