

Commodity traders and anti-money laundering

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Trading companies generally fall outside the definition of a financial intermediary within the meaning of the Anti-Money Laundering Act, since they buy and sell goods for their own account.¹ They nonetheless remain exposed to money laundering risk, since trading transactions can serve to transfer funds of criminal origin, to over-invoice or under-invoice goods in order to move value, or to pay for acts of corruption.

Traders are subject, through their banks, to growing requirements: the financing banks verify the origin of funds, the ownership of companies and the compliance of transactions. They refuse to finance traders whose practices appear doubtful to them. The large traders have put in place compliance programmes comparable to those of banks, which include the identification of counterparties, the vetting of intermediaries, the control of payments and the training of staff.

The debate on subjecting traders to specific anti-money laundering supervision resurfaces regularly in Switzerland. The Federal Council has examined this question in its reports on commodities and has so far favoured an approach based on the obligations of banks, on corporate criminal liability and on self-regulation by the sector.² Part H will return, in Chapter VI, to the transparency requirements that complement this system.

1 Notes

1. Federal Council, Supervision des activités de négoce de matières premières sous l'angle du blanchiment (supervision of commodity trading activities from an anti-money laundering perspective), report of 26 February 2020 in response to the Seydoux-Christe postulate 17.4204: "an additional subjection to the AMLA of traders acting for their own account is not proportionate to the risks"; 80 to 90 per cent

of trading transactions conducted from Switzerland are financed by bank credit (estimated volume of CHF 62 billion in 2016); some twenty small or medium-sized traders are subject to the AMLA through self-regulatory organisations; Art. 2 para. 1 let. b AMLA: application to persons “who deal in goods on a professional basis and receive cash in payment (dealers)” above the threshold of CHF 100,000 in Art. 8a. ↩

2. Federal Council, Supervision des activités de négoce de matières premières sous l’angle du blanchiment, 26 February 2020 (Seydoux-Christe postulate 17.4204, adopted by the Council of States on 7 March 2018): conclusion that subjecting traders acting for their own account “is not proportionate to the risks”, as the indirect controls by the financing banks already apply; more than 1,500 reports to MROS between 2015 and 2018 linked to the Petrobras and PDVSA cases alone, 367 cases analysed (2016-2018) concerning around CHF 1.1 billion; Federal Council, Le secteur suisse des matières premières : état des lieux et perspectives (the Swiss commodities sector: current situation and outlook), 30 November 2018 (16 recommendations). ↩

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