

FINANCIAL CRIMES

FOCUS: FRAUD AND COMPUTER-RELATED FRAUD

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DEVELOPMENT

- Fraud remains one of the most popular crimes in general
- This is also relevant as with regard to fraud committed by using means of electronic communication
- Offences involving computer technology are particularly popular as offenders can make use of automation and software tools to mask criminals identities

AUTOMATION

- Automation enables offenders to make large profits by committing a high number of crimes even if every crime itself is only going along with small losses for the victim
- With a 'small' loss, victims are less likely to invest time and energy in reporting and investigating such crimes
- One example of such a scam is the Nigeria Advanced Fee Fraud

DEVELOPMENT

- As with regard to the legal response it is necessary to differentiate between traditional fraud (manipulation of human beings) committed by using means of electronic communication and computer-related fraud (manipulation of data processing)
- Traditional fraud committed by using means of electronic communication (e.g. auction fraud) is in general covered by traditional criminal law provisions while the prosecution of manipulation of data processing in general require specific legislation

DEVELOPMENT

- The main distinction between computer-related and traditional fraud is the target of the offence
- If offenders try to influence a person, the offence is generally recognised as fraud. Where offenders target computer or data-processing systems, offences are often categorised as computer-related fraud.
- Those criminal law systems that cover fraud, but do not yet include the manipulation of computer systems for fraudulent purposes, can often still prosecute the above-mentioned offences.

DEVELOPMENT

- The most popular fraud scams include Online Auction Fraud, Advance Fee Fraud

AUCTION FRAUD

- Online auctions are among the most popular popular e-commerce services
- The main reason is the fact that sellers enjoy a worldwide audience
- In 2006, goods worth more than USD 20 billion were sold on the world's largest online auction marketplace

AUCTION FRAUD

- One of the main challenges related to the prevention of crimes related to online auctions is the missing face-to-face contact between seller and buyer.
- The difficulty of distinguishing between genuine users and offenders has resulted in auction fraud being among the most popular of cybercrimes

AUCTION FRAUD

The most common scams include:

- Offering non-existent goods for sale and requesting buyers to pay prior to delivery
- Buying goods and asking for delivery, without intention to pay
- Manipulating the auction process and especially the pricing process

ADVANCE FEE FRAUD

- Advance Fee Fraud is a rather traditional fraudulent activity that focuses on the manipulation of the recipient of a message
- It is also called “Nigeria Advance Fee Fraud” or “419 Fraud”

ADVANCE FEE FRAUD

- In one of the most common forms of advance fee fraud, offenders send out e-mails asking for recipients' help in transferring large amounts of money to third parties and promise them a percentage, if they agree to process the transfer using their personal accounts
- The offenders then ask them to transfer a small amount to validate their bank account data.
- Once the recipient of such requests transfer the money he will never hear from the offenders again

MANIPULATION OF DATA PROCESSING

- Manipulation of data processing processes can take place in various forms
- One of the most popular approaches is the manipulation of software products that are responsible for processing financial transactions

LEGAL RESPONSE

- As pointed out before it is necessary to differentiate between the use of information and communication technology in committing „traditional“ fraudulent activities and computer-related fraud

COMPUTER-RELATED FRAUD

- If the offenders simply uses information technology while committing the traditional crime of fraud provisions criminalising fraud are in general applicable
- One example for a technology-neutral provision is Sec. 263 German Penal Code



GERMAN PENAL CODE

Section 263 **Fraud**

(1) Whosoever with the intent of obtaining for himself or a third person an unlawful material benefit damages the property of another by causing or maintaining an error by pretending false facts or by distorting or suppressing true facts shall be liable to imprisonment of not more than five years or a fine.

COMPUTER-RELATED FRAUD

- In many cases of fraud committed over the Internet, it is in fact a computer system that responds to an act of the offender.
- One example for a provision addressing computer-related fraud is Art. 8 Convention on Cybercrime



COE CONVENTION

Article 8 – Computer-related fraud

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:

- a. any input, alteration, deletion or suppression of computer data;
- b. any interference with the functioning of a computer system, with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.

COMPUTER-RELATED FRAUD

Article 8 a) contains a list of the most common acts:

- The “input” of computer data covers all kind of input manipulation (eg. computer software manipulation)
- “alteration” refers to the modification of existing data.
- “suppression” of computer data denotes an action that affects the availability of data.
- “deletion” covers acts where information is removed



Article 8 – Computer-related fraud

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- a. any input, alteration, deletion or suppression of computer data;
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COMPUTER-RELATED FRAUD

- In addition to the listing of acts Art. 8 b) contains the general clause that criminalises of the fraud-related “interference with the functioning of a computer system”
- The general clause was added to the list of covered act in order to leave the provision open to further developments



COE CONVENTION

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COMPUTER-RELATED FRAUD

- Article 8 requires in addition that the offender acted intentionally. This intent refers to the manipulation as well as the financial loss.
- In addition, the Convention requires that the offender acted with a fraudulent or dishonest intent to gain economic or other benefits for oneself or another.



COE CONVENTION

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COMPUTER-RELATED FRAUD

- Although computer-related fraud is a popular offence other international and regional frameworks such as the Commonwealth Model Law on on Computer and Computer Related Crime and the Stanford Draft Convention on Cybercrime do not criminalize such conduct

EU FD UNCASH PAYMENTS

- EU



EU FD UNCASH PAYMENT

Article 3

Offences related to computers

Each Member State shall take the necessary measures to ensure that the following conduct is a criminal offence when committed intentionally:

performing or causing a transfer of money or monetary value and thereby causing an unauthorised loss of property for another person, with the intention of procuring an unauthorised

economic benefit for the person committing the offence or for a third party, by:

— without right introducing, altering, deleting or suppressing computer data, in particular identification data, or

— without right interfering with the functioning of a computer programme or system.

BLACKMAILING

- Information made available online can influence consumer decision
- Offenders are using search engine manipulations to make false information about companies easily accessible
- Blackmailing the companies

Muddy Waters files suit alleging fake report, blackmail

First Posted: 7/22/11 01:09 AM ET | Updated: 7/22/11 12:29 PM ET

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By Himank Sharma

BANGALORE (Reuters) - Muddy Waters LLC has filed a lawsuit in a U.S. court, alleging a fake press release defamed it and saying an imposter claiming to work for the research firm had tried to blackmail a company for \$2 million to withhold a damning report.

Hong Kong-based Muddy Waters and its director of research Carson Block have shot to prominence in recent weeks after issuing research reports alleging accounting irregularities against over half-a-dozen Chinese companies listed in North America, driving

down their stock prices.

The company takes also short positions on the stocks, making money if share prices fall.

The lawsuit, naming Muddy Waters and Block as plaintiffs and filed with the Los Angeles Superior Court on July 20, alleges that an individual in Hong Kong impersonated himself as an employee of Muddy Waters and issued threats to an unnamed company.

The individual, whose identity is unknown, allegedly blackmailed the company seeking \$2 million in

Beispiel

„NEW“ APPROACHES

FOLLOW THE MONEY

- One approach that is more and more intensively followed is tracing money flows
- Limited to offences involving transactions
- Leads to a more intensive involvement to financial institutions in investigations



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Financial Coalition

DEFINITION

- This is going beyond computer-related fraud and other typical economic crimes
- Example: SPAM, child pornography, copyright violations
- Even indirect approaches are taken into consideration