



**Economic Crime and Globalisation –
New Challenges for the Police**

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**The Complexity of International Financial Markets -
A Gateway for Crime**

Summary of the presentation

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I.

The complexity of the international financial markets and financial products constitutes a gateway to crime.

II.

It is an established fact that a lack of understanding of financial products and the non-identification of risks provide the breeding-ground for disguised fraudulent attacks on investor property.

III.

The complexity of the international financial markets has advanced so far that even professional market players are no longer able to calculate all risks. As a result of the self-perceived insecurity, a kind of longing for orientation is arising that is satisfied by rating agencies that classify complex financial products with ratings. These ratings were able to overcome the insecurity caused by the complexity in question and convert it into partially blind trust.

Before the crisis on the financial markets, actually sound and, in view of the complexity of contract terms and risks, even due caution had been displaced by the quality label „AAA“. As late as at the beginning of the crisis, professional market players naively and defiantly referred to these ratings and claimed that they had not been affected by the crisis. It is evident that such pronounced trust can be exploited.

IV.

Complexity also applies to financial products, especially certificates that are sold to private investors. Beyond the issuer's insolvency risk that has become a reality in the Lehman case, certificates are sometimes combined with forward exchange transaction-like risks that are hardly identifiable for a non-professional.

V.

Actually reliable but hardly or unregulated off-board trading at the stock exchanges is exploited by means of internationally organised crime for the purpose of selling worthless shares to investors who do not distinguish between the different market segments of the stock exchanges due to insufficient knowledge. These may be cases of market manipulation, but also of gang-type organised fraud on a gainful basis.

VI.

The Europeanised capital market criminal law was regulated too confusingly and complex and it has also been amended several times. This is a hindrance to effective prosecution. Criminal law needs to establish itself in order to develop a preventive effect and create legal stability. For this reason, hectic law-making as a result of the financial crisis can definitely not be recommended.

VII.

The current discussion about a further need for regulation shows that some demands are made rashly. Thus, the call for a prohibition of presumably fraudulent short selling of shares proves erroneous since short sales as such are at any rate not fraudulent in general.

However, obscurely packed financial products are problematic, in particular some certificates or reverse convertible bonds. In this respect, the current discussion does not always hit on the neuralgic point either. Not only the animatedly discussed issuer's risk of insolvency (as in the Lehman case) is concerned, but also the fact that private investors cannot cope with the complexity of these products and take risks that they are not able to calculate.