

Banks confronted with their clients' duty of vigilance

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The transparency and due diligence obligations imposed on traders reach the banks indirectly. A Geneva bank financing a trader subject to the report on non-financial matters, to the European duty of vigilance or to due diligence on conflict minerals has an interest in knowing the results of those diligence exercises. The trader's failings become, in effect, credit risks, reputational risks and, in some cases, liability risks for the bank. Banks therefore integrate sustainability and human rights questions into their credit analysis, with questionnaires, contractual clauses and financing terms linked to results.¹ Non-governmental organisations, having understood that the bank is the control point of commodity trading, direct their criticism of the flows financed to the banks themselves.

This development brings Part H closer to Part K: sustainable finance, examined on the horizon of 2035, applies to trade finance in the form of exclusions, conditions and reporting. The Geneva banks that finance hydrocarbons, metals and African agricultural products are judged on these financings by their clients, their shareholders and their regulators. The cluster described in Part G thus becomes a cluster of shared responsibility, in which each player answers, in part, for the practices of the others.

1 Notes

1. Stand.earth, press release of 12 August 2020 on the report European Banks Financing Trade of Controversial Amazon Oil to the U.S.: since 2009, Credit Suisse, UBS and the Geneva subsidiaries of ING Belgium, BNP Paribas, Natixis and Rabobank have provided USD 10 billion in trade finance for roughly 155 million barrels of Ecuadorian oil destined for US refineries, representing some 66 million tonnes of CO₂, equivalent to the annual emissions of seventeen coal-fired power plants; the report documents spills, the destruction of rainforest and violations of the rights of indigenous peoples; Credit Suisse replied that its sector guidelines were aimed at project finance, leaving trading outside their scope, and none of the banks had amended its guidelines at the date of publication. Public Eye, dossier “Credit Suisse et UBS” (publiceye.ch): the two banks have adopted sector guidelines for high-risk activities — mining and extractive industries, oil and gas, forestry and agriculture, chemicals and bioethanol, infrastructure — which the organisation considers to be focused on managing financial and reputational risk, with limited transparency on their implementation.



For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/geneva-banks-confronted-with-their-clients-duty-of-vigilance