

How can we make the most use of a whistleblowing system?



Whistleblowing: why is it important for the organization and how can such a system be best implemented?

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Immediate reason for the introduction of such a system

The European Whistle-blower Protection Directive was passed in December 2019 to enable people to inform entities about possible misconduct in their work environment.

All companies with more than 250 employees have until the 17th of December 2021 to be compliant with the Directive*.

(For organizations with 50-249 employees, the deadline is December 2023.)

But is this the only reason?

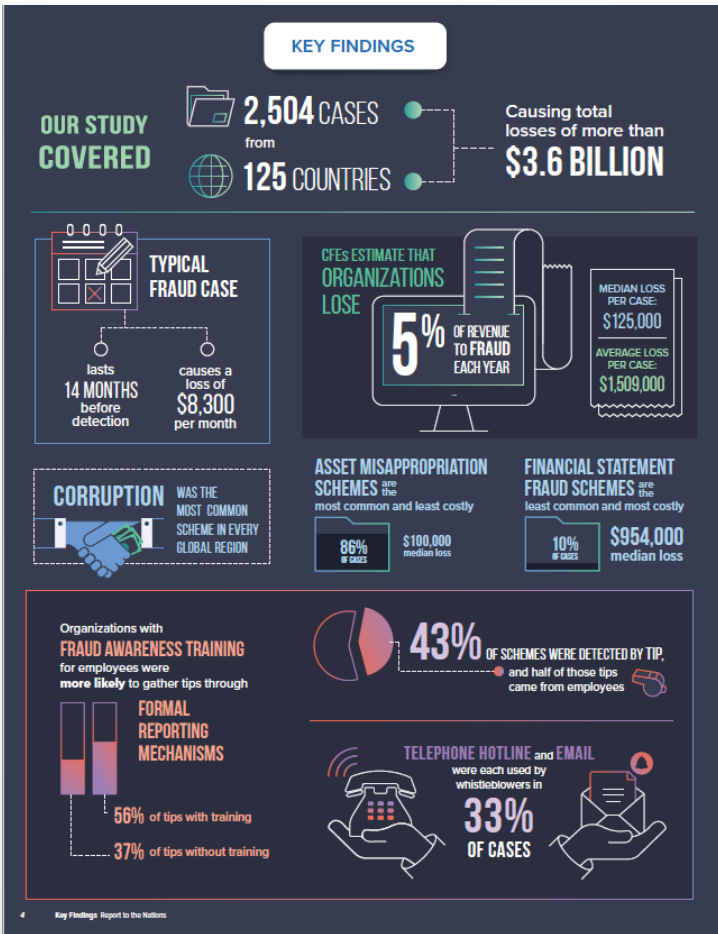
Shouldn't we support people to be able to speak up about any fraud or irregularity irrespective of any legislation?

Shouldn't we acknowledge the bravery of those who take the effort to submit a report?

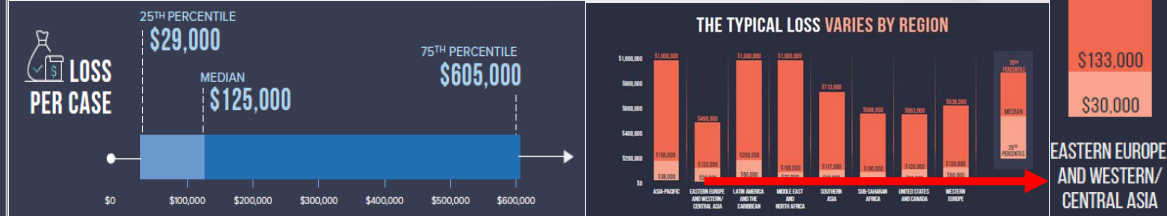
And if we decide to introduce such a system, how should we go about it?

**: The deadline is for the transposition into local (national) law*

About fraud in general (based on the 2020 survey of ACFE*)



- 2504 cases analysed in 125 countries causing an overall damage of USD 3,6 billion
- The „typical“ fraud case goes on 14 months before discovery and cause USD 8300 per month



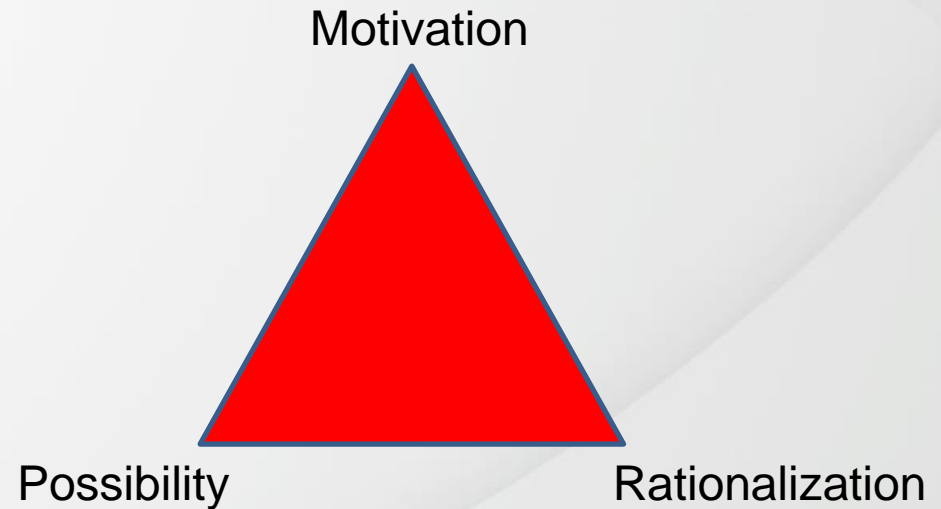
- The companies involved in the survey lost approx 5% of their income due to fraud.
- 43% of discovered cases were uncovered due to tips (half of them coming from employees).
- Telephone and email channels were used in 33% of these cases

* Source: Association of Certified Fraud Examiners (ACFE): Report to the nations – 2020 Global study on occupational fraud and abuse

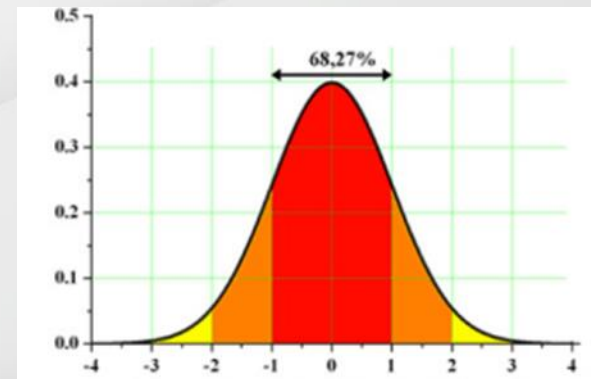
OK, but fraud always happens in other entities...

Is that truly so?

How about the „fraud triangle“?



The statistical occurrence of fraudsters:



The role of „tips“ in fighting fraud

FIG. 9 How is occupational fraud initially detected?

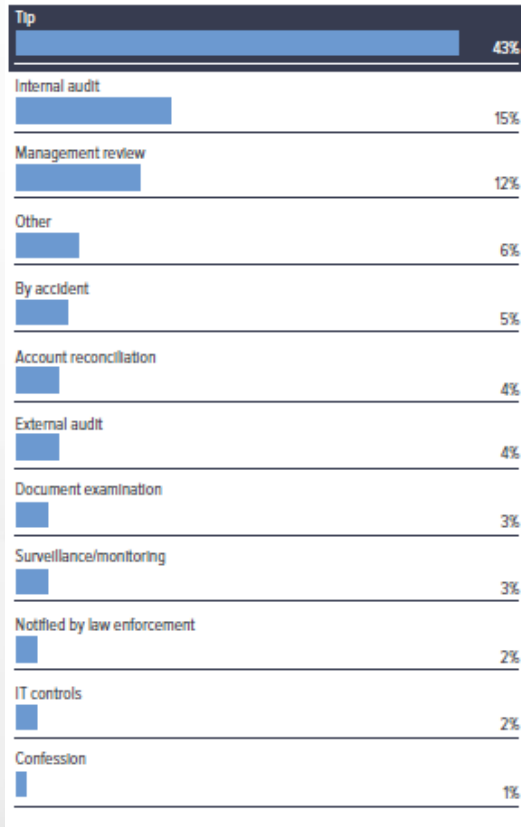
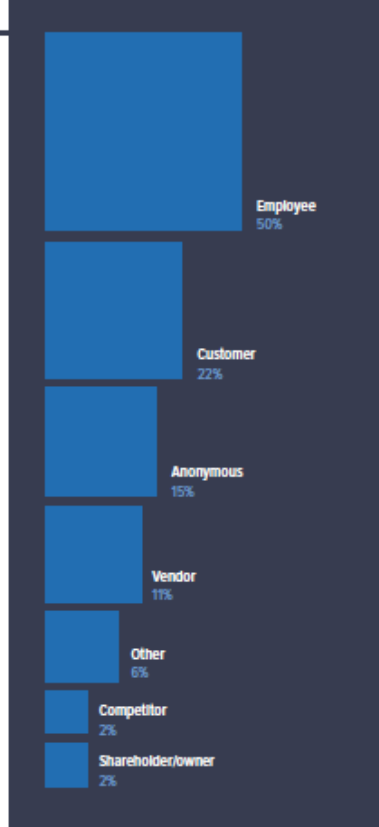


FIG. 10 Who reports occupational fraud?



- By far the most fraud cases are uncovered due to tips received on them
- This is more than the combined „efficiency“ of the next 5 fraud-discovery methods (including internal audit, managerial controls, discovery by chance, account reconciliations, external audit)!
- In 50% of the cases it is received from employees
- A further 22% of tips are received from customers
- The third main group (15%) is the tips from anonym sources (probably also many from employees)

Source: Association of Certified Fraud Examiners (ACFE):
Report to the nations – 2020 Global study on occupational
fraud and abuse

Is the whistleblower a hero or an informer?

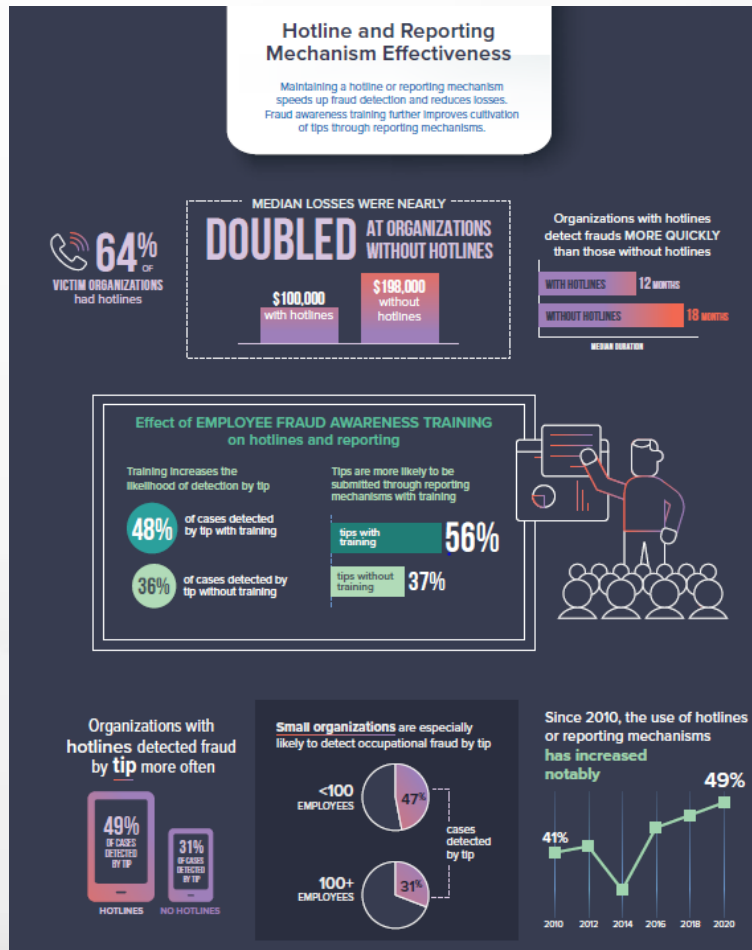
„Whistleblowing“ is treated differently in various societies:

- In „Anglo-Saxon“ societies it is primarily associated with positive, norm-following behaviour that is acknowledged (in many cases even financially motivated) by the majority.
- In „less fortunate“ societies it is rather associated with informing the authorities, anonymous reporters, even „traitors“ and in general is despised by many.

Yet a well functioning whistle-blower system...

- ... can help identify and correct fraud or grave irregularities already at an early stage,
- ... can be an important information source in corporate environment,
- ... can contribute to amend the norm-following and trustworthy corporate culture.

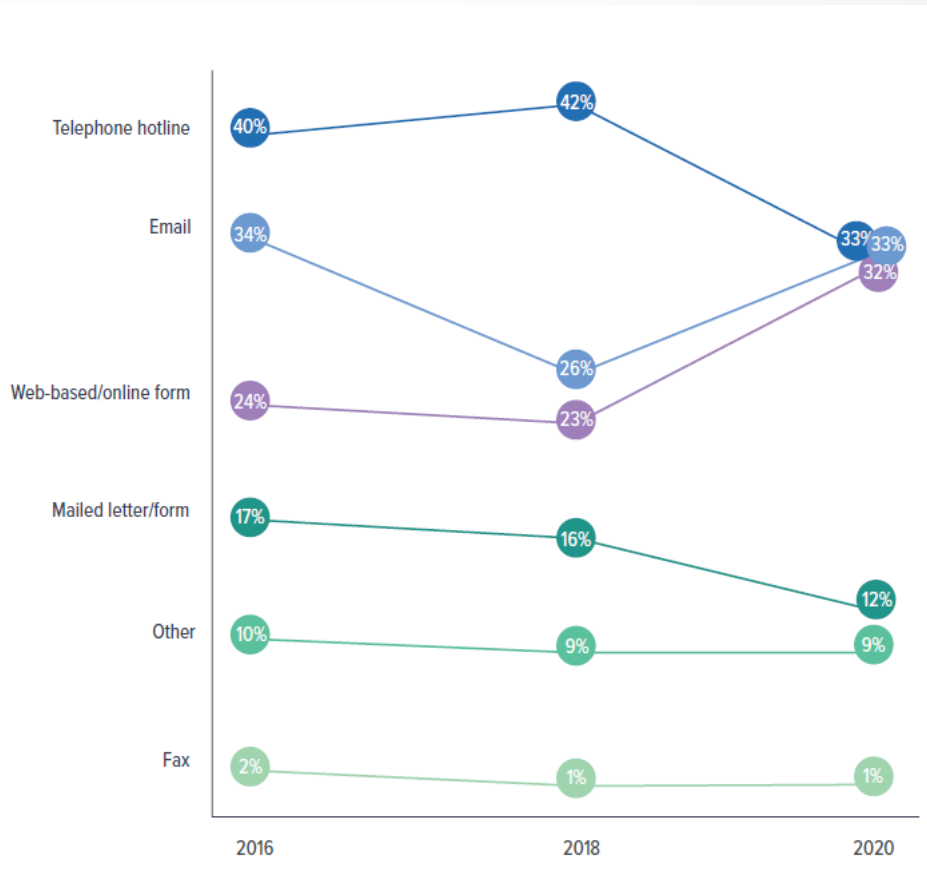
The role of „tips“ in fighting fraud (continued)



Source: Association of Certified Fraud Examiners (ACFE): Report to the nations – 2020 Global study on occupational fraud and abuse

- The median damage value is almost half in those entities who implemented a whistleblowing system (compared to those not having one).
- This is partially due to the fact that in this second group a fraud can go on undetected for much longer.
- (Not surprisingly) if an entity has a reporting line, much more irregularities will be uncovered through tips.
- In entities putting emphasis on reporting line related trainings, much more fraud events are identified through tips. Similarly, trainings help to increase the utilization of the existing reporting channels.
- Although as of the 17th December, 2021, entities having more than 250 employees are expected to introduce such systems, the role of tips in uncovering fraud is considerably higher in smaller companies.

The changing „popularity“ of various reporting lines (2016-20)



Telephone and mailed hotlines lost in popularity while web based solutions and e-mail reporting gained

Source: Association of Certified Fraud Examiners (ACFE):
Report to the nations – 2020 Global study on occupational
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Basic principles of whistleblowing systems

- Fair treatment
- Rules based approach
- Vigilance
- Trust
- Protection of whistle-blower from discrimination and retaliation
- Presumption of innocence
- Complete investigations
- Consulting
- Transparency
- Reporting obligation (?)

Cultural issues

- How supportive is management?
- Is Compliance a formal obligation?
- Is there a healthy attitude at the workplace?
- Is there „consequence management“ in place?
- Can one expect retaliations / to be cast out?
- How transparent is the organization?

What exactly is the role of the Compliance Officer?

- To know the reporting system and the reporting channels
- To differentiate between „grave“ and „other“ irregularities
- To be able to inform the colleagues about the reporting system
- To react to irregularities appropriately
- To be clear of the special responsibilities of the area.

In addition to make sure that potential whistle-blowers know which questions must be answered in a report:

- **WHAT** happened?
- **WHO** committed irregularity?
- **WHERE** did the irregularity happen?
- **WHEN** did the irregularity happen?
- **HOW** can the irregularity be proven / are there witnesses?
- **WHY** was the irregularity committed?

It is also useful to know if:

- Managers are involved?
- Why one thinks that irregularity was committed?
- There was a similar irregularity previously?

Finally: the steps of establishing a whistle-blower system

- Decide on the personal scope (eg. only employees or customers as well)
- Decide on the subjectual scope (eg. fraud or ethical issues as well)
- Decide on the basic principles (e.g. is it a passive obligation or „active“)
- Decide on the reporting channels to be used
- Define the information need of reports (minimum requirements)
- Identify the members of a standard investigation team.
- Define the procedure to be applied for the investigation of reports
- Decide on the supplementary processes, eg:
 - Conflict of interest
 - Drawing in external parties
 - When are immediate measures needed
- Capture all this in a regulation
- Communicate the regulation / procedure
- Organize trainings
- Perform consulting support if needed
- Annually review the system and change if necessary

Thank you for your attention!

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