

BIZ INSIGHT

White-collar crime: what firms should be aware of

SPECIAL TO THE NATION

DO YOU have management who have been with you for 10 years and have families to look after?

From the results of PricewaterhouseCooper's Global Economic Crime Survey, this is one of the higher fraud risk profiles. The survey also shows that white-collar crime is a growing threat for companies in Thailand.

White-collar crime is a significant concern because it can seriously affect a company's finances and reputation.



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Companies must recover costs by raising prices for consumers and restricting pay and benefits for their employees. It can even mean

letting people go. It has a ripple effect, as companies and investors may find they can't pay off loans, and can't get credit to grow their business.

White-collar crime is a concern for organisations of all sizes, regions and sectors as it harms business processes, erodes employee integrity and tarnishes company reputations.

What is white-collar crime?

Black's Law Dictionary defines white-collar crime as "a non-violent crime usually involving cheating or dishonesty in commercial matters. Examples include fraud, embezzlement, bribery and insider trading."

White-collar criminals can be company clerks or chief executives, but they are usually in management. The higher the position, the more damage can be done.

Prevention, be proactive

Companies need to be proactive with fraud-prevention measures such as instating whistle-blowing programmes and regularly monitoring bidding and procurement.

Whistle-blowing programmes should be conducted by a third party because employees may not be comfortable speaking to internal management, and the process may require a long, complex reporting chain before the information reaches the right person. Third-party whistle-blowing processes are independent and allow the third party to classify information without conflicts of interest, report it to the appropriate person, and recommend remedial procedures.

Companies must also keep a close eye on their financial records with regular monetary policies and procedures, and improve the hiring and training processes to employ people with strong ethical and moral values. A law-abiding company culture is a deterrent to crime.

Taking action on identified fraud

Under Thai labour laws, companies are entitled to ter-

minate employees who commit criminal offences under the Criminal Code, such as fraud and embezzlement. The termination is immediate and without compensation, including severance pay and compensation in lieu of advance notice.

Companies should be aware that they need to draw up a termination letter with detailed reasons for the termination. The letter must be provided to and signed by the employee as evidence to protect companies from the employee claiming compensation, such as for unfair termination and severance pay.

Fraud and embezzlement are compoundable offences under the Criminal Code, so as the injured party, a company is in essence required by law to file a complaint or lawsuit within three months from the date the offence and the offender become known. Failure to file charges by the deadline results in the dismissal of the case, so companies need to act promptly.

Companies can use the threat of a compoundable-offence conviction to force an offender to return all funds fraudulently taken and settle as fast as possible. The offender may pay all damages and return all funds in lieu of criminal punishment because compoundable offences can be withdrawn at any time before the case is finalised.

Companies can also file civil lawsuits to claim damages. As the injured party in these cases, companies are responsible for providing sufficient evidence of the damages and their magnitude. The court determines the damages based on the strength of the evidence and orders the offender to pay.

While taking quick and appropriate action when fraud is identified will save time and money, it is much more cost-effective to have strong fraud-prevention measures in place to keep it from happening in the first place. This saves all the time and cost it takes to handle the cases, and reduces the risk that you will never again see the money that white-collar criminals may be stealing from you.

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The consequences can be severe for not having effective fraud-prevention measures in place and diligently monitoring, evaluating and updating them. Companies should be willing to contribute the time and money necessary to build safe whistle-blowing processes and a moral business environment.

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