# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>p1</td>
</tr>
<tr>
<td><strong>How Big is the Problem, and How Can We Solve It?</strong></td>
<td>p2</td>
</tr>
<tr>
<td><strong>The Bigger Picture</strong></td>
<td>p3</td>
</tr>
<tr>
<td>UN Involvement of the Business Sector</td>
<td></td>
</tr>
<tr>
<td>Federal Ministry of Justice, Berlin: From National to International Action</td>
<td></td>
</tr>
<tr>
<td>ICC: Corporate Implementation of new Anti-Corruption Legislation</td>
<td></td>
</tr>
<tr>
<td>The World Bank: From Strategy to Action</td>
<td></td>
</tr>
<tr>
<td><strong>Business Ethics</strong></td>
<td>p4</td>
</tr>
<tr>
<td><strong>Crime Due Diligence</strong></td>
<td>p5</td>
</tr>
<tr>
<td><strong>Tools for Preventing Economic Crime</strong></td>
<td>p5</td>
</tr>
<tr>
<td>Corporate Government and Values Management</td>
<td></td>
</tr>
<tr>
<td>Corporate Compliance Programmes</td>
<td></td>
</tr>
<tr>
<td>Regulation and Control</td>
<td></td>
</tr>
<tr>
<td><strong>Managing Economic Crime</strong></td>
<td>p6</td>
</tr>
<tr>
<td>Risk Management</td>
<td></td>
</tr>
<tr>
<td>Crisis Management</td>
<td></td>
</tr>
<tr>
<td>Reputational Risk Management</td>
<td></td>
</tr>
<tr>
<td><strong>Bribery and Corruption: the New Business Challenge</strong></td>
<td>p7</td>
</tr>
<tr>
<td><strong>Interviews</strong></td>
<td></td>
</tr>
<tr>
<td>Rick Helsby</td>
<td>p8</td>
</tr>
<tr>
<td>Timothy Lemay</td>
<td></td>
</tr>
<tr>
<td>Richard H. Murray</td>
<td>p10</td>
</tr>
<tr>
<td></td>
<td>p12</td>
</tr>
</tbody>
</table>
Executive Summary

Taking into account the breadth of the economic crime topic, this conference sought participants with a broad range of experience and training, backgrounds, qualifications and perspectives. Representatives included such international organisations as the United Nations, the OECD and the World Bank; universities and research centres; financial, banking and insurance companies; law and accounting firms; and such private industry groups as the International Chamber of Commerce (ICC) and Transparency International.

Economic crime, with all its consequences, is particularly damaging and difficult to control when regulations and appropriate political structures are lacking, or are not adhered to as they should be. We cannot have evenly distributed growth and thriving financial centres if we do not fight economic crime effectively by establishing and implementing standards and regulations supported jointly by private and public organisations.

The topics discussed included:

- Legislative and regulatory regimes at national, regional and global levels.
- The role of private industry and initiatives to complement the public sector.
- Academic, theoretical and behavioural research into aspects of criminality including detection and prevention.
- Individual corporate strategies and operational opportunities for the measurement, management, detection and deterrence of criminal activity.

Given the abundance of material, a significant achievement was the identification of profound issues with the potential for further enquiry and debate. The main questions included:

- Considering their various strengths and limitations, what is the appropriate balance and interplay among international treaties and conventions, enforceable local criminal regulations, and privately issued codes of behaviour?
- Can propensities for economic crime be traced to identifiable personality profiles, or is economic crime fuelled by certain incentives and structures inherent in the world and market economies?
- Is economic crime risk to be measured and managed like other business risks, or does it require a unique vocabulary and techniques of its own?
- Are there qualitative differences in identification, assessment and management of the risks of economic crime, as between those perpetrated against businesses and those by them?

With their widely varying perspectives, the conference participants could be compared to the legendary committee of wise men who touch separate parts of an elephant, each with his own metaphor to describe that one part. The conference gave them opportunities to explore the subject, expand their perspectives and gain exposure to other elements, and to move forward towards a holistic and fully informed vision of economic crime’s many complex aspects.
Introduction

Even to those without much background knowledge, a cursory glance at the newspaper, or a search on the Internet reveals a climate that renders a conference like the one held on 6 and 7 November at Swiss Re's Centre for Global Dialogue in Rüschlikon most necessary.

Like all good criminals, econcriminals use a targeted and premeditated approach so that their victims are frequently totally unaware of their intentions until it is too late. And while we may think we are still in a position to consider ourselves unaffected observers, Werner Schaad, Chief Underwriting Officer at Swiss Re's Property and Casualty Business Group, urged participants that the reality is probably very different. Losses from economic crime are generally estimated to be between 1% and 5% of GNP – conversion of this figure to the net product of our companies or our private household income serves to demonstrate that we are all to some extent unsuspecting victims of economic crime.

As a member of the insurance sector, Swiss Re is particularly vulnerable to economic crime both from within and as a result of its impact on clients. Economic crime has significant potential to affect the reinsurance and underwriting part of Swiss Re's operations, and the past three years have been particularly challenging, with the bursting of the dot-com bubble, the stock market crash and corporate defaults such as Enron all impacting on various lines of business. The most vulnerable areas have been credit reinsurance, professional indemnity for accountants and legal consultants and D&O liability insurance.

The organisers of the conference aimed to facilitate exploration of the complexity of the corporate risks of economic crime, to raise awareness and identify possible solutions to the problem. Participants were well aware that while financial damage resulting from economic crime can be severe, collateral damage can be even more serious. As Shakespeare put it: ‘Who steals my purse, steals trash … but he that filches from me my good name robs me of that which not enriches him and makes me poor indeed’ (Othello).

How Big is the Problem, and How Can We Solve It?

The PriceWaterhouseCoopers 2003 Economic Crime Survey revealed a considerable amount of relevant data, and Rick Helsby, European Head of Investigations at PwC, presented some of the key findings to participants. While some of the results that emerged from the research, such as an apparent lack of economic crime in Russia and Turkey, were surprising, this is in itself an indication of the fact that we know only what companies are willing to tell us, and our knowledge at present cannot be comprehensive.

In all, 37% of companies surveyed had been victims of fraud of some kind over the past two years, but while reported crime is rising, we have no way of knowing whether this is the result of higher crime levels or simply increased awareness and willingness to report offences. Helsby also suggested that detection rates are low, since while audit was the most frequently cited instrument, other factors such as accident or tip-off were also important, indicating just how haphazard the detection of economic crime can be, and implying that what companies are aware of – even if they choose not to report it – is only the tip of the iceberg.

Perception is another important issue, and while much of the media noise about economic crime is made in areas such as financial misrepresentation or corruption and bribery, the most frequent crime type is asset misappropriation, in other words, employee theft. Here, as in other areas, there is a gap between perception of the problem and its reality.

Economic crime is expensive, with the average company loss being around USD 2.2 million. Once assets have been lost they are difficult to recover, and although insurance can assist greatly in this process, a surprising number of companies still do not have the appropriate fidelity cover. Added to financial loss is the potentially devastating collateral damage in terms of employee morale and company reputation. But despite the expensive nature of economic crime, surprisingly little is done to prevent it, and corporate action is often limited to codes of conduct. Indeed, it seems that many still believe economic crime to be an unmanageable risk, an inevitable part of doing business, and something that generally happens to other people.

But Helsby emphasised that there are tools which can be used to help prevent economic crime. An ongoing assessment of risks and an active communication of fraud policy from top management level can both be very effective. Like other speakers, Helsby indicated that it is vital for senior management to be committed to fighting economic crime: without real commitment from the top, other measures will not work. Policies that protect and encourage whistle-blowers are also important, and companies need to develop a culture that takes whistle-blowing seriously, treating it as an opportunity to clean up the business rather than as a threat.

If companies are serious about combating economic crime, employees at all levels should be under no illusion that they can get away with it. Guidelines, training and actual corporate practice must make it clear that fraud will be pursued and prosecuted when it happens. All too often, companies shy away from going to the police or pursuing the matter further because they believe that the short-term reputational damage would be too severe to make it worthwhile. But while pursuing fraud publicly is expensive in the short term, reputations are made by doing the right thing in the long term, not by sweeping wrong-doings under the proverbial carpet.
The Bigger Picture

In a world where borders between nations are increasingly permeable, individual nations no longer have the power to combat crime alone. Criminals increasingly operate from a number of bases and have networks across the world. Only by working together in global and regional, political and economic alliances can solutions to the causes and effects of economic crime be found.

UN Involvement of the Business Sector
The UN has recently been endeavouring to include civil society and the business sector in the fight against corruption, a fact which is exemplified in the UN Convention on Transnational Organised Crime (2000) and the new UN Convention on Corruption. Article 31 of the Convention on Transnational Organised Crime contains several important sections relating to the private sector, while Article 12 of the Convention on Corruption also relates specifically to it.

Tim Lemay, Officer-in-Charge of the UN’s Global Programme against Money Laundering, demonstrated how such documents are crucial to establishing a framework of international cooperation and establishing the basis for a level playing field. UN conventions have a great advantage over regional agreements, in that they have a global application in developed and developing worlds. However, there has been some criticism of both the Convention on Transnational Organised Crime and the Convention on Corruption for being too vague. In certain sections, parties are asked to ‘consider’ taking action, rather than being obliged to do so. This still leaves key areas where countries can choose to implement the conventions fully, or not at all, which will give unfair advantages to businesses in certain parts of the world.

A major problem in dealing with corruption and economic crime is that, while the principles may be clear, there is often a gulf between them and the policies on the ground. But while global monitoring of compliance is beyond the scope of the UN, conventions are the beginning of an ongoing dialogue, and in many cases form the basis for an infrastructure that will eventually facilitate their implementation. In similar cases, issues have subsequently been taken up by regional bodies and compliance is monitored locally around the world.

Federal Ministry of Justice, Berlin: From National to International Action
Supranational organisations including the EU, the Council of Europe, the OECD and the Financial Action Task Force have taken several initiatives that will foster coordinated action against the growing problem of international criminal activities. Manfred Möhrensclager of the Federal Ministry of Justice in Berlin, showed how these initiatives aim to harmonise criminal law in a way that will improve international cooperation in the areas of corruption, money laundering, cyber crime, and other specific economic offences including certain crimes related to fraud.

An important weapon in the fight against economic crime is the further development of the concept of corporate liability and the use of sanctions against legal persons and enterprises perpetrating criminal activities. A new trend towards criminal liability can be seen in certain countries, and corporate liability with the option of imposing monetary sanctions has now been acknowledged in the whole of the EU. This concept also exists in the UN Conventions against Transnational Organised Crime and the new Convention against Corruption. Another mechanism currently undergoing development is that of international ‘monitoring’ systems to evaluate compliance with the conventions that have been adopted. These are generally based on a two-fold system of self-evaluation and mutual evaluation.

While the full effects of such international action can only be determined over a longer period of time, there is no doubt that it is proving useful. It is also becoming clear that the proactive involvement of all sectors of society, including the private sector, is of considerable importance.

ICC: Corporate Implementation of new Anti-Corruption Legislation
The EU faces a significant internal challenge over the coming years in that all ten of the new member states have problems associated with corruption. The question is how and whether the corporations in the Union of 25 are going to cope with this.

Even without this impending risk, there are many reasons for the business sector to be interested in acting against corruption. Chief among these are the benefits of a transparent market unhindered by public or private bribes resulting in lack of transparency and unfair competition, and considerations of good corporate governance.

François Vincke, Chairman of the Anti-Corruption Commission of the ICC, believes that the way forward lies in self-regulation and self-discipline that does not wait for regulatory intervention to solve the problem. However, there is a fundamental awareness within the ICC that in creating a level playing field, it is impossible to ignore the power of legislators, and it is therefore keen to cooperate with national and international authorities on these matters.

The ICC’s own anti-corruption efforts include publications that facilitate the transplantation of the Anglo-Saxon concept of accountability to cultures that are unfamiliar with it: this is crucial to a universal understanding of the issues at stake and the development of consistent reactions to them. The ICC is also committed to sectorial efforts that bring together the main actors from a given sector to share experiences, define procedures and exchange best practices. An important feature of this activity is the building of a real confidence that all actors will behave in the same way when faced with corruption and that all are operating from the same value base.

But several important problems slow down the fight against corruption, including an initial unwillingness to report complaints to prosecutors, and a relatively small number of prosecutors willing or able to take on such cases. A lack of coordination in prosecution procedures also hinders the process, as does a lack of mutual legal assistance. In addition, the ICC sees budget constraints in compliance monitoring of new regulations as a significant problem, for example in the OECD countries with regard to the 1997 convention.

The World Bank: From Strategy to Action
Corruption is a problem facing all countries, and solutions primarily come from national initiatives. It is, therefore, vital that national leaders, civil society and the business sector act together to combat the problem. Traditionally, when offering development assistance, the World Bank provided loans to governments, but Djordjija Petkoski, Lead Specialist from the World Bank, illustrated how a significant increase in private loans and investments to developing countries
has led to a change in focus for the Bank, towards partnerships and dialogue facilitation. In this context, the Bank has decentralised some of its activities, which has allowed it to build local expertise and assist countries more effectively in their fight against the corruption which all too often undermines its projects to reduce poverty.

The World Bank has adopted a four-part anti-corruption strategy that aims to prevent fraud and corruption in the projects it finances, assist countries in reducing corruption, take corruption into account when designing country assistance strategies, and add support to international efforts to reduce corruption. Frequently encountered challenges include: generating real commitment from state leadership; finding an entry point for the introduction of the issue; assessing the extent of corruption and the political culture; finding leverage to encourage countries to adopt anti-corruption values.

Key to its anti-corruption work with corporations is finding a business rationale: only by ensuring that companies perceive an anti-corruption position as profitable, will a proactive attitude be achieved.

According to Kai-D. Bussmann, Chair of Penal Law and Criminology at the Martin-Luther-University Halle-Wittenberg, profiles of “econcriminals” suggest that their character traits – risk-seeking, decision-oriented, career-minded and extroverted – correspond very closely to those of successful managers. But as well as seeking out those statistically most likely to commit economic crimes as its high-flying managers, the business world is also led by the free market economy, which according to Bussmann has created a moral maze, a culture of unrestricted competition that negates ideas of solidarity and consideration for others. Such values, carried to extremes in the absence of a coherent code of ethics and values, can lead to cynicism about the law and willingness to commit crimes from greed rather than from need. The business world is, therefore, a fertile ground on which economic crime can flourish.

But how is it possible to prevent it from happening? The idea of criminalisation as a deterrent is a myth that only remains so strong because of its apparent plausibility: the fact is that severe punishment does not always deter criminals. And in any case, bringing criminal charges against offenders seldom results in the desired effect.

Bussmann suggests several alternative ways of dealing with economic crime, some of which also function as good deterrents. These include a culture of internal investigation that ensures the implementation of its own guidelines, the consultation of external lawyers, forensic investigations and damage insurance. Internal sanctions are also very important and reactions from colleagues have a shaming value that can prove an extremely good deterrent. Intensive controls can play a role, but while opportunities undoubtedly create offenders, such controls can have several disadvantages, including increased complexity, loss of flexibility, and according to Bussmann, an additional seduction value for risk seekers looking to beat the system.

Social bonding and integration within an organisation, on the other hand, can be a significant prevention tool since feelings of anonymity and distance have been shown to increase the likelihood of criminal behaviour. Added to which, it is unlikely that employees with a strong sense of identification with their company will seek to damage it. In this sense corporate identity can serve to raise the psychological barriers to economic crime, although it is highly dependent on personnel fluctuations and constitutes identification with a particular company rather than with the economy as a whole, and, therefore, does not effectively prevent crime against other companies.

For Bussmann, the key weapon in the fight against economic crime is a business ethics culture that continually communicates appropriate values and norms. Business ethics programmes have been shown to be effective and are considerably enhanced when the explicit norms of criminal law are incorporated into their guidelines. Crucially, business ethics must be a living instrument and included in employee training programmes: they must be a law in action, not in books.

Empirically speaking, economic crime is in fact ‘normal’, but ineffective prevention and bad crisis management are not. Concluding his presentation, Bussmann emphasised that there should be no taboo surrounding the subject, and that covering up is a false policy. Business leaders should learn to consider every offence as an opportunity to continue working on corporate identity and a stimulus for increased ethics awareness.
Crime Due Diligence

While prevention is obviously more desirable, Daniel Fischer, Professor at Kyiv Stat University, presented the Crime Due Diligence and the Corporate Crime Due Diligence models to participants as potential tools for use in the early detection of economic crime. Fischer defined economic crime as “attacks causing financial damage upon legally protected assets using technology and/or using specialised technical expertise whereby with proportionately low costs very high damages are caused”. In today’s business world, it has become easier to cover up such financial crimes but intuition as a basis for suspicion is not sufficient.

The Crime Due Diligence methodology is designed to improve awareness and make suspicion more reliable in order to help identifying crime from outside an entity. Unfortunately, over 50% of all criminal attacks start from inside the entity, which is why Fischer developed the Corporate Crime Due Diligence Instrument for detection of criminal attacks from within an entity. Both strategies, which allow suspicion to be developed more reliably, require analyses of personal, documentary and structural features. The analyses use detailed modules which have been developed based on the careful evaluation of thousands of criminal cases.

Tools for Preventing Economic Crime

Corporate Government and Values Management

In a world increasingly aware of economic crime, more stringent legislation means that many grey areas exist where the distinction between what is unethical and what is criminal is not always made clear. This has become more common as legal constraints have become more stringent. To ensure that neither ethical nor legal boundaries are crossed, effective value management through the use of both formal codes of conduct and less formal rules embodied in a corporate culture is essential. Leaders of this breakout workshop emphasised that both state and privately-owned companies need to make it very clear to employees what is and what is not expected from them. But while values should be consistent throughout an organisation, it is necessary to apply them appropriately at each level. The potential role of values in addressing possible conflict between codes of conduct and compensation packages based around performance was also discussed together with the need to tailor values to individual organisations, industries and geographic cultures. Workshop leaders warned participants that while opportunity is a significant factor, the bureaucracy designed to combat economic crime is itself very prone to corruption.

Corporate Compliance Programmes

Focusing on GE’s own internal compliance management system, this workshop examined the potential for such tools to influence employee behaviour, ensure management ownership and drive accountability. The workshop emphasised the need for all compliance strategies to be implemented from the top down, and for senior management to demonstrate a real commitment to the values these strategies embody. Ongoing training, internal assessment, and crucially a functional and credible ombudsman system or complaints channel were all identified as important tools in compliance management. Key problem areas to emerge included supplier compliance and cultural differences that hinder implementation. Flexibility and local knowledge were seen as key tools for dealing with the latter, and workshop facilitators emphasised that with perseverance, a culture of accountability can be developed in every situation.

Regulation and Control

The facilitators of this workshop tried to ascertain how far regulatory measures need to go by examining merits and deficiencies of regulatory and control systems. Helmut Hersberger, of ORNA Corporate Integrity AG, had reservations about the impact of the Sarbanes-Oxley Act, a view which was challenged by the participants. Based on a hypothetical case study, participants examined what would be the best way to treat whistle-blowers. While all agreed that whistle-blowers have to be taken seriously and listened to, there were different interpretations of what to do with the information.
Managing Economic Crime

Given that in many ways it is difficult to avoid the risks of economic crime, it is vital that companies develop the skills to manage these risks and any resulting crises, as well as to safeguard their reputations.

Risk Management

Economic crime was discussed from a risk management point of view in the workshop led by Rolf Tanner, Head of Socio-Political Risk Research, Swiss Re and Arnold Löw, Consultant with the Management Zentrum St. Gallen. Economic crime was understood as an enterprise risk, i.e., as a deviation from intended business results due to criminal activities. Risk management, therefore, was examined as part of the broader management process. Workshop participants were asked to identify economic crime risk potentials with corporate strategy, corporate organisation, leadership processes and managerial effectiveness; decide on the appropriate risk management approach to take (risk avoidance, risk reduction, risk transfer and risk retention) and suggest remedial action. Participants agreed that risk reduction was the most viable and realistic risk management approach to combat economic crime in corporations. Top management commitment and clear guiding principles as well as incentives for employees geared towards observing guidelines and ethical norms were identified as the most important elements combined with management and staff training measures as well as adequate human resources management. The question whether the audit of corporate risk management of economic crime can be carried more effectively by internal bodies or by external watchdogs (consultants, government and regulators or civil society) led to some debate.

Crisis Management

When companies are victims of economic crime, they face a maze of problems in dealing with it. Key factors to consider when beginning an investigation include: deciding who to involve in the investigation and whether there could be any link between possible candidates and potential perpetrators. It was generally agreed that any investigative team should include independent elements. In addition, companies should determine, as soon as possible, which sites are affected and develop a policy for communication with third parties. Although there is no one-fits-all solution, by collecting as much information as possible, companies will be in a better situation to decide on how to proceed. An important issue is the need to follow the local laws of the jurisdiction, and workshop leaders emphasised the necessity of securing legal representation and guidance. This will assist companies in dealing with criminal and civil law, administration law, insurance claims and claims for restitution and compensation. Possible restrictions facing any investigation include privacy and data protection laws and the company’s contractual duties as an employer; it should be remembered that these can vary according to jurisdiction.

Reputational Risk Management

Reputation is a key to success, and the costs of a lost reputation in terms of employee motivation, share price and rising D&O insurance premiums are well acknowledged. But reputation cannot be bought: it can only be developed over the long term. It must be lived out in the daily practice of employees, who should operate in a culture of transparency and compliance. To minimise their reputational risks, companies should strive to raise awareness and knowledge of the issues surrounding economic crime, and build a corporate culture that is conducive to honesty and openness. And when a crisis occurs, there is a real need for proactive honesty. It was generally agreed that it is advisable to be forthcoming in difficult situations and show a willingness to explain events clearly, so that reporters have the maximum chance of gaining a full picture of what is happening. Knowledge and context are vital, and an unclear picture often leads to more negative publicity.
Bribery and Corruption: the New Business Challenge

The global community has recently received several much publicised wake-up signals in the area of bribery and corruption, among which can be numbered the controversy surrounding the Lesotho Water Project, Statoil, Fraport AG and Chelsea Football Club. Such cases are leading to a marked decrease in respect for businessmen and CEOs, and the latter were rated as ‘less honest’ than ordinary people in a recent Time/CNN poll.

According to Jermyn Brooks, Director of the International Board of Transparency International, the reality is that bribery and corruption have an effect across industries in both developed and developing worlds, and that even companies proclaiming values such as integrity and transparency do not, in fact, ensure employee knowledge and practice of the anti-bribery and corruption policies already in place.

As a first step in the fight against corruption, and as a response to what has been termed external ‘persuasion’ towards a more proactive anti-corruption stance, many companies institute voluntary codes of practice. These have the advantage of being company and industry-specific and are, therefore, more detailed than anti-bribery laws. Such codes can be used as guidance and training material for employees, and are a good vehicle for demonstrating the all-important commitment from the top. In order to assist companies in their developments of these codes, Transparency International co-developed The Business Principles for Countering Bribery, which advocate a zero tolerance of bribery and a detailed implementation programme for any code of conduct that is adopted.

In this context, implementation is understood to mean a consensual development of programmes that will subsequently be thoroughly communicated from the top down and subject to an ongoing monitoring process. All employees at every level should be trained, and any sanctions imposed on offenders should be made public. Additionally, and importantly, a whistle-blowing channel should be developed to protect those voicing their concerns.

But voluntary codes are not always effective, and after persuasion comes monitoring. At this stage, companies should expect to focus on building credibility through both internal and external measures, including regular reviews by auditors and ethics officers, and consistent feedback to the board and/or audit committee. All results should be verified by external experts, and then made public.

When monitoring fails, companies can be sanctioned. At this stage, they face a very real danger of prosecution, as well as the financial losses and reputational damage caused by public exposure. Corporate leadership should, therefore, aim to focus on codes and practices that will reduce their risk of ending up in this unenviable position.
**Interview: Rick Helsby**

Rick Helsby is Global Investigations & Forensic Services Leader at PriceWaterhouseCoopers

**Wherever people try to define economic crime, we end up with very different views. Is there no generally accepted definition of economic crime as yet?**

The simple answer is that there are a whole variety of economic crimes. At PricewaterhouseCoopers we have set out some definitions in the Economic Crime Survey. These are mainly based around asset misappropriation, ie theft by employees; financial misrepresentation, in effect doctoring the numbers without necessarily taking assets from the company; corruption, where one pays or is paid to do a favour; and money laundering – or covering up other economic crimes.

**So you had to come up with your own definitions?**

When we were carrying out the survey, it was obviously not good enough just to ask: “Have you suffered from fraud?” We needed to try to understand what type of problem people were talking about, and we also needed the people we were asking to understand what we meant. So we said: “This is what we mean, have you suffered from any of these things?” And then: “Which of them you suffered from?” And that helped us and them come up with some firm findings.

**Why should a private industry undertake such a survey? Why is it not carried out by a national or super-national body?**

Any super-national body could carry it out. I don’t know why they don’t. In fact, you will find that there are super-national bodies like Transparency International [TI], which look at particular aspects: TI looks at corruption in particular. I think what we sought to do was make our survey global, in depth, and statistically valid. A lot of the others take little bits and pieces and try put them together into a composite whole which doesn’t work. I guess our interest is that of a global organisation, whereas perhaps individual governments would only look at their own particular territory, although the EU or UN might also take a wider interest. My own view is that economic crimes are still not treated particularly seriously by anybody, despite all the media noise and I would hope that our approach might contribute to there being a more informed recognition of the problem.

**Is it possible for a national body or a state to control very much? Or is it not typical that, in the fight against economic crime, they are lagging behind companies that are often more international?**

I guess that so far as the private sector businesses are concerned, they have a very direct financial and reputational interest in dealing with economic crime. When it comes to corruption, however, I think that governments should take the lead. I did some work in Lithuania, one of the candidates for entering the EU. They obtained EU funding to help them address the issue of public sector corruption, and went through a huge public training and education programme about the issue and have changed public perception in that country as a result. People there are starting to believe that corruption can be tackled. So the fight against corruption must definitely be led by governments from the top. Otherwise, you will find that the private sector will say: “What can we do? We have to compete, therefore we have to make our payments to public officials”, or whatever the culture is in that country. The culture of the country needs to be changed by a drive from the top.

**What are the main difficulties for companies in first detecting and then fighting economic crime in their own organisation?**

When it comes to issues such as employee theft and so forth, I believe you are never going to stop it: no system or control is ever going to do that. There are certain aspects that are always going to be outside the books and records. Procurements are a clear area of vulnerability in any organisation. For example, a person in the procurement department dealing with a particular supplier, could have a personal relationship, and do a deal where the purchasing company is overpaying, in effect, for the goods, and the payment is shared between the two individuals by rebates, kickbacks, and so forth. That is very difficult to eradicate, and one should be constantly monitoring, repositioning people in particular departments, having some system of checks and balances, and asking people what is going on.

My view is that the culture of an organisation and the drive from the top are fundamental. If you have a culture in which the greed of senior executives becomes clear, and they are living a life of luxury at the expense of the shareholder, then you will find that the employees begin to say: “Look at those guys, anything goes in this organisation”. I think this is what happened in some of the scandals in the States.

There are several very straightforward things that can be done. There should be constant monitoring of risk areas, somebody directly responsible at a high level for monitoring and defraud policy, and whistle-blowers should be encouraged. I think most companies see them as a nuisance, but they should be actively encouraged without developing a culture in which everybody is snooping on each other. There is also the possibility of doing individual employee screening.

But at the end of the day, it is the culture and ethics of the organisation that counts. And that is bound to senior management making absolutely clear what is and is not
acceptable business practice, leading from the top and, in my view, pursuing and prosecuting fraud in every situation where it occurs.

**How should companies go about creating an atmosphere of trust?**

Through active communication by senior management of what the company’s stance is, not just by producing a code of ethics. I mean actually talking to individuals or groups of employees about what is acceptable in the organisation, and why the company is taking a firm anti-fraud, anti-corruption stance. Senior management should make clear that it is doing so because it believes in transparency, in good governance, and is convinced that there is honest business and dishonest business, and encourage employees to think the same. It needs to instil a sense of pride in the organisation.

**Let’s talk about your own responsibility at PwC.**

I am the global leader of what we call our Investigation Forensic Servicing Practice. We have skilled fraud investigators in most of the large territories around the world. My job is to coordinate that resource to make sure that where there are gaps we are filling them. We look critically at the very large multinational engagements, which we find we are increasingly involved with, making sure the right resources are put in the right place.

Your company also carries out audits. **How do these two functions work together? Is it usual to combine the two things in one company?**

I am not and have never been an auditor, but auditors are watchdogs not bloodhounds. I guess that the forensic investigations practice is the bloodhound. One of our audit colleagues may pick up an area in which he believes there is cause for concern. He will then call in the forensic accountants to support him in looking in more detail at whether there is indeed an issue of concern.

There are some prohibitions now on which services audit firms can and cannot provide to its audit clients. For example our services cannot include in-depth investigation on behalf of SEC Registered clients where there is litigation: we can’t do that work.

**I have noticed throughout the conference that statistics have a great impact, at least in that they are frequently quoted. How accurate are they, and how much are they only the tip of the iceberg?**

I am absolutely clear from the work we have done on the Economic Crime Survey, that at the end of the day you can only rely upon what people tell you. This does not mean that they tell you the truth. As far as our survey is concerned, it is an accurate reflection of what people tell us. Is it an accurate reflection of the truth? That is another matter. In that regard I think it is illuminating that, for example, Russia reported no economic crime, which is obviously ludicrous; and also that if you look at the difference between perception and reality, in other words what people say they suffer from and deception as a reported crime, there is a huge difference.

For that reason, I am the first to admit that the whole subject is shrouded in a certain amount of mystery. But I am certain that whatever economic crime is reported, it is the tip of an iceberg. That is self-evident. It is how much is below the waterline that is the huge uncertainty. And I think anybody who tells you they know is a fool or a knave.
Interview: Timothy Lemay

Timothy Lemay is Officer-in-Charge of the Global Programme against Money Laundering of the United Nations Office on Drugs and Crime in Vienna

What is the significance of the convention on Transnational Organised Crime (TOC) and the impending acceptance of the convention on corruption? What impact do these conventions have on the Western world and on developing countries?

Certainly it is the first time that the kind of standards and definitions set forth in the conventions are being adopted on a global scale. You see these kinds of initiatives at a national level and at a regional level particularly in the West, but to get some of those basic notions accepted by consensus widely throughout the world is a really important first step. The whole idea that organised crime is there, that corruption is there, that it is recognised and that you have to take some steps against it, provides a really important global platform so that everybody can speak essentially the same language.

One of your slides showed the penetration of organised crime into the legitimate economy. How would you define organised crime with respect to legitimate economy?

I think what that slide signals is that some countries really don’t have the capacity to keep criminal proceeds out of their legitimate economy. The ramifications of having that kind of capital moving through your economy on a large scale are huge, because people can buy solutions, they can buy bureaucrats, they can buy political favours, they can compete unfairly against legitimate businesses and thereby drive them underground. Eventually, if you get enough criminal capital in the economy, the country simply becomes controlled by criminals, and there is no room for free enterprise, because it competes in a law-based system and the others stand completely outside that system.

Could you comment on the notion that certain recent examples, such as the Canary hedge fund, suggest that there may be a corrupt element moving into the fabric of the free market economy.

Whenever large cases like this arise in highly developed economies, it shows that the system has the capacity to identify those cases and bring them forward. In many countries, these kinds of things go on all the time, but you don’t hear about them. But that does not mean they are not happening. The only reason you have a system of anti-corruption rules is because it responds to what is understood to be a real problem. In any country, at some level or other, you have corruption. When you have a system that allows you to detect these crimes and to bring them forward, then you have a real capacity to deal with it.

Over the last five years there has been increasing media coverage of economic crime. Is it just about making good news stories, or is there actually an increase in corruption in the business community?

Obviously, the news media are in the business of providing stories that people want to read. Clearly, this is a product that interests readers, so you are going to see it. There is often a lot happening in an economy that you don’t see in the newspaper, because it does not make for a good headline. I am not sure that there is necessarily more corruption going on, although that could be the case, but the mechanisms for detecting it are getting better and there is a healthy public interest in finding out about it, so it is being reported. One thing that reporting it in the press can do is show the developing countries we work with that it is not a bad thing to take a look at yourself, to admit that there are things going wrong. It’s useful to point to your own failings as a developed country and say: “Look, we are prepared to do something about it and we think you should too”.

In illegal substance abuse in sport, which is perhaps an analogous field, we have recently seen significant breakthroughs in detection techniques. Is there anything comparable, either in the Western world or developing economies, that might allow us to better gage the levels of corruption?

In terms of detection of corruption, I think there is probably a lot happening, but it is quite a specialised field, and I am not really in a position to comment. Certainly the analogy with sports is correct. There will always be people who are prepared to do anything to claim the ultimate prize. The one way of dissuading them, both on the sports field and in the commercial world, is simply to take away the prize. If you get the gold medal for winning the 100 metres and you get it the wrong way, the gold medal is gone. I think that what the proceeds of crime issue is about, is saying: “You may think you can get away with this crime, but if you are found out, all of these proceeds will be taken away from you”. It is not just a matter of paying a fine or going to jail, it is a tremendous loss.

These are not magic bullets. You are not going to have one magic solution that will take away economic crime or corruption. There are a variety of tools that lawmakers and investigators can use. I think things like the proceeds of crime approach can be very successful.

In your presentation you said that the UN sees one of the functions of these two conventions as providing a conduit to transfer knowledge or at least awareness to developing countries. And you then touched on the notion of technical assistance. What sort of technical assistance or support is
I am engaged in technical assistance in the proceeds of crime and terrorist financing field. My colleagues are similarly engaged in technical assistance on corruption and organised crime. Essentially it involves finding the key players in these areas – in our case it is financial people, regulators, prosecutors, investigators, judges and those who run the systems, such as financial intelligence units – telling them the basics of the law and giving them technical training so that they can begin to address these issues. This involves provision of technical equipment like computer systems, or technical advice on how they can conduct international investigations, and linking them with partners in other countries.

The people who have this expertise are generally in countries that have been working in the area for a long time. We try to draw on them – and they are very forthcoming both in the public and in the private sector – and say to the countries that need the experience: “Here is what we can offer”. It should not be done on the basis that we are there to tell them how to do it. As a provider of assistance you say: “We have been through some of these problems, we have made some mistakes, here are some mistakes you can avoid, here are some practices we suggest, but they have got to work in your legal system, in your economy”.

We have a lot to learn from the countries we are assisting. For instance, because standards are growing so complex in the developed and the developing world, while economies are not developing as fast in the developing world, you have a real gap between the standards and reality. We would like to take a closer look, going back to some basic principles. One of them is tracking the proceeds of crime, such as how you track and target proceeds of crime in a cash-based economy. You don’t have the highly complex financial instruments. You have criminals, you have proceeds of crime, and you have investigators. I think we have a lot to teach and a lot to learn in such economies.
Interview: Richard H. Murray

Richard H. Murray was appointed Chief Claims Strategist for Swiss Re in November 2002. Mr Murray has spent his career at the intersection of litigation and insurance. Prior to Swiss Re, he was a senior officer of Deloitte Touche Tohmatsu; Chairman and CEO of Minet Professional Services, a Lloyd's broker; and an active defence lawyer. He has also served as a director of IMD in Lausanne, Switzerland, a leading business school.

White-collar crime has always existed but has been brought more sharply into the focus of public attention since the corporate scandals of 2001 and 2002. Is there a greater prevalence of economic crime or are regulators getting better at detecting these incidents?

We have to make a distinction between the two types of white-collar crime. On the one hand, there is employee abuse of corporate assets; this has always been with us – whether in the form of employee theft or fraudulent compensation claims. On the other hand, crime by companies, when an entity itself becomes a lawbreaker, is a relatively new development. I believe there has been a massive increase in crimes committed by companies against third parties.

Is the nature of corporate crime changing? What are the drivers?

Whereas individuals may at some time in their lives choose to use criminal techniques to take advantage of opportunities, corporations very rarely decide to do so in the same way. Apart from organised crime, few companies are set up for the purposes of being criminal enterprises; generally companies start out intending to make an honest living. However, we’ve been through a phase for the past 15 years of increasing pressure for short-term returns coupled with growing economic incentives for directors and officers. In our very volatile economy, achieving the desired results is becoming harder and harder. Companies have been pushed by their own economic dynamics to move away from conservative behaviour to high-risk marginal behaviour – from there it is a very short step to the types of performance misrepresentation or criminal distortion that form the largest part of corporate crime.

At the same time, the ownership of corporate stock has moved away from the traditional structures, a large portion of corporate stock is now owned by institutional investors who are interested in the short-term returns that can be achieved.

Will a new awareness of corporate sustainability lead to a change in business practices and how can companies balance sustainability aspects with shareholder pressure for more immediate returns?

We are already seeing some encouraging signs of change. A January 2003 conference organised by the Rockefeller Brothers Fund addressed this issue, the United Nations and the World Economic Forum are also active in this area. Swiss Re is participating in many important arenas where the questions about ownership and responsibility are being asked.

What is Swiss Re’s approach to corporate sustainability?

Swiss Re takes a three-pronged approach to sustainability. First, we are involved in the discussions and research on the traditional climate-related and environmental issues. Second, we have our commitment to corporate integrity – which by its nature has to be a long-term commitment and which deals with social-ethical values. Finally, we encourage an appreciation for “other than short-term profitability”.

As a reinsurer these are not just abstract principles, they’re business imperatives. If we look at the types of unsustainable behaviour, many are closely related to risk. There are risks associated with climate change that affect both our life and health and our property and casualty portfolios. The unsustainable living conditions in parts of the developing world are one source of social disorder and a potential terrorism risk.

How will the prosecutions and the introduction of legislation such as the Sarbanes-Oxley Act of 2002 change the playing field for potential wrong-doers?

They are important developments. Much of the focus on Sarbanes-Oxley has been on the elements of the presentation of financial results however, the implications are far wider and, so far, under recognised. Directors and officers will now need to affirm that they understand and are doing something about the risks their companies face. It must also be acknowledged that over-regimentation could suppress entrepreneurship and could have an undermining effect on a company’s ability to take bold decisions. Under these circumstances, it’s up to the authorities responsible for monitoring compliance to see that legislation is applied wisely.

Does good corporate governance mean a company is a better risk and how can good corporate governance be identified?

Most definitely – companies with an ethical approach and an interest in sustainable behaviour are better long-term partners. Over the years, there have been numerous attempts to use objective data to prove whether a company has good governance or not, the efforts have however not really provided clear answers. Currently, there are debates about whether governance is best served by having the roles of chairman and chief executive served by different people.
Discussions are also in progress about the benefits of providing a board of directors with a staff so that they don’t have to rely on management for all their information. Until recently, it was assumed that the US model for governance was the best, but a one-size-fits-all solution does not work. There are huge differences between industries and differences in culture and ownership structures between Europe, Asia and the USA. A tailored approach that takes these differences – and an individual company’s needs and objectives – into account is more likely to be successful and sustainable.

These are all important issues but equally, if not more, important are the quality and the character of the people you have. Good corporate governance is in many ways like beauty: it’s difficult to define but you know when you’re seeing it.

What challenges do you see in this field for Swiss Re going forward?

Looking to our product offering, I see the need to include predictive characteristics in our underwriting approach to D&O risks. That means understanding predictors that tell us when a company is likely to step over the line into criminal behaviour. Using a scientific analogy, we need to be able to map the genome of a company’s potential for criminal behaviour.
The Centre for Global Dialogue wishes to acknowledge the kind support provided by:
Daniel Fischer, Senior Partner, Advokurbüro Fischer & Partner, Zurich
Lucius Richard Blattner, Tethong Blattner Attorneys, Zurich
Kai-D. Bussmann, Chair of Penal Law and Criminology, Martin-Luther-University Halle-Wittenberg, Germany

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