

Transparency and due diligence in company law

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The policy debate led to two sets of rules in the Code of Obligations. Since 1 January 2021 companies subject to an ordinary audit that are active in the extraction of minerals, oil, natural gas or primary forest timber must disclose payments of CHF 100,000 or more per financial year to state bodies (Art. 964a–964f CO in the numbering at the time).¹ After the popular initiative on responsible business was rejected on 29 November 2020, the indirect counter-proposal introduced reporting duties on environmental matters, labour, human rights and anti-corruption for large public interest entities and specific due diligence and reporting obligations concerning conflict minerals (tin, tantalum, tungsten and gold) from conflict-affected and highrisk areas and concerning child labour.² The obligations apply from the financial year 2022 onwards.

For most Lugano traders the direct effect of these rules is limited. The payment transparency rules apply to extractive companies and not to traders as such, although the Federal Council can extend them to companies trading in raw materials in the context of an internationally coordinated approach.³ The non-financial reporting duties apply only to large companies of public interest, which few Lugano traders are. The due diligence obligations on conflict minerals reach the gold refiners of the Mendrisiotto and traders importing such minerals above the thresholds of the implementing ordinance. The indirect effect is larger. The banks that finance Lugano traders, the refiners that buy gold and the customers that buy steel apply their own due diligence standards to suppliers, standards which are informed by the federal guidance and by European law.

1 The statistics mandate of 2023 and the political debate

The war of 2022 renewed the political debate. The criticism that Switzerland knew too little about a sector that traded a large part of Russian commodities led the Federal Council, on 22 November 2023, to approve

an analysis of the importance of international commodity trading for domestic and foreign policy and to mandate the Federal Statistical Office to measure the sector's value added. The analysis was to require two full-time positions over four years.⁴ The press reported at the same time that the National Council had adopted a motion asking for legislation on commodity trading, a demand that the industry and the Federal Council had previously opposed.⁵ In September 2023 the National Council also adopted the postulate on sanctions enforcement in the commodity sector mentioned above.⁶ The publication of the first value added figures in November 2025, with their cantonal breakdown, was the first result of the mandate. It gave Ticino a statistical profile of its own for the first time.

2 Notes

1. SECO, Stand der Umsetzung der Empfehlungen (21 April 2021, above) (Art. 964a–964f CO; disclosure of payments to state bodies above CHF 100,000 a year from 1 January 2021). ↩
2. SECO, Stand der Umsetzung der Empfehlungen (21 April 2021, above). ↩
3. Code of Obligations, Art. 964i (extension of the scope of application: the Federal Council may provide "as part of an internationally coordinated procedure" that the obligations also apply to companies trading in raw materials), <https://lawbrary.ch/law/art/OR-v2025.01-en-art-964i/>; SECO, implementation report of 21 April 2021 (above) ("Eine Delegationsnorm ermächtigt den Bundesrat, diese Transparenzvorschriften auch auf den Rohstoffhandel auszudehnen"). ↩
4. Cash, 22 November 2023 (above). ↩
5. Cash, 22 November 2023 (above). ↩
6. Plattform J, 21 September 2023 (above). ↩

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