

Three typical situations

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Three situations, described schematically and in fictional terms, illustrate the application of these principles.

In the first, a Geneva bank is approached by the national oil company of a Central African country to take part, alongside a trader, in a pre-financing of USD 500 million repayable in crude oil over five years. The country is classified among those whose resource governance is inadequate, it has already contracted several resource-backed loans and it is negotiating a programme with the International Monetary Fund. The bank must analyse the sustainability of the commitment, verify the conditions under which it was awarded and the absence of corruption, require publication of the terms and provide for adjustment clauses, before deciding whether to participate, and on what terms.

In the second, a Geneva cocoa trader buys from Ivorian exporters beans destined for European chocolate makers. The European regulation on deforestation and the Swiss obligations relating to child labour apply. The trader must trace the origin of the beans back to the cooperatives, verify the production conditions, document its supply chain and report on it, relying on certification programmes and on partnerships with local organisations.

In the third, a Geneva law firm is consulted by a West African businessman, a former minister, who wishes to set up a trust to pass on to his children an estate of USD 30 million. The firm must verify the origin of this estate, distinguish income from private activities from that connected with ministerial office, assess the risk of an asset freeze in the event of political change and ensure that the proposed structure complies with the obligations of transparency and anti-money laundering, including the new obligations imposed on advisers. If the origin of the estate cannot be established satisfactorily, the firm must decline the engagement.

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Worked example. A trader applies to its African operations an enhanced compliance programme that costs CHF 2 million a year and leads it to forgo transactions representing CHF 10 million in margin. The apparent cost comes to CHF 12 million a year. A single corruption case would cost it, on the orders of magnitude of the recent cases, between CHF 90 million and CHF 150 million in compensatory claims, not counting the fine, the costs and the damage to its reputation. Over ten years, the programme costs CHF 120 million and averts a probable loss that is far greater. The figures are fictional. The orders of magnitude of the sanctions, however, are those of the Gunvor, Glencore and Trafigura cases.

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