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CORPORATE FRAUD & CORRUPTION

Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in corporate fraud and corruption.





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Gennadiy Chuprykov leads PwC's forensic practice in Ukraine and has over 15 years of experience in delivering professional consulting services for public and private sector organisations in Ukraine, across CEE and the CIS. Mr Chuprykov has worked with many different clients and led projects on risk management, the redesign of internal control systems, forensic investigations and anti-bribery and anti-corruption compliance. His experience also includes providing support to the establishment of new law enforcement bodies in Ukraine.



Ukraine

■ **Q. To what extent have you seen a notable rise in the level of corporate fraud, bribery and corruption uncovered in Ukraine in recent years?**

CHUPRYKOV: According to our Global Economic Crime and Fraud Survey 2018, 48 percent of Ukrainian companies suffered from instances of fraud over the last two years, a 5 percent increase compared to 2016. Bribery and corruption has had a significantly negative effect on individual companies and business in general – an alarming 73 percent of Ukrainian companies experienced this type of fraud over the past two years, compared to 56 percent in 2016. The other top reported types of fraud in Ukrainian companies were asset misappropriation, procurement fraud, HR fraud and cyber crime. There was also a significant increase in the amount of fraud committed by internal actors, up from 28 percent in 2016 to 56 percent in 2018. The report also noted a jump in the amount of fraud attributed to senior management, up to 55 percent from 27 percent. Sixty-seven percent of external perpetrators were agents, distributors, vendors and customers of companies. Evidently, fraud, bribery and corruption are still major considerations in Ukraine and a substantial part of the problem is that fraud is often underestimated by all the parties.



Governments and businesses have a lot of work to do in order to ensure that fraud, bribery and corruption do not substantially affect the social and economic development of Ukraine.

■ **Q. Have there been any legal and regulatory changes implemented in Ukraine designed to combat fraud and corruption? What penalties do companies face for failure to comply?**

CHUPRYKOV: Significant changes to Ukraine's anti-corruption legislation were instituted in 2014, when a number of key pieces of anti-corruption legislation were adopted. The most recent anti-corruption law, adopted in 2018, established the High Anti-Corruption Court of Ukraine (HAC), to ensure that high-profile corruption is punished fairly. From 2014, according to changes to Ukraine's Criminal Code, private legal entities must be held liable for committing corruption offences. Punishment may include fines ranging from around €2800 to €42,200, liquidation or confiscation of property. In certain cases, the authorised representatives of the company may also face criminal liability independently or alongside the company.

■ **Q. In your opinion, do regulators in Ukraine have sufficient resources to enforce the law in this area? Are they making inroads?**

CHUPRYKOV: Regulators in Ukraine definitely have sufficient resources. In addition to existing law enforcement bodies such as the national police, the Security Service of Ukraine and the tax police, a number of new anti-corruption agencies have been established since 2014. These include the National Anti-

Corruption Bureau of Ukraine (NABU), the Specialised Anti-Corruption Prosecutor's Office (SAPO), the National Agency for Prevention of Corruption (NAPC), the Asset Recovery and Management Agency (ARMA), the State Bureau of Investigation (SBI) and the HAC. Since 2014, the NAB and the SAPO have sent about 200 corruption cases to the courts. However, courts have delivered their judgments only in 27 cases. This aptly demonstrates the need for the HAC. Within the same period, the NAPC processed 615 declarations of public officials out of almost 1.5 million. Going forward, an automated system for the analysis of declarations should be implemented, which should speed up and improve the quality of declaration verification. It is too soon to assess the results of the work carried out by the ARMA and the SBI at this stage of their institutional development. The public in Ukraine expects established anti-corruption infrastructure to become more efficient, effective and result oriented in the coming years. However, this will require political stability and a strong political will.

■ **Q. If a company finds itself subject to a government investigation or dawn raid, how should it respond?**

CHUPRYKOV: If a company is facing a regulatory investigation or enquiry, particularly where the integrity of senior management may have been called into question, the company should consider carrying out an independent investigation through an external party. Furthermore, the company can help to stop any ongoing wrongdoing and remediate potential fines by showing regulators that the company is taking action. Whether the problem relates to anti-money laundering, sanctions, bribery,



fraud and corruption or cross-border taxation, failure to take the right steps could result in reputational damage and financial losses. The involvement of an experienced external party can help to maintain both the objectivity and neutrality of the investigation and minimise the impact on the business, its customers and its reputation.

■ **Q. What role are whistleblowers playing in the fight against corporate fraud and corruption? How important is it to train staff to identify and report potentially fraudulent activity?**

CHUPRYKOV: Employees, as well as external parties such as vendors and customers, are valuable sources of information concerning potential fraud and corruption from within a company. In this respect, implementing a whistleblower hotline can give those individuals the chance to report potential wrongdoing. At the same time, individuals can be discouraged from speaking out due to a lack of anonymity or confidentiality, and a fear of being fired, overlooked for promotion or even physically assaulted. In order to overcome such issues, the company should implement proper reporting policies, such as mechanisms for ensuring anonymity and protection for whistleblowers, as well as running a communication campaign to make individuals aware of the whistleblower

hotline itself and to reassure individuals that protections are in place. In Ukraine, many companies are interested in both the implementation of an on-site whistleblower hotline and outsourcing their whistleblowing service to a third party.

■ **Q. What advice can you offer to companies on conducting an internal investigation to follow up on suspicions of fraud or corruption?**

CHUPRYKOV: When starting the investigation, companies should consider legal analysis to define legitimate methods and tools within the specific territory that can be applied in the course of the investigation. Also, taking into account recent developments arising from the EU's General Data Protection Regulation (GDPR), aspects of legitimate processing of personal data should also be covered. Today, companies are producing enormous volumes of increasingly complex data, and technology solutions might be useful for helping companies to secure, process and review the data generated by electronic systems and devices, including emails, laptops, smart phones and so on. Further analysis of data is needed, using sophisticated algorithms to identify the scope and impact of fraud and corruption cases. Both legal analysis and forensic investigation requires substantial experience and expertise, and not many



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companies have internal personnel who meet such requirements. Therefore, our advice would be to involve external consultants to conduct internal investigations. Such an approach can provide more benefits to companies, compared to an internal investigation.

■ Q. What general steps can companies take to proactively prevent corruption and fraud within their organisation?

CHUPRYKOV: Companies need not resign themselves to the fact that fraud is simply part of the cost of doing business today. Measures can be put in place to counteract it. The first step in preventing fraud should be creating and

strengthening a culture of honesty and openness. A code of ethics and consistent training are vital for people to clearly understand what is acceptable to organisations. The second important step to focus on is developing adequate controls to account for employees, including senior management, overriding controls or colluding with criminals in certain areas. However, for many companies, their biggest fraud blind spots – and often biggest threats – relate to their relationships with business partners and suppliers. Therefore, companies should step up their efforts in the area of regular third-party risk management as a corruption and fraud prevention measure. ■

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