

Individual liability: executives, employees, advisers

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Corporate liability is coupled with that of natural persons. The cases described in the previous chapter led to the conviction of employees and, in the Trafigura case, of a former executive, with prison sentences that were in part custodial.¹ Compliance officers of financial institutions have been convicted for breach of the duty to report, as Chapter IV recalled.² Advisers — lawyers, fiduciaries, asset managers — who lend their assistance to structures designed to conceal illicit assets expose themselves to prosecution for money laundering or for complicity.

This individual liability is an indispensable complement to corporate liability. Whereas a company can absorb a fine and a compensatory claim as a cost, an executive who risks imprisonment reasons differently. The return of personal liability, which Part D discussed in relation to private bankers and which banking law has been re-examining since the collapse of Credit Suisse, is one of the major developments in contemporary compliance.

For practitioners, this development demands personal vigilance. An in-house lawyer, a compliance officer, an attorney or a fiduciary who takes part in a questionable transaction incurs his own liability, independently of that of the company or client he serves. The protection afforded by the position of adviser has limits, which the revision of the Anti-Money Laundering Act adopted in 2025 has tightened.

Actor	Basis of liability
Company	Art. 102 SCC, organisational failure
Executives and employees	active bribery, money laundering, complicity
Compliance officers	breach of the duty to report
Advisers	money laundering, complicity, due diligence obligations since the 2025 revision

Actor	Basis of liability
Banks	due diligence obligations, corporate liability

Worked example. A medium-sized trading company spends CHF 1.5 million a year on its compliance programme: a team of five, screening systems, third-party checks, training, audits. This cost represents 0.05 per cent of a turnover of CHF 3 billion and 5 per cent of a profit of CHF 30 million. A single corruption case could cost it all of its profits on the transactions in question, a fine, defence costs running into several million and the loss of its bank financing. The figures are fictitious, but they illustrate the economics of compliance.

1 Notes

1. RTS, “L’entreprise Trafigura écope d’une amende et certains accusés de prison ferme pour corruption en Angola” (Trafigura fined and some defendants given custodial sentences for corruption in Angola), 31 January 2025. ↩
2. “Communiquer ses soupçons au MROS contribue-t-il à combattre efficacement la criminalité économique ?” (Does reporting suspicions to MROS contribute effectively to combating economic crime?), Haute École Arc, 14 May 2025. ↩

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