

Information Sheet on Social Insurance for Board Members of Swiss Companies

Contribution status of Board members

Under Swiss social security law, members of the Board of Directors are considered to be non-self-employed. The remuneration that they receive is part of their relevant salary. Social security contributions are to be collected at the source, i.e. at the company where the board activity is carried out¹. The Board of Directors' activities performed in Switzerland are generally subject to Swiss social security law.²

Duty of social security in Switzerland

In case of a social security subordination in Switzerland, the following insurance obligations are generally mandatory:

1. Old-age and survivors', disability and unemployment insurance (OASI/DI/APG/AC)
 - Compulsory insurance according to law (Art. 1a AHVG, Art. 1b IVG, Art. 2 AVIG)
2. Accident insurance (AA)
 - without operational activity - no insurance coverage (Art. 2 para. 1 lit. f UVV)
 - with operational activity - compulsory insurance according to law (Art. 1 UVV)
3. Occupational benefit plan (PP)
 - Board mandate is the main occupation in Switzerland - insurance obligation according to law (Art. 2 BVG and Art. 7 ff. BVG)
 - Board mandate as a sideline - no mandatory insurance coverage (Art. 1j para. 1 lit. c BVV2)³

Risks of non-insurance from the perspective of the company

If a person to be insured by law is denied the corresponding insurance cover - regardless of whether he or she agrees to it - this has the following possible consequences:

1. OASI/DI/APG/AC/AA
 - Retroactive charge of premiums including default interest (statute of limitations 5 years)
 - Civil action for damages for lack of statutory benefits in old age/accident or in the event of

disability or death is not precluded (Art. 52 AHVG)

2. PP

- Retroactive forced enrolment in such plan with subsequent charging of contributions including default interest (Art. 11 Abs. 3 BVG, whereby the retroactive charge only becomes due at the time of the legally binding compulsory connection)
- Civil action for damages due to lack of statutory benefits in old age, disability or death is not precluded

Personal liability as a member of the board of directors

If one of the above-mentioned risks occurs and the company is unable to meet its obligations, each member of the board of directors is in principle jointly and personally liable with his or her private assets (Article 754 Swiss code of obligations), insofar as the civil law liability requirements for this are met.

This risk is generally excluded in D&O insurance policies.

As a subsidiary behind the company, the Board of Directors is liable for OASI/DI/APG/AC contributions that can no longer be claimed (Art. 52 AHVG).

Disclaimer



This information sheet was prepared by swissVR in collaboration with BDO AG.

This information sheet provides only a rudimentary overview. The clarification of insurance obligations in individual cases is complex and depends on various influencing factors. We therefore urgently recommend a careful examination to be carried out with the assistance of an expert.

This information sheet was originally published in German. This translation is provided for information purposes only.

¹ Exception: Settlement via Swiss third party company in compliance with mandatory criteria.

² Exception: Social security coordination falls to another country.

³ Not applicable in the case of Art. 1j para. 2 BVV 2 (see BGE 9C_659/2018)