
Current Trends in “North-South” Anti-Corruption Investigations: How Can Internal Investigation Help?

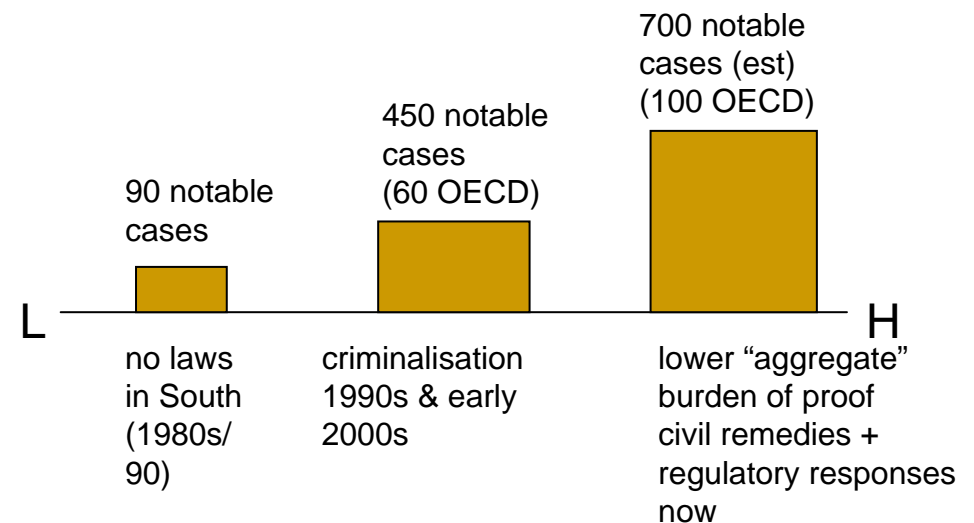
Bryane Michael, Linacre College
(Oxford)



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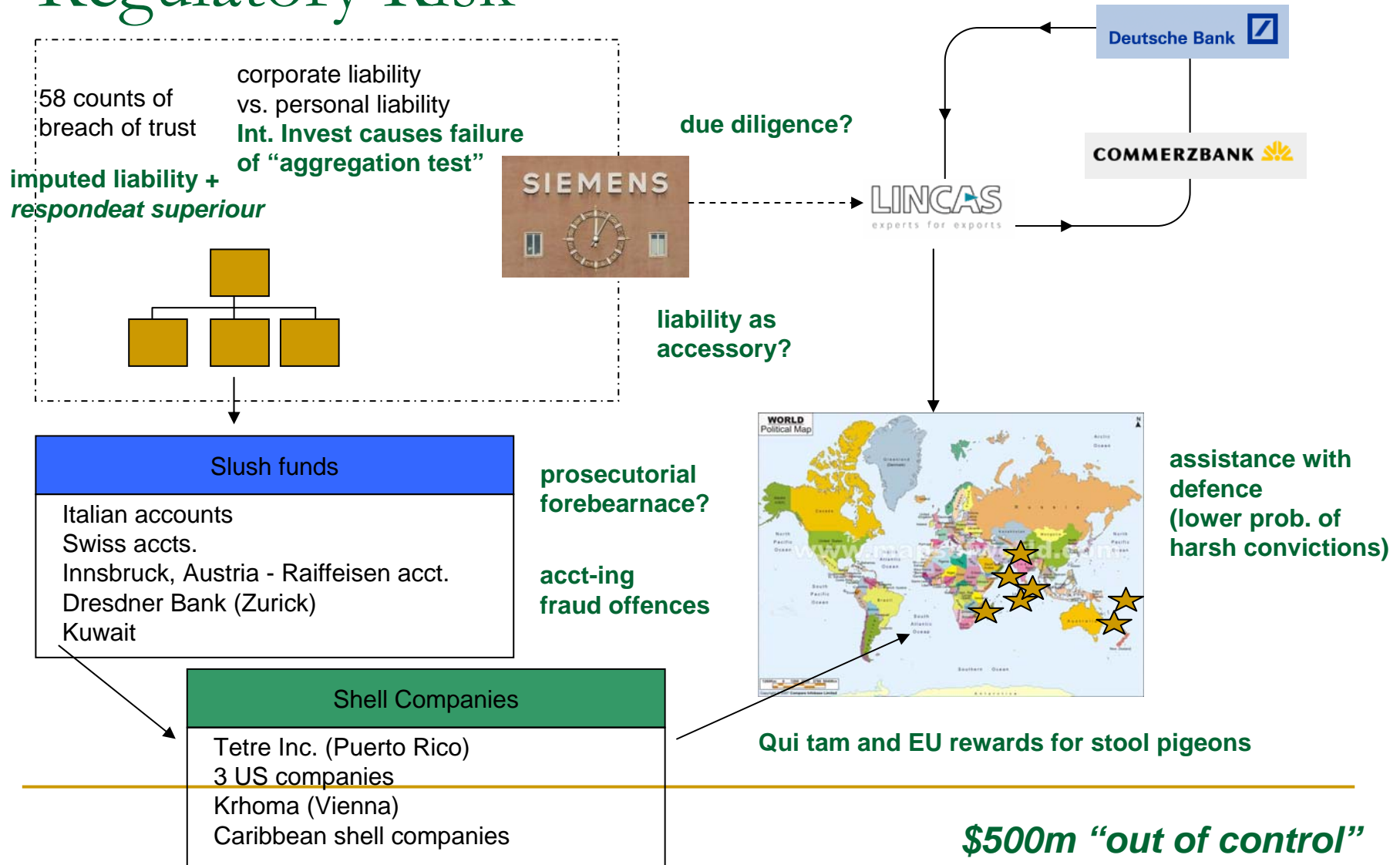
Why Internal Investigation in N-S Perspective?

- Intl Trade about 30% in OECD (with EU around 50% of GDP)
- A growing body of international law aimed at companies
 - UN Convention against corruption
 - Council of Europe Criminal Law and Civil Law conventions
 - OECD Conv. ABFOIBT (whew)
 - COE convention on money laundering (Conv LSS&C PC)
 - FATF guidelines
- Growing law enforcement co-operation in practice
 - sharing of intelligence, customs data, financial data
 - (3rd pillar)



30% of Ernst & Young firms still report experience with C

Internal Investigation to Reduce Regulatory Risk



Internal Investigation: Mitigates Civil Liability?

- Exciting (and under-applied) area from public policy point of view
 - criminal bias in intl conventions
- Big risk area for businesses and law enforcement agencies alike
 - huge payments in recent days (Russia)
- Implementation of “approved” anti-corruption programme
 - as defense against negligence claims?
 - as method of recouping damages in case corp is liable?
 - **IRONY**: tax deduct for corrupt to tax deduct for anti-corrupt?



\$1,000b worldwide



StAR Init.
recoveries



EITI
declarations



civil
damages

Does “Making Whole” Have a Dissuasive Effect in non-US jurisdictions?

Regulatory Risk related to “Third Generation Legal Instruments”

- **2.5 gen. instruments: SOX and move to regulatory remedies**
 - ❑ anti-corruption invading business law (SOX and Biz Law instruments)
 - ❑ banking law (know your customer, suspicious transactions reports, etc)
 - ❑ Amendments to Political Party finance laws, asset disclosure laws etc increase risks of paying bribes
 - ❑ emergence of “negligence fines”?
 - ❑ process as important as result?
- **Article 63 of UN Convention -- “illicit gains”**
 - ❑ assets held by company staff
 - ❑ assets by company govt counterparts
 - ❑ “hook” for criminal investigation
 - ❑ tide toward reversal of burden of proof?
 - ❑ will this include confiscation of corp assets?



rectifying high
“boomer/lada
index”

Final shot: Will qui tam encourage denouncements along supply chain for \$\$\$?