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Switzerland- White Collar Crime

Contributor



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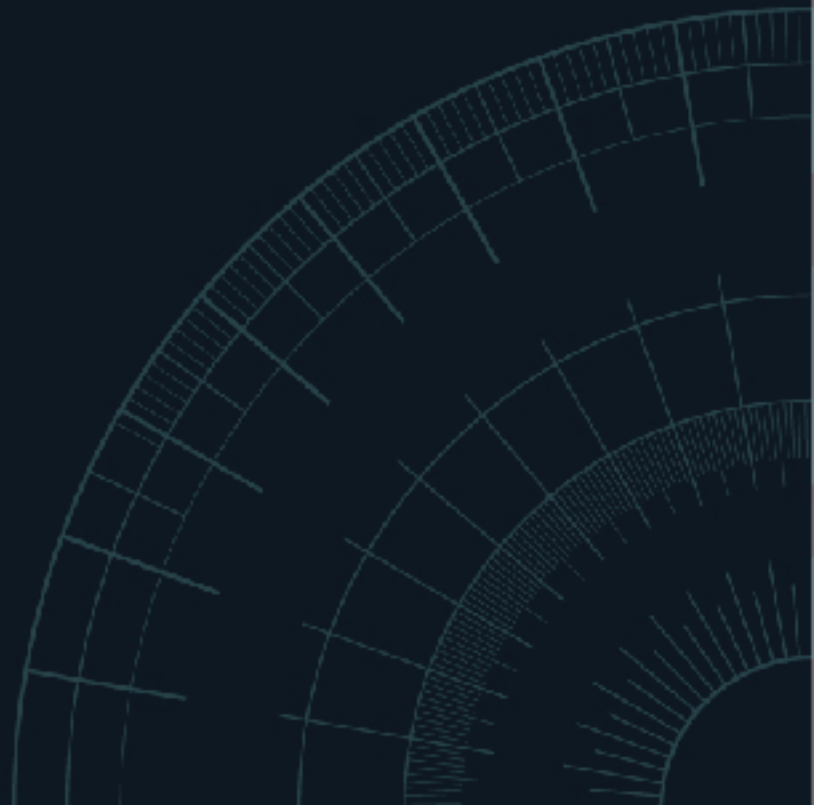
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Switzerland- White Collar Crime

1 What is the current legal landscape for White Collar Crime in your jurisdiction?

Switzerland has a well-established framework for dealing with white-collar crime, covering traditional offences such as fraud, criminal mismanagement, money laundering, corruption and forgery. What increasingly characterises the practice, however, is less the offences themselves than the international and multidisciplinary environment in which they arise.

This is in many ways a reflection of Switzerland's economy. As a major financial and commodities trading centre, Switzerland is frequently the point of connection for transactions and business relationships extending far **beyond its borders**. A matter handled in Geneva or Zurich may involve funds moving through several jurisdictions, foreign counterparties and banks, complex corporate structures, or underlying conduct that took place largely abroad. International cooperation and mutual legal assistance are therefore a regular feature of Swiss white-collar matters.

That international dimension has also made the practice increasingly **multidisciplinary**. The same transaction can raise questions of criminal law, anti-money laundering, regulatory obligations and civil liability, often across several jurisdictions at once. The expansion of international sanctions in recent years has reinforced this trend. Issues concerning the ownership or control of a counterparty, the origin or destination of funds or goods, or the involvement of particular banks and intermediaries may initially arise as compliance questions but can take on a very different significance if there are concerns about circumvention, money laundering or the accuracy of information provided to financial institutions or authorities. For internationally active Swiss businesses, the analysis may also extend beyond Swiss measures to EU, UK or US rules, depending on the connections involved.

This broader environment also places greater emphasis on how companies organise themselves and respond to risk. **Corporate criminal liability** under Article 102 of the Swiss Criminal Code can arise in certain circumstances from organisational deficiencies, including, for specific offences such as money laundering and corruption, a failure to take reasonable measures to prevent the offence. More generally, there is growing scrutiny not only of what happened in a particular transaction, but also of what the company knew, what information was available to it and what processes were in place to identify and address potential concerns.

The result is that a white-collar matter in Switzerland rarely remains confined to one area of law – or indeed to Switzerland. Effective advice therefore requires an understanding not only of the criminal provisions, but also of the underlying business, the transaction itself and the wider international context in which it took place.

2 What three essential pieces of advice would you give to clients involved in White Collar Crime matters?

Our first piece of advice is to **act early, but proportionately**. White-collar matters often begin with something relatively limited: an unusual payment, a whistleblower allegation, questions from a bank, an

internal compliance concern or a request from an authority. What happens in the early stages can nevertheless shape the entire matter. Relevant documents need to be preserved, the right people brought into the discussion and communications carefully managed, particularly where several jurisdictions or authorities may ultimately become involved. At the same time, not every irregularity or compliance concern is evidence of criminal conduct. The objective should be to take control of the situation without unnecessarily escalating it.

The second is to **master the facts before settling on the legal strategy**. This is often easier said than done. Complex white-collar matters can involve years of emails, contracts, banking records and communications involving numerous individuals and entities. One of the first practical steps is therefore often to organise that information into a workable database: identifying the relevant actors and entities, building a reliable chronology, mapping transactions and payment flows, and linking the key documents to the issues under investigation. Clients will understandably arrive with their own account of what happened, but that account needs to be tested against the evidence. In trading and financial matters in particular, understanding who instructed whom, who paid whom, how a transaction was structured and what information was available at the relevant time can fundamentally change the legal analysis.

Finally, **do not look at the criminal proceedings in isolation**. The same facts may trigger AML reporting obligations, sanctions or regulatory issues, civil claims, employment questions and proceedings in several jurisdictions. A statement or document produced for one purpose may subsequently become relevant in a very different context. Decisions taken in Switzerland can likewise have consequences abroad, and vice versa. The strategy therefore needs to consider the matter as a whole from the outset, with the different workstreams coordinated and, as far as possible, the positions taken across them remaining consistent.

3 What are the greatest threats and opportunities in White Collar Crime law in your jurisdiction in the next 12 months?

The next 12 months are likely to be particularly interesting for white-collar crime in Switzerland, with several developments pointing in the same direction: greater transparency, closer scrutiny of financial flows and increasing expectations on companies and their advisers to understand who is really behind a transaction and why it is being structured in a particular way.

The most immediate change is the entry into force, on 1 October 2026, of Switzerland's new beneficial ownership transparency regime and revised anti-money laundering framework. The creation of a federal register of beneficial owners, together with new due-diligence obligations for certain higher-risk advisory activities, represents an important step. This comes at a time when the Swiss authorities have themselves identified foreign legal entities and complex legal structures as presenting heightened money-laundering risks.

The principal **threat**, in our view, is the growing difficulty of identifying risk in increasingly complex and international transactions. The challenge is no longer simply to screen a name or identify an obviously suspicious payment. Companies are increasingly expected to understand ownership and control, intermediaries, payment routes and the economic rationale behind a transaction, often across several jurisdictions and on the basis of imperfect information.

Sanctions illustrate this particularly well. After several years of rapidly expanding sanctions regimes, some of the most difficult questions now concern what sits behind the transaction: ownership and control, intermediaries, the origin and destination of goods and funds, and possible circumvention. For internationally active Swiss businesses, particularly in commodities, banking and trade finance, these questions are inherently cross-border and may require Swiss measures to be considered alongside EU, UK or US restrictions. A matter that begins as a compliance question can also develop into a white-collar issue where concerns arise about circumvention, misleading information or suspicious financial flows.

The **opportunity** is the other side of the same development. White-collar lawyers are increasingly being involved before a matter becomes a criminal investigation. Companies are more willing to examine an unusual transaction, ownership structure, payment or internal concern at an early stage rather than waiting for a bank, regulator or prosecutor to do so. This allows us to establish the facts, determine whether an apparent red flag is genuinely problematic, correct weaknesses where necessary and create a reliable record of the analysis and decisions taken.

In that sense, prevention and defence are becoming increasingly connected. Understanding how a transaction may look when examined retrospectively by an authority is often one of the best ways of helping a client make the right decision while the transaction is still taking place.

4 How do you ensure high client satisfaction levels are maintained by your practice?

For us, client satisfaction starts with **understanding the client and its business**. This is particularly important in white-collar, commodities and financial matters, where legal advice can quickly become disconnected from reality if the lawyer does not understand how the business or transaction actually works. We therefore try to understand not only the immediate legal issue, but also the client's broader objectives, constraints and the practical consequences of the different options available.

From there, **clear communication and responsiveness are essential**. White-collar matters can develop quickly and do not always follow a convenient timetable. Clients need to know that they can reach us when an issue requires an immediate decision, but also that they will receive a clear view when they do.

Attention to detail is equally important. In our practice, a seemingly minor point in a payment instruction, corporate structure, contract or piece of correspondence can materially affect the analysis. Clients expect us to understand the overall picture without losing sight of those details, particularly when significant financial or criminal exposure may depend on them.

We also place considerable importance on **being proactive rather than simply reactive**. This means anticipating the next question an authority, bank or counterparty is likely to ask, identifying issues before they become urgent and keeping clients informed of developments that may affect their business. In cross-border matters, it also means coordinating the different legal and regulatory dimensions so that the client receives a coherent strategy rather than separate answers to separate problems.

Finally, good client service requires **pragmatism and realism**. The most aggressive legal position is not necessarily the one that produces the best result. Depending on the circumstances, the right approach may be to challenge an authority, cooperate with it, obtain further information, correct an issue internally or resolve a problem before it develops further. Ultimately, our role is to combine legal precision with

practical judgement and help the client reach the best overall outcome.

5 What technological advancements are reshaping your practice area and how can clients benefit from them?

Artificial intelligence is obviously the most significant technological development affecting our practice at the moment, but its impact goes in both directions.

On the one hand, AI is changing how we investigate and analyse complex matters. White-collar cases can involve enormous volumes of emails, contracts, banking records and other documents, sometimes in several languages. Technology can help identify connections, reconstruct timelines and transactions, and locate relevant information much faster than was previously possible. Used properly, this allows lawyers to spend more time analysing the important issues and less time performing mechanical document review, which ultimately benefits clients in terms of both speed and cost.

On the other hand, technology is also changing the nature of the cases themselves. AI-generated documents, sophisticated impersonation and deepfakes are making certain types of fraud easier to execute and more difficult to detect. At the same time, cryptocurrencies and increasingly complex digital payment structures can add another layer to investigations involving the tracing or recovery of assets.

There are, however, important limits. In white-collar matters, we routinely deal with highly confidential and sometimes privileged information. The use of AI therefore requires particular attention to confidentiality, data protection and the reliability of the output. Technology is extremely useful for processing and understanding information, but it does not replace legal judgement.

For clients, the real benefit is therefore not simply that lawyers can use new technology. It is that, when used carefully, technology allows us to understand complex factual situations faster, focus resources where they matter most and provide advice more efficiently.

6 Describe a particularly interesting or complex matter you have advised on recently, and explain the challenges involved, your approach, and the outcome achieved for the client?

One recent matter involved a Swiss commodities trading company operating in markets significantly affected by international sanctions. What made the matter particularly interesting from a white-collar perspective was that the underlying trading activity was not itself prohibited, but the transactions raised a combination of sanctions, anti-money laundering and potential criminal-law issues across several jurisdictions.

The principal challenge was separating **perceived risk from actual legal risk**. Transactions involving certain countries, ports, banks or counterparties are sometimes treated as prohibited simply because of their geographic or commercial context. In practice, the analysis is much more nuanced. It may depend on the commodity being traded, the identity and ownership or control of the parties involved, the origin and destination of the goods and funds, the banks, vessels and intermediaries used, and the services provided in connection with the transaction. Different sanctions regimes may also apply to different parts of the same trade.

Our role was therefore not simply to give the client a yes-or-no answer on whether it could continue trading. We first worked to understand the transactions in detail, mapping the contractual and payment flows, reviewing counterparties and ownership structures, tracing the movement and origin of the goods and identifying the sanctions regimes potentially engaged at each stage. We then helped the client establish a process for distinguishing genuine red flags from issues that could be satisfactorily resolved through further information or due diligence.

That process proved particularly important when certain transactions subsequently attracted the attention of the relevant authorities and investigations were opened. By that stage, we had already developed a detailed understanding of the transactions and assembled the underlying documentation. This meant that we were in a position to explain clearly how the trades had been structured, what information had been available to the client at the relevant time, which checks had been performed and, ultimately, why we considered the transactions to be lawful. Where questions arose, we could address them against a complete factual and documentary record rather than trying to reconstruct the rationale for decisions several months/years later.

The same work also proved valuable outside the investigations. Certain payments and transactions were subject to enhanced scrutiny by financial institutions, and we were able to assist the client in explaining the underlying trades and providing the information and legal analysis required by the banks to conduct their own reviews.

The matter illustrates an important feature of modern white-collar practice. Effective risk management is not about avoiding every transaction that appears difficult; it is about understanding what is actually happening, ensuring that the right information reaches the right decision-makers and creating a reliable record of informed decision-making. When a transaction is later examined by a prosecutor, regulator or financial institution, having that process and information already in place can be just as important as the legal conclusion reached at the time.

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