

NEWSLETTER

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PLANNED TIGHTENING OF LEX KOLLER RULES

1. INTRODUCTION

In response to the "10-Million Switzerland" initiative and persistent housing-shortage concerns across the country, the Swiss Federal Council presented a draft comprehensive revision of the Federal Act on the Acquisition of Real Estate by Persons Abroad (the "**Lex Koller**") on 15 April 2026 (the "**Draft**"). The Draft signals a return to a more restrictive regime aimed at preserving Swiss land for residents and curbing foreign investment in domestic real estate.

This article examines the proposed key modifications under the Draft (Section 2), their implications for the Swiss real estate market (Section 3) as well as the legislative outlook (Section 4). For further details, the currently proposed modifications are outlined in the two attached mark-ups against the current version of Lex Koller (in German and French).

2. PROPOSED KEY MODIFICATIONS

The Draft introduces in particular the following key changes:

- a) **Restrictions on Direct Acquisitions via the Abolition of the "Capital Investment" Exemption for Commercial Properties:** Since 1997 and subject to certain exceptions, persons abroad have been allowed to acquire commercial properties (*ständige Betriebsstätten / établissements stables*) — such as

offices, retail spaces, or hotels — in Switzerland without Lex Koller authorization whether for self-use or investment purposes. Under the Draft such acquisitions shall again be subject to an authorization that would generally only be granted if the property is self-used by the buyer. Accordingly, foreigners would be generally barred from acquiring commercial properties for investment purposes.

- b) **Restrictions on Indirect Acquisitions via the Abolition of the Exemption of Traded Parts in Real Estate Companies and Funds:** The exemptions for the acquisition of shares in listed real estate companies and regularly traded real estate fund units are removed. Given the limited grounds for authorization, this amounts to a *de facto* prohibition on foreign investment in these assets, which may ultimately force certain players to delist from stock exchanges given the near impossibility to control sales to foreigners.
- c) **Reconversions subject to Lex Koller:** Reconversions (*Umnutzung / changement d'affectation*) shall be subject to Lex Koller.
- d) **Mandatory Resale of Primary Residences:** Non-EU/EFTA nationals holding B permits may still acquire a primary residence, but the Draft requires sale within two years if the property is no longer used as a primary home (e.g., upon moving abroad or relocating within Switzerland).
- e) **"One-Third-Rule" for Commercial Properties with a Residential Component:** For commercial properties with a residential component required by local zoning, the residential portion must not exceed one-third of gross floor area to remain exempt from authorization.
- f) **Reduction of Holiday Home Quotas:** The national ceiling for foreign holiday home authorizations would be halved from 1,500 to 750 units per year. Transactions between two foreign owners — currently exempt — would additionally count against the quota.
- g) **Exception for Hotel Staff Housing:** Implementing Motion Schmid, the Draft creates a cantonal exception allowing foreign hotel owners to acquire or build staff housing.

3. IMPLICATIONS FOR THE SWISS REAL ESTATE MARKET

For Property Investors and Funds: By subjecting the acquisition of parts in listed real estate companies and funds to authorization requirements, the Draft effectively shuts out foreign institutional capital from the Swiss property market. This could trigger de-listings or portfolio reallocations, potentially raising the cost of capital for residential developers relying on these structures.

For Developers and Mixed-Use Projects: The codification of "one-third rule" would provide clarity but limit the commercial viability of mixed-use developments involving foreign capital. This and the fact that reconversions would additionally be subject to Lex Koller – which would have to be assessed by the competent construction authorities – would further increase the complexity and duration of respective construction projects – and likely have an adverse impact on housing stock.

For Residential Buyers and Financing: The Draft aims to increase housing supply for Swiss residents. Non-EU/EFTA buyers may face significant challenges for the obtention of financing, as lenders will need to account for the "forced sale" risk embedded in the two-year resale obligation.

For the Tourism Sector: The staff housing exception offers welcome relief for hotel operators struggling with employee accommodation. However, halving holiday home quotas is expected to dampen the secondary market in tourism-heavy cantons, potentially affecting valuations and transaction volumes.

4. LEGISLATIVE OUTLOOK

Publication of the Draft on 15 April 2026 opened the formal consultation phase (*Vernehmlassung / procédure de consultation*) which ends on 15 July 2026. Cantons, political parties, and industry associations will submit positions. Given the contentious nature of many of the proposed measures — particularly those affecting the purchase of commercial properties and of shares in listed real estate companies and regularly traded real estate funds — we expect a robust parliamentary debate.

If Parliament approves the Draft, it will be subject to an optional referendum. Without a successful referendum challenge, the Federal Council will set the effective date, likely aligning it with a revision of the corresponding ordinance (BewV / OAIE).

Various proposed restrictions to the Lex Koller have been rejected by the Parliament in recent years due to concerns regarding their possible adverse effects on the real estate market. Given the extent of the proposed modifications on the market, we expect significant pushbacks from various stakeholders in the consultation phase and potentially beyond. The outcome of the respective discussions, which may last for several years until a modification enters into force cannot yet be predicted.

5. CONCLUSIONS

The Draft represents a clear pivot toward protectionism in Swiss real estate and will fundamentally reshape the market if implemented as is, not least since foreign investors would in effect be prohibited from (most) direct or indirect real estate investments.

However, the last word has not been spoken — the consultation process, parliamentary debate or possible subsequent referendum may yet yield significant amendments to the currently proposed draft, or entirely prevent its adoption.

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