

Trading Vehicles: Overview (Switzerland)

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A guide to the key corporate features of different trading vehicles that are commonly used when setting up a business in Switzerland. It includes an overview of sole proprietorships and the main forms of companies and commercial partnerships; in particular, companies limited by shares (Ltd, AG or SA) and limited liability companies (LLC, GmbH, Sàrl or Sagl).

This Practice Note sets out the key corporate features of the main trading vehicles used for carrying on commercial activities in Switzerland. It covers:

- Sole proprietorships (see *Sole Proprietorships (Sole Traders)*).
- Companies (see *Types of Swiss Companies*).
- General and limited partnerships (see *Types of Swiss Partnerships*).

It also summarises other legal entities that may, in some circumstances, be used for commercial ventures (see *Alternative Vehicles*).

This Practice Note does not cover tax-related issues arising from the choice of trading vehicle (or the differing tax treatment that applies to each type of vehicle), or vehicles used for retail investment funds. For information on retail investment funds, see *Country Q&A, Retail investment funds in Switzerland: regulatory overview: Fund Vehicles and Structures*. Charitable organisations and those set up mainly for not-for-profit purposes (such as foundations and associations) are also outside the scope of this Practice Note.

Sole Proprietorships (Sole Traders)

In a sole proprietorship (German: *Einzelunternehmen*; French: *entreprise individuelle*; Italian: *ditta individuale*) a natural person, the sole proprietor, runs a business alone, makes all decisions affecting the business and owns all the assets of the business personally. Small businesses often operate as sole proprietorships because of the lack of legal formalities and the low administrative costs involved in setting up and running the business.

Sole proprietors are personally liable for all debts and other liabilities of their business. To limit their liability, sole proprietors can incorporate a company (see *Types of Swiss Companies*). However, this is more costly and incurs additional formation and filing requirements.

Key Features of a Sole Proprietorship

The key features of a business operating as a sole proprietorship are as follows:

- **No separate legal personality.** A sole proprietorship does not have legal personality and does not own assets in its own right.
- **Unlimited financial liability.** A sole proprietor has unlimited financial liability.
- **One owner.** A business operated by a sole proprietor can only have one owner (the sole proprietor), although a sole proprietorship can have employees.
- **No distinction between management and ownership.** A sole proprietor owns all the assets of the business personally and has full control over running the business. They also make all the decisions affecting the business.
- **Minimal formation and ongoing filing requirements.** There is no requirement to adopt constitutional documents, and it is not necessary to pay in equity capital. However, a person who operates as a sole proprietor must register their business on the commercial register (German: *Handelsregister*; French: *registre du commerce*; Italian: *registro di commercio*) if the business has achieved total revenue of at least CHF100,000 in the latest financial year (*Article 931(1), Federal Act on the Amendment of the Swiss Civil Code, Part Five: The Code of Obligations SR 220 (CO)*). Those pursuing liberal professions (for example, lawyers and doctors) and farmers are exempt from this obligation to the extent that they do not operate a commercial business.
- **Name of business.** When registering a business on the commercial register, a sole proprietor must include their surname, although they may also include other words (except any suffix or ending suggesting that the business is a company or partnership) (*Article 945, CO*).
- **Lower burden with regards to bookkeeping.** A sole proprietorship with revenues of less than CHF500,000 in the previous financial year only has to keep accounts of income and expenditure and of their asset position. However, if they achieve revenues of more than CHF500,000, they must keep accounts and prepare financial reports in accordance with the ordinary rules applicable to companies and partnerships (*Article 957, CO*).

Companies and Partnerships: Overview

Distinction Between Companies and Partnerships

A distinction can be drawn between:

- Companies (German: *Kapitalgesellschaften*; French: *sociétés de capitaux*; Italian: *società di capitali*).
- Partnerships (German: *Personengesellschaften*; French: *sociétés de personnes*; Italian: *società di persone*).

Note that these classifications under Swiss law do not align exactly with common law (for example, UK and US) classifications.

At a high level, companies can be founded by a single natural or legal person, have limited liability, and have a minimum capital requirement.

In contrast, partnerships usually require a minimum of two founding partners. At least some partners will be personally liable for partnership debts and partnerships do not carry a minimum capital requirement. This note focuses on the types of partnerships that can operate as a commercial business.

Types of Swiss Companies

The main forms of Swiss companies are as follows:

- **Company limited by shares** (Ltd) (German: *Aktiengesellschaft* (AG); French: *société anonyme* (SA); Italian: *società anonima* (SA)). An Ltd is the company that is closest conceptually to a UK public limited company or a US corporation. For more information, see [Company Limited by Shares \(Ltd, AG or SA\)](#).
- **Limited liability company** (LLC) (German: *Gesellschaft mit beschränkter Haftung* (GmbH); French: *société à responsabilité limitée* (Sàrl); Italian: *società a garanzia limitata* (Sagl)). An LLC is the company that is closest conceptually to a UK private limited company or a US limited liability company. For more information, see [Limited Liability Company \(LLC, GmbH, Sàrl or Sagl\)](#).

Types of Swiss Partnerships

The main forms of partnerships used for commercial ventures are as follows:

- **General partnerships** (German: *Kollektivgesellschaft* (KIG); French: *société en nom collectif* (SNC); Italian: *società in nome collettivo* (SNC)). Two or more natural persons operating a commercial enterprise may choose to form a general partnership. For more information, see [General Partnership \(KIG or SNC\)](#).
- **Limited partnerships** (German: *Kommanditgesellschaft* (KmG); French: *société en commandite* (SCm); Italian: *società in accomandita* (SAc)). Limited partnerships are owned by general partners, with unlimited liability, and limited partners, whose liability is limited up to their capital contribution. For more information see [Limited Partnership \(KmG, SCm or SAc\)](#).

Company Limited by Shares (Ltd, AG or SA)

An Ltd is suitable for medium to large businesses. It is the trading vehicle that is closest conceptually to a UK public limited company or a US corporation. Its shares can be listed for trading on a regulated market.

Ltds are regulated under Articles 620 to 763 of the CO and must comply with more onerous reporting requirements than LLCs (see [Limited Liability Company \(LLC, GmbH, Sàrl or Sagl\)](#)).

Key Features of an Ltd

The key features of an Ltd are as follows:

- **Legal personality.** An Ltd has separate legal personality from its shareholders. It acquires its legal personality when registered on the commercial register (*Article 643(1), CO*). It owns assets, is liable for its obligations and can sue or be sued in its own right.
- **Minimum of one shareholder; no maximum.** An Ltd can be established by a single shareholder, who may be a natural or legal person (*Article 620(1), CO*). There is no maximum limit on the number of shareholders.
- **Minimum capital requirement.** The share capital of an Ltd must be at least CHF100,000 (*Article 621(1), CO*), divided into shares with a nominal value that is greater than zero (*Article 622(4), CO*). The share capital can also be

denominated in a foreign currency (currently EUR, GBP, USD or JPY) if such foreign currency is required for business operations (*Article 621(2), CO*; *Article 45a and Annex 3, Commercial Register Ordinance (CRO)*). At the time of establishment, the share capital in the foreign currency must have a value equivalent to at least CHF100,000. The accounts must be kept and financial reports must be filed in the same currency (*Article 621(2), CO*). Capital equivalent to at least 20% of the nominal value of each share or CHF50,000 (whichever is greater) must be paid up (*Article 632, CO*). If the share capital is denominated in a foreign currency, a value equivalent to at least CHF50,000 must be paid up (*Article 632(2), CO*). Contributions in kind are possible, in which case additional rules and procedures apply (*Article 634, CO*).

- **Capital Band.** Since the reform of the law on public limited companies which came into force on 1 January 2023, the articles of association may authorise the board of directors to vary the share capital within a bandwidth (capital band) for a period not exceeding five years (*Articles 653s to 653v, CO*). The upper limit of the capital band may not exceed the share capital specified in the commercial register by more than half. The lower limit of the capital band may not be less than half of the share capital specified in the commercial register (*Article 653s(1) CO*).
- **Limited liability.** The shareholders of an Ltd have limited liability. Their liability in relation to the company's debts and other liabilities is limited to the amount of their capital subscription (*Article 680(1), CO*).
- **Separation between management and ownership.** An Ltd's ownership is separate from its management. The general meeting of shareholders is the supreme governing body of an Ltd (*Article 698(1), CO*). However, responsibility for the management of an Ltd generally falls to its board of directors, who must be natural persons, although the representative of a legal entity may be elected to the board (*Articles 707(3), 716(2) and 716a(1), CO*). Directors can also be shareholders (and the articles of association may require them to be), but this is not a statutory requirement. The board of directors usually delegates day-to-day management to executive officers or an executive board. An Ltd must have at least one board member, executive officer or any other natural person with authority to represent the company who is a Swiss resident (*Article 718(4), CO*).
- **Can be listed and traded on a stock exchange.** An Ltd can offer its shares for sale to the public and can be listed on a stock exchange, in which case additional obligations in the CO apply. In addition, listed companies must comply with certain rules on compensation (*Articles 732 to 735d, CO*), and the rules issued by the stock exchange its shares are listed on (SIX Swiss Exchange or BX Swiss).
- **Multiple locations and exclusive non-Swiss venue for general meeting, hybrid and virtual general meeting.** Since 1 January 2023, the Ltd's general meeting may be held in various locations at the same time (*Article 701a(3), CO*). The general meeting may also be held exclusively outside of Switzerland if the articles of association so permit, and the board of directors designate an independent voting representative in the notice convening the meeting (*Article 701b(1), CO*). If a company's shares are not listed on a stock exchange, the board of directors may dispense with designating an independent voting representative provided all the shareholders agree (*Article 701b(2), CO*). Further, the board of directors may provide that shareholders who are not present at the general meeting venue are able to exercise their rights electronically (*Article 701c, CO*). And last, a general meeting may be held with no venue by electronic means if the articles of association so permit and the board of directors designate an independent voting representative in the notice convening the meeting (*Article 701d(1), CO*). If a company's shares do not trade on a stock exchange, the articles of association may provide that the designation of an independent voting representative be dispensed with (*Article 701d(2), CO*).
- **Formation by notary.** To incorporate an Ltd, a deed of incorporation must be executed by a notary as a public deed (*Article 629(1), CO*). Certain formation documents (for example, the articles of association) must be cited by the notary and be appended to the deed of incorporation (*Article 631, CO*).

Limited Liability Company (LLC, GmbH, Sàrl or Sagl)

An LLC is the company that is closest conceptually to a UK private limited company or a US limited liability company. It is the most common form of company chosen by small and medium-sized Swiss businesses, including family businesses.

Compared to an Ltd, the minimum capital requirement for establishing an LLC is relatively low. It also differs in that an LLC is a hybrid vehicle, displaying features of both an Ltd and a partnership. Its owners, who are often referred to as quotaholders (instead of shareholders), are likely to have more of a personal (as well as financial) interest in the business than the shareholders of an Ltd.

LLCs are regulated under Articles 772 to 827 of the CO.

Key Features of an LLC

The key features of an LLC are as follows:

- **Legal personality.** Like an Ltd, an LLC has legal personality, which is registered on the commercial register (*Articles 772(1) and 779(1), CO*). It owns assets, is liable for its obligations and can sue or be sued in its own right.
- **Statutory restrictions on transfers of quotas.** By default, an assignment of a quota is subject to consent of a quotaholders' general meeting. Consent may be refused without the need to state any reasons. The articles of association can amend this default position by:
 - waiving the requirement for consent;
 - providing for specific grounds or circumstances in which consent may be refused;
 - replacing it with a right of first refusal by the company;
 - prohibiting any assignment; or
 - providing that consent to the assignment may be refused if there is doubt that obligations under the articles of association to make additional financial or material contributions will be fulfilled and security requested by the company is not provided (*Article 786, CO*).
- **Quotaholders' duty of loyalty to the company and prohibition against competition.** Quotaholders owe a duty of loyalty to the company. They must safeguard business secrets and refrain from doing anything detrimental to the interests of the company. Further, the articles of association may prohibit quotaholders from undertaking activities in competition with the company. However, a quotaholder may carry on activities that would otherwise contravene the duty of loyalty or a prohibition against competition, if all other quotaholders consent in writing. The articles of association may provide that the consent of a quotaholders' general meeting be required instead (*Article 803, CO*).
- **Minimum of one quotaholder; no maximum.** An LLC can be established by a single quotaholder, who may be a natural or legal person (*Article 772, CO*). There is no maximum limit on the number of quotaholders.
- **Minimum capital requirement.** The quota capital of an LLC must be at least CHF20,000 (*Article 773(1), CO*), divided into quotas with a nominal value that is greater than zero (*Article 774(1), CO*), which must be fully paid up (*Article 774(2), CO*). The share capital can also be denominated in a foreign currency (currently EUR, GBP, USD or JPY) if such foreign currency is required for business operations (*Article 773(2), CO*). At the time of establishment, the quota capital in the foreign currency must have a value equivalent to at least CHF20,000. The accounts must be

kept and financial reports must be filed in the same currency (*Article 772(1) in conjunction with Article 621(2), CO*). Contributions in kind are possible, though additional rules and procedures apply (*Article 777c(2)(1) in conjunction with Article 634, CO*).

- **Management structure.** An LLC's quotaholders are jointly responsible for the management of the company, and they have a lot of flexibility to determine the company's management structure in the articles of association (*Article 809, CO*). The quotaholders may appoint managing directors who are not quotaholders to manage the company. The day-to-day management may be delegated to executive officers or an executive board. Like an Ltd, an LLC must have at least one managing director, executive officer or any other natural person with authority to represent the company who is a Swiss resident (*Article 814(3), CO*).
- **Limited liability.** The quotaholders of an LLC enjoy limited liability. Their liability in relation to the company's debts and other liabilities is limited to the amount of their capital contribution (*Article 794, CO*). However, the articles of association may require the quotaholders to make additional capital contributions up to twice the nominal value of their quota (*Article 795, CO*). The managing directors may, however, only call such additional capital contributions in specific circumstances (*Article 795a, CO*).
- **Cannot be listed on a stock exchange.** LLCs are not suitable for listing on a stock exchange. Therefore, an LLC must be transformed into a company limited by shares (see *Company Limited by Shares (Ltd, AG or SA)*) before it is listed. The *Merger Act 2003 SR 221.301* governs this procedure, while preserving the company's legal identity.
- **Multiple locations and exclusive non-Swiss venue for quotaholders' meeting, hybrid and virtual general meeting.** Since 1 January 2023 – as for an Ltd. – the quotaholders' meeting may be held in various locations at the same time, exclusively outside of Switzerland, the managing directors may provide that quotaholders who are not present at the quotaholders' meeting venue are able to exercise their rights electronically or that a general meeting is held with no venue by electronic means (*Article 805(5)(2^{bis}) in conjunction with Articles 701a et seq., CO*) (see also *Key Features of an Ltd*).
- **Formation by notary.** To incorporate an LLC, a deed of incorporation must be executed by a notary as a public deed (*Article 777(1), CO*). The notary must append certain formation documents (for example, the articles of association) to the deed of incorporation (*Article 777b(2), CO*).
- **Publication of quotaholders.** In contrast to an Ltd, the name, domicile and, in case of natural persons, the place of origin of each quotaholder, together with the number and the nominal value of their quota is recorded on the commercial register (*Article 791, CO*) and is therefore publicly accessible. Therefore, quotaholdings, and transfers thereof, are not confidential.

General Partnership (KIG or SNC)

General partnerships are typically used by small or new enterprises run by several individuals, whose identity is important to its establishment (for example, small law firms and local artisanal businesses). Partners have a lot of flexibility to determine the nature of their relationship contractually through their partnership agreement. A big drawback of a general partnership is that its partners have unlimited liability for the debts of the business.

General partnerships are governed by Articles 552 to 593 of the CO.

Key Features of a General Partnership

The key features of a general partnership are as follows:

- **Quasi-legal personality.** A general partnership has a quasi-legal personality. This means that it can acquire rights, assume obligations, take legal action and be sued under its name (*Article 562, CO*). However, the assets are owned by the partners in the form of joint ownership.
- **At least two partners.** A general partnership must have at least two partners, who must be natural persons (*Article 552(1), CO*).
- **Admission of new partners requires consent.** No partner may be admitted to the partnership without the consent of the other partners (*Article 557(2) in conjunction with Article 542(1), CO*).
- **Inexpensive to set up.** There is no minimum capital contribution for a general partnership. However, a small fee applies to register the partnership on the commercial register.
- **Prohibition on competition and multiple participations.** Partners are prohibited from engaging in business activities that compete with the partnership, unless they have the consent of the other partners (*Article 561, CO*). In addition, they may not participate in another business as a partner with unlimited liability, a limited partner or a quotaholder of an LLC.
- **Liability of partners.** The partners are personally jointly and severally liable against third parties for all obligations of the partnership (*Article 568(1), CO*). Persons joining the partnership after the establishment are jointly and severally liable with their entire assets for any existing obligation of the partnership (*Article 569(1), CO*). However, the assets of a partner are only liable in a secondary capacity if the partnership has been dissolved, if debt enforcement proceedings have been brought against it without success or if the respective partner has been declared bankrupt (*Article 568(3), CO*). Creditors can generally pursue claims against a partner for partnership debts for five years after its dissolution (*Article 591(1), CO*). The partners can agree arrangements to apportion their liability amongst themselves in the partnership agreement, but such arrangements do not affect the rights of third parties (*Article 568(2), CO*).
- **No distinction between the management and ownership.** In contrast to an Ltd or LLC, the partners of a general partnership are solely responsible for the partnership's management.
- **Registration.** A general partnership that operates a commercial business comes into existence as soon as the partners have entered into a partnership agreement. Despite this, the partners must still register their partnership on the commercial register (*Article 552(2), CO*).

Limited Partnership (KmG, SCm or SAc)

A limited partnership is a partnership that it is made up of two distinct categories of partners:

- General partners who manage the partnership and have unlimited, joint and several liability (*Article 599, CO*). General partners must be natural persons and a limited partnership must have at least one general partner (*Article 594(1) and (2), CO*).
- Limited partners may be natural or legal persons (*Article 594(2), CO*). Unlike general partners, they are not permitted to participate in managing the entity (*Article 600(1), CO*). Their liability is limited to their financial contribution, provided this is recorded on the commercial register (*Articles 594(1), 601(1) and 608(1), CO*). If it is not recorded, the partners will be exposed to unlimited liability, unless they can prove that a relevant third party or parties were otherwise aware of the limitation of liability (*Article 606, CO*).

Limited partnerships are rarely chosen but may be a suitable form of trading vehicle for private businesses seeking external investment (in particular, sole proprietorships and small or family partnerships), because it limits the influence of limited partners, who are merely investors in the business.

Limited partnerships are governed by Articles 594 to 619 of the CO.

Key Features of a Limited Partnership

Aside from the fact that partners are divided into the two categories of general and limited partners (as described in the section above), the key features of a limited partnership are as follows:

- **Quasi-legal personality.** Like general partnerships, limited partnerships have quasi-legal personality. They can acquire rights, assume obligations, take legal action and be sued in their own name (*Article 602, CO*). However, the assets are owned by the partners in the form of joint ownership.
- **No minimum capital requirements.** There is no minimum capital contribution for a limited partnership.
- **Liability of general partner.** Like in a general partnership, although a general partner has unlimited liability for the limited partnership's debts, this liability is subsidiary. A general partner may be liable for a partnership debt only if the partnership has been dissolved or debt enforcement proceedings have been brought against the partnership without success (*Article 604, CO*).
- **Registration.** A limited partnership that operates a commercial business comes into existence as soon as the partners have entered into a partnership agreement. Despite this, the partners must still register their partnership on the commercial register (*Article 594(3), CO*).

Alternative Vehicles

Other legal entities that can be used as business vehicles in specific circumstances are:

- Cooperatives (German: *Genossenschaft*; French: *société coopérative*; Italian: *società cooperativa*), which can be used for non-profit organisations that provide a direct benefit to their members.
- Associations (German: *Verein*; French: *association*; Italian: *associazione*), which can be used for professional organisations that do not conduct their own commercial operations.
- Partnerships limited by shares (German: *Kommanditaktiengesellschaft*; French: *société en commandite par actions*; Italian: *società in accomandita per azioni*). This is a very rare legal form modelled on the company limited by shares, with the difference that at least one shareholder is jointly and severally liable to creditors like a general partner.
- Foundations (German: *Stiftung*; French: *fondation*; Italian: *fondazione*), which is a legal entity that does not have members, but may have beneficiaries and which is mostly used for charitable purposes.

These vehicles are much less commonly used for commercial ventures than the companies and partnerships described in the sections above.

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