

THE RIGHT THING TO DO WHEN MONEY IS EMBEZZLED

Embezzlement – what should I do?

White-collar crime from within companies is a growing problem.

It is only when the perpetrators have been identified, the causes analysed in detail and the right consequences swiftly drawn that a further increase can be limited. Based on our experience, embezzlement is often discovered through controls and audits as well as targeted information. And even coincidence can be a factor more often than not.



Indications for irregularities can be:

- An unusually high proportion of returned post.
- **Unusual increases** in new business and/or losses.
- **Incomplete documentation** of business transactions.
- An employee suddenly and **unexpectedly resigns**.
- An employee rarely goes on holiday or always only for a short time.
- An employee has expensive hobbies or a **suspiciously flashy lifestyle**.
- An employee cultivates unusually **intensive customer relations**.



Inform us without delay:

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When the worst case occurs, we recommend paying attention to the following points: *



1. The loss has been incurred – but no perpetrator has yet been identified

- First of all, make sure that **no further loss of this type can occur**.
- **But do not be satisfied** that you have „plugged a loophole“. Measures which only prevent the same type of loss happening again are not sufficient.
- **Analyse in detail how the crime was carried out.** There is a high likelihood that this will help you to narrow down the circle of possible perpetrators.
- An undetected perpetrator will always find new ways to inflict loss on your company and may threaten its very existence. You should therefore arrange for an **in-depth audit**.
- It may be advisable in certain cases to have the circumstances investigated in parallel by **independent external assessors** (financial auditors, tax consultants, a private commercial investigation firm). We will be happy to assist in looking for an external assessor.
- **Involve the police.** Investigations by the public prosecutor's office and the CID often help in clarifying the facts of the case.



2. The loss has been incurred – a suspect has been identified or the perpetrator has already been found

- Coordinate your further course of action with your **Legal Department/your attorney**.
- Get your **Internal Audit Department** or other employees who you trust, and who could not have anything to do with it, to determine the facts of the case.
- Collect and secure **all evidence**.
- Question the suspect and any witnesses and put their statements on record.
- **Keep the suspect away from any documents** to prevent any possible cover-up.
- **Secure all documentation**, keys and business identification cards belonging to the suspect.

- Delete or alter any **security access codes and passwords**.
- Check whether it makes sense to **provisionally suspend** the suspect or move them to another position.
- **Report the offence to the police** if the suspect's guilt cannot be proved.
- Check the contract of employment and the collective wage agreement to see if any **periods of limitation** need to be met if you intend to assert claims for compensation against the perpetrator.
- Demand a **written acknowledgement of liability** from the perpetrator in which he admits his liability to pay compensation due to a wilfully committed unlawful act in a specifically defined amount.
- Get this statement incorporated by a **notary public** into a **certificate of indebtedness** in which the debtor submits to an immediate levy of execution.



3. Secure your claims – to a legally admissible extent

- Set off your **claim for compensation against any remaining wages due**.
- Check whether any **embezzled assets can be recovered**.
- Have any bank balances, life assurances, pensions or other claims against third parties assigned to you, security interests in real estate transferred and the title to any motor vehicles assigned to you. You are entitled to demand the perpetrator's assets **as security** up to the permissible attachable amount.
- Take advantage of the **help available from the courts** where appropriate to secure or attach assets of the perpetrator, e.g. by seizure or a restraining order.
- Check whether there are any **rights of recourse** against third parties who played a part in causing the loss.
- **Terminate the perpetrator's contract with immediate effect** in order to prevent any further losses from occurring.

* N.B.: This checklist contains our suggestions for preventive measures. These proposals are however not binding. You are of course free to act differently.