

Lending and Taking Security in Switzerland: Overview

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A Q&A guide to lending and taking security in Switzerland.

This Q&A provides a high-level overview of forms of security over assets, release of security over assets, special purpose vehicles in secured lending, quasi-security, guarantees, risk areas for lenders, structuring the priority of debts, debt trading and transfer mechanisms, agent and trust concepts, enforcement of security interests, borrower insolvency and cross-border issues on loans.

Forms of Security over Assets

Real Estate

1. What is considered real estate in your jurisdiction? What are the most common forms of security granted over it? How are they created and perfected (that is, made valid and enforceable)?

Real Estate

The definition of real estate (*Grundstücke*) under the [Swiss Civil Code](#) includes:

- Parcels of land with or without buildings on them.
- Distinct and permanent rights recorded in the land register (most notably rights to build on a parcel of land (*Baurecht*)).
- Co-ownership in land (with or without buildings on it) and condominium apartments.

Common Forms of Security

Common forms of security over real estate are mortgage certificate security transfers and land charges (*Grundpfandverschreibungen*). For both forms, real property of the borrower or a third party serves as security for any kind of actual, future and contingent claims.

Mortgage certificate security transfer. As a negotiable instrument or registered mortgage certificate, the legal title in a mortgage certificate (*Schuldbrief*) can be transferred for security purposes. This is generally the preferred method to grant security over real estate because there are several advantages for the secured party to have legal title to the mortgage certificate. Notably, the mortgage certificate does not become a part of the bankruptcy estate.

Land charge. A land charge is a mortgage that is entered in the land register, whereby only the security interest and the secured party (and not the secured claim) are entered into the register. The land charge and the secured claims are not represented in the form of a negotiable instrument.

Formalities

The following formalities are required to create a valid mortgage certificate security transfer:

- The mortgage certificate, if not already issued, is created by a notarised deed. A mortgage certificate is a security representing a personal claim against the debtor that is secured by a lien on real property. Mortgage certificates can either be issued in the form of a:
 - bearer mortgage certificate (*Inhaberschuldbrief*);
 - registered mortgage certificate (*Namenschuldbrief*); or
 - paperless mortgage certificate (*Registerschuldbrief*).
- A written agreement between the parties governing the security transfer of the mortgage certificate. There is no requirement to notarise or file the agreement with the land register.
- The transfer by the security provider of the legal title to the mortgage certificate to the secured party. In the case of a registered and bearer certificate, this requires the transfer of possession of the original mortgage certificate. In contrast to this, for paperless mortgage certificates the transfer of legal title must be registered in the land register.

Land charges require a mortgage agreement in the form of a notarised deed. The mortgage agreement must be filed with the land register to perfect the security.

Tangible Movable Property

2. What is considered tangible movable property in your jurisdiction? What are the most common forms of security granted over it? How are they created and perfected?

Tangible Movable Property

Tangible movable property comprises all tangible assets that may be the subject of legal rights and which are not, or do not form part of, real estate including, for example, machinery, inventory, aircraft and ships.

Common Forms of Security

The most common form of security over tangible property are pledges (a limited right *in rem*) which entitles the secured party to realise the secured asset in the case of a default (however defined) of the debtor.

An alternative form of security over tangible movable property is a security transfer of legal title. This form of security may be helpful in case the transfer of possession of the movable asset is not practicable (see below). It results in the secured party acquiring full legal title in the transferred assets. In the case of an enforcement event, the secured party can liquidate the assets of the debtor and retain the proceeds up to the amount of its secured claims.

Swiss law does not recognise the concept of floating charges. Therefore, the secured asset must be sufficiently specified, which may prove to be impractical in the case of a security over inventory or equipment.

Formalities

The common forms of security over tangible movable property are created by a valid agreement governing a pledge or a security transfer of title. The agreement is not subject to a form requirement. Additionally, as a matter of principle under Swiss laws, the possession of movable property must be transferred to the secured party in both cases. The security provider must fully give up possession and, consequently, any form of constructive possession is not sufficient to create a security over movable property. As a result of this, the creation of a security interest with respect to movable property proves to be impractical under Swiss law.

The creation and perfection of a security interest over certain types of movable assets are governed by specific laws. In particular, security over aircrafts and ships can only be perfected by the registration of the security in a public register. This registration replaces the requirement to transfer possession.

Financial Instruments

3. What are the most common types of financial instrument over which security is granted in your jurisdiction? What are the most common forms of security granted over those instruments? How are they created and perfected?

Financial Instruments

Common types of financial instruments (both in certificated and dematerialised form) over which security is granted include:

- Shares (*Aktien*).
- Debt securities.
- Units in collective investment schemes.

Common Forms of Security

The form of security used for financial instruments are pledges, security transfer of legal title and assignments for security purposes (security assignments).

Formalities

A security interest over financial instruments is created as follows:

- A valid written security agreement.
- In the case of certificated financial instruments, the transfer of possession of the certificates to the secured party. Registered certificates must be blank when endorsed.
- Uncertificated financial instruments require a declaration of assignment in favour of the secured party.

The granting of security over intermediated security (that is, debt or equity securities that are booked into a securities account with an intermediary), are subject to the rules of the [Federal Intermediated Security Act](#) (FISA). Under the FISA, a security interest over intermediated securities is granted either by a pledge or a security transfer of legal title.

Pledge. In the case of a pledge, the intermediary and security provider enter into an account control agreement. Under such an agreement, the intermediary irrevocably agrees to carry out instructions from the secured party with respect to the intermediated securities.

Security transfer of legal title. The intermediated securities are transferred and credited by the bank to the account of the secured party based on instructions from the security provider.

Claims and Receivables

4. What are the most common types of claims and receivables over which security is granted in your jurisdiction? What are the most common forms of security granted over claims and receivables? How are they created and perfected?

Claims and Receivables

The most common types of claims and receivables over which security is granted are bank account receivables, trade receivables, inter-company receivables, insurance receivables and certain claims under contracts (such as claims arising in connection with share purchase agreements).

Common Forms of Security

The most common forms of security granted over claims and receivables are pledges and security assignments.

Formalities

The perfection of a pledge over rights or receivables requires a valid security agreement in written form. It is advisable that the law governing this agreement is the same as the law governing the claims or receivables as the choice of a different law may not be valid towards a debtor. In addition to this, the perfection of a security transfer of receivables requires a written assignment declaration. In practice, the security agreement usually covers the declaration. Further, if a pledged or assigned claim is represented by a written acknowledgment of debt, the transfer of the acknowledgment to the secured party is a requirement for a valid perfection of the pledge or assignment.

It is generally not a perfection requirement to notify third-party debtors of the pledge or assignment unless a second ranking pledge is created. However, if third parties are not informed of the pledge or assignment, they may in good faith continue to validly pay their debt towards the pledgor or assignor. Therefore, it is customary to notify third-party debtors except in the case of a pledge or assignment of trade receivables. Trade debtors are generally not informed before an event of default, to avoid negative interference with the business of the security provider.

Irrespective of whether or not the notification of a third party is a perfection requirement, the secured party must be given the right to notify third party debtors of the security interest at any time. Otherwise, the pledge or security assignment may be qualified as a conditional security interest that will only arise at the time the secured party is entitled to notify the debtor.

Cash Deposits

5. What are the most common forms of security over cash deposits? How are they created and perfected?

Common Forms of Security

A security over cash deposits is created either in the form of a cash account pledge or security assignment with respect to cash account claims and receivables (see [Question 4](#)).

Formalities

In addition to the form requirements (see [Question 4](#)) Swiss banks' general terms and conditions usually provide for a security over the relevant bank account in favour of the bank. This security would be senior to any antecedent pledges or assignment for security purposes. Consequently, a third party is ranked junior to the account bank unless the bank waives its priority rights. A junior ranking security interest can only be created and perfected if the senior secured party is notified of the lower ranking security interest. Therefore, in the case of a pledge or assignment of bank accounts, the notification to account banks presents a requirement to validly create the security interest.

Intellectual Property

6. What are the most common types of intellectual property over which security is granted in your jurisdiction? What are the most common forms of security granted over intellectual property? How are they created and perfected?

Intellectual Property

The types of intellectual property that are commonly subject to a security interest are patents, trade marks, domain names, designs and copy rights. Certain intellectual property rights (such as patents and trade marks) are governed by specific federal acts. However, the creation of security over such IP rights is in general governed by the Swiss Civil Code.

Common Forms of Security

The most common forms of security granted over intellectual properties are pledges and security transfer of legal title.

Formalities

Pledges and security transfers are both created by a written security agreement. Registration is not required to perfect a security over intellectual property registered in Switzerland (registration requirements in other jurisdictions should be assessed under the applicable local law). However, to ensure that the security holder can enforce its security interest against a third party who can rely in good faith on the information registered in the relevant public register, registration is recommended. Registration of a pledge or security transfer of title with respect of intellectual property rights of the security provider is therefore commonplace.

Problem Assets

7. Are there types of assets over which security cannot be granted or can only be granted with difficulty? Which assets are difficult or problematic when security is granted over them?

Future Assets

A security interest over future assets is possible under the condition that the assets are clearly determined or at least sufficiently determinable at the time of granting the security. Non-possessory security over movable assets is not recognised in Switzerland (see [Question 2](#)). Therefore, a security over movable assets can only be perfected once the assets have come into existence and possession of the movable assets has been fully transferred to the secured party. Before the transfer, any security undertaking over a tangible asset is only a contractual obligation to perfect a security.

In the case of a pledge or assignment of a future claim, any claim that comes into existence after the opening of a bankruptcy proceeding against the security provider falls into the bankruptcy estate and cannot be transferred to the secured party.

Fungible Assets

Security over fungible assets is generally possible under the same conditions set out above (see above, [Future Assets](#)).

Other Assets

In principle, security can be granted over any asset, subject to generally applicable limitations and the specific requirements of certain types of security (see *Question 1 to 6*).

Release of Security over Assets

8. How are common forms of security released? Are any formalities required?

A security interest of an accessory nature, such as a pledge, depends on the existence of the secured claim. Accordingly, the security automatically ceases to exist once all secured obligations have been discharged in full. In contrast to this, a security assignment of claims or rights in title requires a written declaration of reassignment.

In practice, the release of all security interests is usually covered by a release agreement or expressly addressed in a clause of the original security agreement detailing the terms of the release.

The formalities required to effect a release of a Swiss security interest depends on the type of security and are generally as follows:

- A release of a pledge of certificated shares requires the re-transfer of the original share certificate.
- A release of a pledge of book entry security requires the termination of the control agreement.
- A release of a pledge over intellectual property requires the deregistration of the pledge in the relevant intellectual property register.
- A release of a security assignment requires the reassignment of the assigned claims (the reassignment must be made in writing).
- A security transfer of a mortgage certificate requires the re-transfer of the original certificate to the assignor.

It is also advisable to notify third parties, such as debtors of assigned claims, or account banks about the release of the relevant security to the extent they have previously been notified of the creation of the security.

Special Purpose Vehicles (SPVs) in Secured Lending

9. Is it common in your jurisdiction to take security over the shares of an SPV set up to hold certain of the borrower's assets, rather than to take direct security over those assets?

Taking security over shares of an SPV set up to hold certain of the borrower's assets is uncommon in Switzerland. However, exceptions may exist for specially structured transactions (for example, covered bond transactions).

Quasi-Security

10. What types of quasi-security structures are common in your jurisdiction? Is there a risk of such structures being recharacterised as a security interest?

Sale and Leaseback

Sale and leaseback transactions are performed with real estate but not with movable assets. This is because Swiss law does not recognise the transfer of legal title to the buyer if the seller remains in possession of the assets (see [Question 2](#)).

Factoring

Recourse and non-recourse factoring transactions are common in Switzerland. These do not exhibit any particular legal risks as long as it is possible to sufficiently determine any future receivables to be assigned under the transactions and all formalities required for the valid assignment are complied with.

Hire Purchase

Hire purchase agreements generally only cover consumer goods. It is important that these agreements do not breach statutory laws concerning retention of title (see below) which includes the registration of the retention with the competent authorities.

Retention of Title

Retention of title is common for consumer goods. However, the process of perfecting the title is cumbersome due to the registration requirements (see above). This can result in non-compliance with the registration requirements which jeopardises the enforceability of the retention of title.

Other Structures

Parties generally have a right to set off claims to the extent they are due and payable. However, there is no express exclusion of that right in the relevant agreement. Finance leasing is common in Switzerland and so are sale and repurchase (repo) contracts with respect to financial instruments.

Guarantees

11. Are guarantees commonly used in your jurisdiction? How are they created?

Guarantees are widely used in secured lending transactions. A guarantee is an undertaking vis-à-vis a third party to perform a monetary obligation on the first demand of the guarantor in case a debtor fails to perform its guaranteed obligations. No specific form requirements apply to guarantees and they are usually built into a loan agreement or governed by separate stand-alone agreements. A guarantee is abstract and independent from the underlying obligation, which should be clearly reflected in the wording of the guarantee. It is important that the guarantee is drafted in a manner to avoid a requalification as Swiss law suretyship (*Bürgschaft*). As opposed to a guarantee, a suretyship is of an accessory nature and depends on the existence of the underlying secured obligation. If a guarantee is requalified as a suretyship, the guarantor has the right to raise the same objections and defences as the debtor. Additionally, enhanced form requirements may apply to suretyships that may have been disregarded if the intention was to set up a guarantee.

Risk Areas for Lenders

12. Do any laws affect the validity of a loan, security or guarantee (or the terms on which they are made or agreed)?

Financial Assistance

There are no statutory laws expressly addressing financial assistance laws that would apply to loans, security or guarantees. However, an upstream and cross-stream guarantee and security is subject to general corporate law restrictions. In the absence of safe harbour rules, an upstream or cross-stream guarantee or security granted without an adequate guarantee fee, cannot be expected to be considered at arm's length terms. Therefore, the guarantee or security may constitute a distribution of profits which makes it necessary to satisfy certain requirements to mitigate risks resulting from a breach of capital protection laws. In particular, the enforcement proceeds must not exceed the amount of freely distributable equity of the guarantor or security provider. This can generally be safeguarded with a market standard limitation language in the relevant guarantee or security document. Additionally, shareholders of the guarantor or the security provider should unanimously approve a guarantee or security of an up- or cross-stream nature. Finally, the articles of association of the up- or cross-stream guarantor or security provider must expressly permit that form of financial assistance (see below).

Corporate Benefit

Directors of Swiss companies must not take any actions that is in contrast to the purpose pursued by the company as set out in its articles of association. Accordingly, it is questionable whether guarantees or securities that solely benefit direct or indirect shareholders can be brought in line with the purpose pursued by the company. To ensure that the board of directors will not act *ultra vires* by approving an up- or cross-stream guarantee or security (which may result in these actions being void and incur liability risks for the directors), the purpose clause of the articles of association must expressly permit the granting of any up- or cross-stream financial assistance (including in the form of guarantees, securities or loans) to direct or indirect shareholders or sister companies even without compensation.

Loans to Directors

No restrictions exist for companies that are not listed on a Swiss or foreign stock exchange as long as these loans are granted at arm's length terms and the granting of the loans does not contradict the interest of the company.

In the case of a listed Swiss company, the [Swiss Code of Obligations](#) provides that the article of association must expressly set out the maximum amount of any loans or other comparable benefits granted to members of the board of directors or the senior management.

Usury

Rules limiting excessive interest rates exist on the basis of general principles of the Swiss Code of Obligations and the [Swiss Criminal Code](#) and are specified in certain Swiss cantons and, country-wide, for consumer credits. Furthermore, there are also restrictions concerning the permissibility of compound interest: Compound interest can in general not be agreed in advance (other than commercial interest calculations in current accounts and similar forms of business).

Others

Restrictions on the validity of a loan, security or guarantee may apply under applicable bankruptcy legislation, public policy or principles of general applications such as the principle of good faith.

13. Can a lender be liable under environmental laws for the actions of a borrower, security provider or guarantor?

A lender is generally not responsible under environmental laws for damages caused by the borrower. However, a potential risk of liability can arise as a consequence of enforcement of a security interest over real property resulting in the acquisition by the lender of the legal title in a property. In this scenario, a lender could potentially become liable for the costs of cleaning up a contaminated real property if the contamination exists due to acts or omissions of the former owner.

Structuring the Priority of Debts

14. What methods of subordination are there?

Contractual Subordination

Contractual subordination can be achieved by an agreement between the subordinated creditor, the debtor and the senior creditor. The debtor promises not to repay, and the subordinated creditor promises not to accept payment of, the subordinated debt as long as the senior creditor has not been repaid in full. Further, the subordinated creditor undertakes to transfer any amounts received from the debtor to the senior creditor until the senior creditor has been repaid in full.

Except for technical subordination agreements (paragraph 4, Article 725b, Swiss Code of Obligations) to the benefit of all of the debtor's creditors (*Rangrücktritt*), the subordination agreement has no effect in bankruptcy or similar proceedings against the debtor. For this reason, the subordination agreement is often combined with an assignment of the subordinated claim to the senior creditor for it to control these claims in bankruptcy or similar proceedings.

Structural Subordination

Structural subordination can be achieved by extending loans on different levels of a group of companies. Due to the fact that distributions to shareholders or quotaholders of a Swiss company can only be made if the debt of the company and certain additional reserves are covered by assets on the balance sheet, senior loans are extended on a lower level (for example, operating company level) and junior loans are extended on a higher level (for example, holding company level) of a group of companies to achieve structural subordination.

Intercreditor Arrangements

Intercreditor arrangements are common in Swiss syndicated loans to define the rights and obligations of the syndicated lenders amongst each other. However, Swiss lenders usually prefer to avoid complicated intercreditor structures and sharing of security with creditors on different levels of seniority. Swiss lenders tend to regulate subordination with simple subordination agreements.

Debt Trading and Transfer Mechanisms

15. Is debt traded in your jurisdiction and what transfer mechanisms are used? How do buyers ensure that they obtain the benefit of the security and guarantees associated with the transferred debt?

Debt from (syndicated) and bilateral loans is traded between banks and other financial intermediaries by way of assumption of contract (*Vertragsübernahme*), assignment of claims or sub-participation. Debt may also be securitised or issued as bonds and traded publicly, for example, over the [SIX Swiss Exchange](#), or by way of private placements.

To obtain the benefit of the security and guarantees associated with the transferred debt and to the extent several parties share into those security or guarantees, the secured parties and the security providers will usually appoint a security agent to hold the security either in the name or on behalf of the secured parties (depending on the type of security).

Agent and Trust Concepts

16. Is the trust or agent concept (such as a facility agent under a syndicated loan) recognised in your jurisdiction?

Agent Concept

The agent concept is recognised in Switzerland and applied in practically all syndicated loans governed by Swiss law.

Trust Concept

It is unusual to appoint a security trustee in Swiss law financing transactions because a trust cannot be established under Swiss law. However, Switzerland does recognise foreign trusts under the [Swiss Private International Law Act](#) (PILA) and the [Hague Convention on the Law Applicable to Trusts and on their Recognition](#), which was ratified by Switzerland in 2007.

Enforcement of Security Interests

17. What are the circumstances in which a lender can enforce its loan, guarantee or security interest? How are the main types of security interest usually enforced? What requirements must the lender comply with?

Enforcement

The circumstances under which security or a guarantee can be enforced depends on the agreement between the parties and will be subject to certain minimum requirements by law which protect the security provider. In general, the security can be enforced if the secured obligations are not paid when due. Depending on the type of security and the agreement between the parties, the secured party may have to give notice of the intended enforcement before initiating the enforcement procedure.

The parties will usually agree that the secured party will have discretion to decide whether and which security to enforce or whether to initiate general enforcement and bankruptcy procedures against the debtor.

Methods of Enforcement

The main types of security interest are enforced either by way of private enforcement or by official debt and bankruptcy proceedings in accordance with the [Swiss Act on Debt Enforcement and Bankruptcy](#) (DEBA).

It is usual that the parties agree that it is a right of the secured party to choose between private enforcement or official debt and bankruptcy proceedings. Private enforcement is in most cases faster and less cumbersome. However, the secured party is obliged to execute the enforcement in a way that allows it to obtain the best price for the assets under the circumstances, be it by way of private sale or public auction. Therefore, the secured party must organise and document the private enforcement process appropriately. Assets with a market value that can be determined objectively (for example, listed security) can also be purchased by the secured party itself at market value. The secured party will thereafter set off the purchase price against the debt. Any surplus will have to be returned to the debtor.

Once official enforcement proceedings are initiated or bankruptcy declared against the debtor, private enforcement against certain security, such as pledges (but not security executed by way of assignment or title transfer) is not possible anymore and requires co-operation with the bankruptcy and enforcement administrators.

Borrower Insolvency

Rescue, Reorganisation, and Insolvency

18. Are company rescue or reorganisation procedures (other than insolvency proceedings) available in your jurisdiction? How do they affect a lender's rights to enforce its loan, guarantee or security?

The DEBA provides for rescue procedures by way of a moratorium (*Nachlassstundung*) which can be applied for by the company (or by a creditor that could request through a declaration of bankruptcy) provided that there are prospects for a successful restructuring or the confirmation of a composition plan. The moratorium needs to be granted by a court. If it transpires during the moratorium that there is no prospect of a successful restructuring or the confirmation of a composition plan, the court will declare the company bankrupt.

The procedure can end in a successful restructuring, in bankruptcy or in the confirmation of a composition agreement (under which the creditors usually waive a certain percentage of their claims).

During a definitive moratorium, enforcement of security is, in general, not possible and postponed until after the end of the moratorium.

19. How does the start of insolvency procedures affect a lender's rights to enforce its loan, guarantee or security?

The opening of bankruptcy proceedings leads to the incapacity of the bankrupt company to dispose of any of its assets, as those assets, including pledged assets, form part of the bankruptcy estate. Accordingly, private enforcement is not permitted with respect to those assets. Instead, the assets that form part of the bankruptcy estate can only be enforced in accordance with the official enforcement proceedings under the DEBA.

However, the opening of bankruptcy proceedings does not affect a pledgee's priority right to be first satisfied from the sale of the pledged assets. If the relevant enforcement proceeds from the sale of the pledged assets exceed the secured claims, the remainder is available for distribution to other creditors.

Assets that have been legally transferred (for security purposes) before the opening of the bankruptcy proceedings do not form part of the bankruptcy estate. Therefore, those assets may be subject to private enforcement during ongoing bankruptcy proceedings.

In general, lenders must register their claims as well as their pledge rights with the bankruptcy administrator.

20. What transactions involving loans, guarantees, or security interests can be made void if the borrower, guarantor or security provider becomes insolvent?

The following acts carried out by a debtor or security provider that disadvantage certain creditors are voidable (*anfechtbar*) under the DEBA if performed before the opening of bankruptcy proceedings:

- Disposal of assets against inadequate or no consideration by the debtor or security provider in the year before the seizure of assets or the opening of bankruptcy proceedings (*Schenkungsanfechtung*).
- While over-indebted, the debtor or security provider performs certain acts within one year before the opening of bankruptcy proceedings (*Überschuldungsanfechtung*). These voidable acts include:
 - the granting of collateral for previously unsecured debt;
 - the settlement of a monetary debt by means other than cash or other customary means of payment; and
 - the repayment of unmatured debt.

- All acts which the debtor or security provider carried out during the five years before the opening of bankruptcy proceedings that have the objective of disadvantaging creditors or favouring individual creditors to the detriment of others (*Absichtsanfechtung*).

21. In what order are creditors paid on the borrower's insolvency?

In an insolvency of the borrower, all assets, including pledged assets, form part of the bankruptcy estate (see [Question 19](#)). However, proceeds from the enforcement of pledged assets are first used to satisfy the secured claims (on deduction of the costs of the bankruptcy administrator) and only the surplus of any enforcement proceeds is used to satisfy other creditors.

With respect to assets where the legal title has been transferred to a creditor for security purposes, the right of the secured creditors to private enforcement (that is, the secured creditors rank ahead of all other creditors) is not affected by the opening of bankruptcy proceedings. However, the secured party must turn over any overvalue resulting from the private enforcement to the bankruptcy estate.

In general, creditors are free to enter into contractual intercreditor agreements governing the priority of their secured claims. Under the law, the ranking of a specific security interest which secures more than one creditor depends on the time at which the security was granted. The security that was granted earlier ranks ahead of the more recent security. The priority of securities which must be registered (that is, security over real estate, vessels and aircrafts) is determined by its rank in the relevant register.

Unsecured claims (including claims in respect of which security has not been validly perfected) rank in the following order:

- Claims of the bankruptcy administrator.
- Prioritised claims under Swiss bankruptcy laws, such as claims of employees, claims of pension funds and accident insurance, and certain family law claims.
- Any other (unsecured) not prioritised claims.
- Any subordinated claims.

Cross-Border Issues on Loans

22. Are there restrictions on the making of loans by foreign lenders or granting security (over all forms of property) or guarantees to foreign lenders, or taking guarantees from foreign subsidiaries of the borrower?

If lenders do not have infrastructure or employees in Switzerland, there are no restrictions or registration requirements with regard to the making of loans by foreign lenders (except in the area of consumer credit). However, foreign lenders may become subject to the rules under the financial market regulations that became effective as of 1 January 2020, requiring the lenders to comply with certain information, inspection, an appropriateness test and suitability test obligations. With regard to the granting of security or guarantees to foreign lenders, only limited restrictions exist. For example, the security over shares in a regulated Swiss company that is required to have a majority of Swiss shareholders would result in limited enforcement options of the lenders, as the shares could only be sold to Swiss citizens.

With respect to transactions involving real estate located in Switzerland (that is, if the financing provides for an acquisition of, or if the financing is secured by, residential property located in Switzerland) the [Act on the Acquisition of Real Estate by Persons Abroad](#) must be complied with.

23. What regulatory requirements does a UK lender have to comply with to purchase a loan made to a borrower in your jurisdiction?

Not applicable.

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Non-professional qualifications. LL.M., New York University School of Law, 2006); lic. iur., University of Zurich, 1998

Recent transactions

- Advised Axpo on its EUR7 billion sustainability linked credit facilities agreement.
- Advised UBS on transition of Credit Suisse branded card portfolios to UBS.

- Advised Syngenta on its placement and listing of CHF120 million guaranteed bonds on SIX Swiss Exchange.
- Advised AS Equity Partners on the financing of the acquisition of Hochdorf Swiss Nutrition AG.
- Advised the lead arranger on the placement and listing of Orascom Development Holding's CHF100 million 4.000% bonds due 2029 on SIX Swiss Exchange.
- Advised Chubb Limited/Chubb INA Holdings LLC on its offer and sale of USD700 million 4.650% senior notes due 2029 and the USD600 million 5.000% senior notes due 2034.

Languages. German, English

Publications. *Restructuring of bonds (Restrukturierung von Bonds)*, EIZ publishing, in: Reutter/Werlen, *Kapitalmarkt, Recht und Transaktionen XVIII*, Zurich 2024.

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Recent transactions

- Advised United Grinding Group on the financing of its acquisition of GF Machining Solutions.
- Advised Constantia on the financing of its acquisition of Aluflexpack.
- Advised TE Connectivity on the public tender offer for Schaffner.
- Advised BeyondBytes Invest on all Swiss law aspects in connection with its acquisition of Moobility Telecom International Holding.
- Advised Guess Europe on its EUR250 million sustainability-linked revolving credit facility.
- Advised AS Equity Partners on the financing of the acquisition of Swiss Post Solutions.

Languages. German, English, Albanian

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