Chambers
AND PARTNERS

CHAMBERS GLOBAL PRACTICE GUIDES

White-Collar Crime 2024

Definitive global law guides offering comparative analysis from top-ranked lawyers

Liechtenstein: Law and Practice

Andreas Schurti, Simon Ott, Andreas Vogel and Husmira Halis
Schurti Partners Attorneys at Law Ltd

LIECHTENSTEIN

Law and Practice

Contributed by:
Andreas Schurti, Simon Ott, Andreas Vogel and Husmira Halis
Schurti Partners Attorneys at Law Ltd

Contents

1. Criminal Law p.4
1.1 Criminal Offences p.4
1.2 Burden of Proof p.5
1.3 Statute of Limitations p.5
1.4 Extraterritorial Reach and Cross-Border Co-operation p.5
1.5 Corporate and Personal Liability p.7
1.6 Sentencing and Penalties p.9
1.7 Damages and Compensation p.9

2. Enforcement p.9
2.1 White-Collar Enforcement Authorities p.9
2.2 Initiating an Investigation p.10
2.3 Powers of Investigation p.11
2.4 Internal Investigations p.11
2.5 Prosecution p.12
2.6 Deferred Prosecution p.13

3. White-Collar Offences p.13
3.1 Criminal Company Law and Corporate Fraud p.13
3.2 Bribery, Influence Peddling and Related Offences p.14
3.3 Anti-bribery Regulation p.15
3.4 Insider Dealing, Market Abuse and Criminal Banking Law p.15
3.5 Tax Fraud p.16
3.6 Financial Record-Keeping p.17
3.7 Cartels and Criminal Competition Law p.17
3.8 Consumer Criminal Law p.18
3.9 Cybercrimes, Computer Fraud and Protection of Company Secrets p.18
3.10 Financial/Trade/Customs Sanctions p.19
3.11 Concealment p.20
3.12 Aiding and Abetting p.20
3.13 Money Laundering p.20

4. Pleas and Defences p.21
4.1 White-Collar Defences p.21
4.2 De Minimis p.22
4.3 Plea Agreements, Co-operation, Self-Disclosure and Leniency p.22
4.4 Whistle-Blower Protection p.22

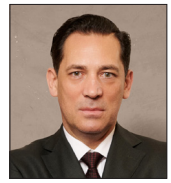
Contributed by: Andreas Schurti, Simon Ott, Andreas Vogel and Husmira Halis,
Schurti Partners Attorneys at Law Ltd

Schurti Partners Attorneys at Law Ltd provides advice and representation to its clients in matters involving white-collar crime before the courts and authorities of Liechtenstein. The firm's criminal defence team has handled some of the most delicate and high-profile white-collar crime cases in Liechtenstein over the course of several decades. Additionally, it represents individuals and companies in the field of international judicial assistance, particularly in connection with the confiscation of assets in Liechtenstein and abroad. Due to its close working relationships with well-known foreign firms and barristers specialising in white-collar crime law, its criminal defence team is frequently retained to co-ordinate the criminal defence in multi-jurisdictional white-collar crime cases.

Authors

Andreas Schurti is a partner of Schurti Partners and is one of the busiest and most respected litigators in Liechtenstein, with extensive experience in both civil and criminal litigation. High-net-worth individuals as well as financial and trust service providers entrust him with their most sensitive and complex legal disputes. Also, he serves regularly as an arbitrator.

Simon Ott is a partner at Schurti Partners. He has been involved in a significant number of white-collar crime cases as well as in asset tracing and recovery cases of high value. Over the course of his career, he has acquired a thorough understanding of these fields and has considerable experience representing individuals and companies in sophisticated and sensitive matters. Over the years, Mr Ott has been involved in some of the most prominent white-collar crime cases in Liechtenstein. In addition, he also provides advice and representation in mutual legal assistance proceedings and in cases of administrative assistance in tax matters on a regular basis.



Andreas Vogel is a partner at Schurti Partners. His legal experience includes representing both legal entities and individuals in white-collar crime cases before Liechtenstein courts, and in mutual legal assistance proceedings. He has specialised expertise in confiscating of assets both in Liechtenstein and abroad, as well as providing administrative assistance in tax cases. Over the course of the last decade, he has handled some of the most sensitive cases in these fields.

Husmira Halis is an attorney at Schurti Partners. She represents both individuals and companies in criminal and civil law disputes. Her main focus area is white-collar crime, regularly related to Liechtenstein trusts, foundations or other private asset structures.

Contributed by: Andreas Schurti, Simon Ott, Andreas Vogel and Husmira Halis,
Schurti Partners Attorneys at Law Ltd

Schurti Partners Attorneys at Law Ltd

Zollstrasse 2
9490 Vaduz
Liechtenstein

Tel: +41 44 244 2000
Email: mail@schurtipartners.com
Web: www.schurtipartners.com

SCHURTI : PARTNERS
RECHTSANWÄLTE AG | ATTORNEYS AT LAW LTD

1. Criminal Law

1.1 Criminal Offences

In Liechtenstein, offences are primarily governed by the provisions of the Liechtenstein Criminal Code (*Strafgesetzbuch* – StGB). According to Liechtenstein criminal law, offences are classified as either felonies (*Verbrechen*) or misdemeanours (*Vergehen*). Felonies are defined as intentional acts that carry a penalty of imprisonment for life or of more than three years. All other offences in the Liechtenstein Criminal Code are classified as misdemeanours (ie, offences that carry a penalty of up to three years of imprisonment or a monetary penalty).

Additionally, the Liechtenstein administrative laws (eg, Due Diligence Act) stipulate penal provisions outside of the Liechtenstein Criminal Code. These offences stipulated in the administrative laws are classified as either misdemeanours or as infringements (*Übertretung*). The latter are punishable with a fine.

Furthermore, a final conviction for a felony or a misdemeanour leads to an entry in the criminal register; a conviction for an infringement does not.

A criminal conviction under Liechtenstein criminal law requires that both the objective and subjective elements of an offence be met. The punishable act must therefore correspond in all its characteristics to a criminal provision laid down in written law.

Objective elements of the offence relate to its external appearance. The objective elements of the offence include the person of the offender, the object of the act, the act, and (if required by the law) the success of the act.

Subjective elements of the offence refer to circumstances that lie, in the mental sphere of the offender. The Liechtenstein Criminal Code distinguishes between intentional acts and negligence.

A person who is willing to complete the objective elements of an offence is considered to be acting intentionally. In order to establish the intentional aspect of the crime, it is sufficient to show that the perpetrator seriously considered the risk of committing the offence and accepted this risk. Increased degrees of intent are defined as knowledge (*Wissentlichkeit*) and purpose (*Absicht*). According to Liechtenstein criminal law, it must be explicitly stated in the provision of the

law if an offence requires an increased degree of intention (ie, knowledge or purpose).

A person acts negligently if they disregard the care which they are obliged to take under the circumstances and which they would also have been able to take according to their subjective abilities. Gross negligence is defined as a behaviour that would never be conducted by a diligent person in the same situation. Negligent conduct can only be punishable if explicitly stipulated in the Liechtenstein Criminal Code.

Under Liechtenstein criminal law, a person can be convicted even if the attempted offence has not been completed. Further, Liechtenstein criminal law not only punishes the immediate perpetrator of the offence, but also every other person who directs another person to commit the offence or who otherwise contributes to the offence to be committed.

1.2 Burden of Proof

Liechtenstein criminal law applies the principle in dubio pro reo. This means that an acquittal must always be granted if even one prerequisite of the offence remains doubtful. The Prosecution Service will not indict the suspected person if it concludes that the probability of a conviction is less than 50%. In order to issue a guilty verdict, the court must be convinced of the criminal liability of the accused with the highest level of proof (ie, beyond reasonable doubt).

1.3 Statute of Limitations

The limitation periods for offences under Liechtenstein criminal law depend on the respective maximum sentence that can be imposed on the perpetrator. The prosecution of offences in Liechtenstein is statute-barred as follows.

- No limitation for criminal liability for offences with a sentence of 10 to 20 years of imprisonment or with a life-time sentence, as well as for offences such as genocide, crimes against humanity, and war crimes.
- The limitation for criminal liability is 20 years for offences which are not (alternatively) punishable with a life-time sentence, but only with a sentence of more than 10 years of imprisonment.
- The limitation for criminal liability is ten years for offences with a sentence of more than five years and at most ten years of imprisonment.
- The limitation for criminal liability is five years for offences with a sentence of more than one year and, at most, five years of imprisonment.
- The limitation for criminal liability is three years for offences with a sentence of more than six months and at most one year of imprisonment.
- The limitation for criminal liability is one year for offences with a sentence of not more than six months, or a monetary penalty.

The Statute of Limitations commences upon completion of the punishable act or when the illegal conduct has ceased. The Statute of Limitations is extended if the perpetrator commits another punishable act based on the same harmful inclination during the limitation period of the initial offence. Under these circumstances, the Statute of Limitations for both offences will not lapse until the limitation of the later punishable act has lapsed. Further, the limitation period can be suspended under certain circumstances (eg, during pending criminal proceedings).

1.4 Extraterritorial Reach and Cross-Border Co-operation

In principle, Liechtenstein criminal law applies only to acts that have been committed in Liechtenstein. Therefore, the Liechtenstein criminal

law provisions do not have extraterritorial effect. Nevertheless, the Liechtenstein Criminal Code stipulates that its criminal laws shall apply to acts that have been committed on a Liechtenstein ship or aircraft, irrespective of where the ship or aircraft is located. The same holds true for certain offences that are subject to the jurisdiction of Liechtenstein, regardless of the fact that they have been committed abroad. These exceptions, inter alia, include offences committed against Liechtenstein (eg, corruption, and terrorism), but also economic offences such as industrial violation of business or trade secrets, industrial espionage, or counterfeiting.

Liechtenstein cannot enforce its authority abroad and is therefore heavily dependent on international co-operation in order to conduct criminal proceedings.

In Liechtenstein, international mutual legal assistance in criminal matters is primarily governed by applicable international and bilateral treaties. Liechtenstein is a member of various international treaties with respect to mutual legal assistance and cross-border co-operation, in particular (but not limited to):

- the European Convention on Mutual Assistance in Criminal Matters;
- the European Convention on Extradition (including its additional protocol dated 15 October 1975); and
- the European Convention on the Transfer of Proceedings in Criminal Matters.

Additionally, Liechtenstein has concluded various bilateral treaties in criminal matters with other countries such as Austria, Belgium, Switzerland, the USA, and Germany.

In the absence of a treaty or in the case of a legal loophole in the existing treaties, the prerequisites that must be met in order to grant mutual legal assistance in criminal matters are set forth in the Liechtenstein Mutual Legal Assistance in Criminal Matters Act (*Rechtshilfegesetz* – RHG).

According to the Mutual Legal Assistance in Criminal Matters Act, Liechtenstein will refuse mutual legal assistance, if:

- the request for mutual legal assistance does not refer to a criminal-law matter;
- it is not guaranteed that the requesting state would comply with an identical request made by the Principality of Liechtenstein (principle of reciprocity);
- the act underlying the request for mutual legal assistance is not liable to prosecution under Liechtenstein criminal law (principle of double criminality); or
- the request would violate the public order or national interests of the Principality of Liechtenstein.

Against this background, legal mutual assistance requests in criminal matters that are mere fishing expeditions without sufficient evidence of a criminal offence are inadmissible. Liechtenstein would therefore not grant legal assistance.

Requests for mutual legal assistance addressed to the Princely District Court (via diplomatic channels) must include the following information:

- the legal grounds for the request for mutual legal assistance (ie, the pertinent bilateral or multilateral agreement or an undertaking to grant reciprocity);
- the requesting authority;

- the subject of the request (investigation or criminal proceedings before a judicial authority or preliminary investigation by an authority with powers of judicial investigation);
- the identification of the accused person(s) as precisely as possible;
- a summary of the facts of the case underlying the mutual legal assistance request and a legal analysis together with the relevant legal provisions; and
- the reasons for the request (ie, the link between the foreign proceedings and the requested mutual legal assistance as well as the requested mutual assistance measures).

Relevant mutual assistance measures in multi-jurisdictional white-collar crime matters that are often applied in Liechtenstein are seizure and transmission of evidence, freezing of assets, and examination of witnesses.

With regard to defence rights of the persons concerned of mutual legal assistance measures, it is particularly relevant to highlight a provision that was introduced to the Liechtenstein Mutual Legal Assistance in Criminal Matters Act in 2021. According to this provision, mutual legal assistance may, under certain conditions, provisionally be granted to the requesting authority without notifying the suspect thereof. This could, for example, be deemed appropriate in order to investigate a suspicion of money laundering, a predicate offence to money laundering, or offences in connection with organised crime. In such cases, documents and data carriers would be seized from the information holder (a person subject to the Liechtenstein Due Diligence Act) and provisionally transmitted to the requesting authority while an information ban is imposed on the information holder. The information ban can be upheld for up to 24 months and the suspect will only be informed about the seizure of documents and data carriers and its transmission to the requesting authorities once the information ban is lifted.

Extradition in white-collar crime matters is granted, if:

- it is requested in order to:
  - (a) prosecute an intentionally committed criminal offence punishable both in Liechtenstein and the requesting state by a prison sentence of at least one year; or
  - (b) execute a prison sentence for an intentionally committed criminal offence with a prison sentence of at least one year;
- the prosecution or enforcement of the prison sentence is not time-barred (either under the laws of the requesting state or under Liechtenstein laws); and
- the punishment in the foreign state to which extradition shall be granted complies with the principles of the rule of law.

Additionally, the provisions of the Schengen Convention dealing with mutual legal assistance in criminal matters are applicable in Liechtenstein.

1.5 Corporate and Personal Liability

In 2010, provisions dealing with the criminal liability of legal entities were introduced to the Liechtenstein Criminal Code. According to the pertinent provisions of the Liechtenstein Criminal Code, legal entities can be held criminally liable under the following circumstances:

- for acts that have been committed unlawfully and culpably by an executive in connection with the business activity of the legal entity within the scope of its purpose; or
- for acts that have been committed by an employee in connection with the business

activity of the legal entity within the scope of its purpose, but only to the extent that a breach of monitoring obligation on the part of the management level has at the least substantially facilitated the commission of the offence (ie, an organisational fault).

The criminal liability of a legal entity therefore depends on the commission of an offence that has been committed in the course of business activities within the scope of the legal entity's purpose (*Anlasstat*). Consequently, a functional connection between the offence and the legal entity's activity (ie, its entire area of activity, including all entity-related activities) is required. Therefore, no corporate criminal liability can be established for offences that have been committed in the exclusive interest of a managing person or a subordinate or against the legal entity itself.

Further, it is required that both the objective and subjective elements of the offence committed by the individual be fulfilled.

According to Liechtenstein criminal law, both the legal entity and the individual can be sentenced for the same offence. Further, it is common practice in Liechtenstein that, in the case of a respective suspicion, both the legal entity and the individual concerned will be prosecuted (despite the fact that it is not mandatory to prosecute the individual in order to find the legal entity guilty).

In the case of a conviction, a monetary penalty is imposed on the legal entity. The monetary penalty is assessed in daily rates with a minimum number of at least one daily rate and a maximum number of daily rates depending on the sentence of the offence for which the legal entity is convicted – for example:

- up to 130 daily rates for an offence with a sentence of imprisonment of up to ten years;
- up to 100 daily rates for an offence with a sentence of imprisonment of up to five years; or
- up to 85 daily rates for an offence with a sentence of imprisonment of up to three years.

The number of daily rates is based on the severity and consequences of the offence committed by an executive or the seriousness of the organisational deficiency, respectively. In addition, the conduct of the legal entity after the offence must be taken into account, in particular whether it has compensated for the consequences caused by the offence.

The assessment of the amount of one daily rate primarily depends on the income situation of the legal entity but must also take into consideration its economic capacity. The amount of one daily rate assessed must correspond to 1/360th of the annual corporate earnings of the legal entity, but must be at least CHF100 and at most CHF15,000.

If a legal entity is found guilty and sentenced to a monetary penalty, the latter can be conditionally suspended for a probation period of at least one and at most three years. A conditional suspension is, inter alia, applied if it is deemed sufficient to prevent the committing of further offences for which the legal entity can be held criminally liable.

In the context of a merger or an acquisition, the successor entity may be held liable for offences committed by the target entity that occurred prior to the merger or acquisition. The same holds true for monetary penalties that were imposed prior to the merger or acquisition.

1.6 Sentencing and Penalties

As outlined, deferred prosecution agreements, non-prosecution agreements, and plea agreements are not available under Liechtenstein criminal law.

The assessment of penalties is based on the culpability of the offender. When assessing the penalty, the reasons for mitigation and the reasons for aggravation of the penalty must be considered. In addition, the effects of a penalty on the offender's future life in society, or its further existence in the case of a legal entity, must be taken into consideration.

If a natural person is punished with a monetary penalty, the latter will be assessed in daily rates. The amount of one daily rate is to be determined according to the personal circumstances and the economic capacity of the offender at the point in time when the judgment of first instance is rendered. According to Liechtenstein criminal law, the amount of one daily rate is at least CHF15 and at most CHF5,000. If the monetary penalty is irrecoverable, a substitute custodial sentence will be imposed. One day of substitute imprisonment corresponds to two daily rates.

A legal entity is sentenced with a monetary penalty in the event of a conviction (see **1.5 Corporate and Personal Liability**).

1.7 Damages and Compensation

According to Liechtenstein criminal law, a person who has suffered financial damage as a result of the alleged offence can apply to be joined as a private party to the criminal proceedings and seek compensation for this damage. Such an application must be filed prior to the beginning of the trial at the latest.

As a private party, a victim of a white-collar crime has certain procedural rights (eg, the right to inspect the court files or the right to request the taking of evidence) and can submit evidence that may serve the purpose of having the perpetrator convicted.

If the perpetrator is convicted, the court will award compensation for damages to the private party if it concludes that sufficient facts for such a decision can be established based on the findings in the criminal proceedings. If the criminal court concludes that these facts cannot be established, the private party is referred to the civil law court in order to pursue the civil claim there (ie, the private party is required to file a civil law action).

It should be noted that a civil claim does not become time barred as long as a decision on the claim of a private party in criminal proceedings is pending (ie, an application for compensation in the criminal proceedings has the effect of suspending the limitation period). Further, joining the criminal proceedings as a private party is less costly than pursuing a civil law action. Against this background, it is advisable for victims of an offence who suffered financial damage primarily to apply for compensation in criminal proceedings (and only at a later stage, if necessary, to file a civil law action).

Class actions or equivalent procedural means are not available in white-collar matters in Liechtenstein.

2. Enforcement

2.1 White-Collar Enforcement Authorities

The main authority with powers to prosecute white-collar crime offences is the Liechtenstein

Prosecution Service. According to the Liechtenstein Criminal Procedure

Code, the Liechtenstein Prosecution Service is ex officio and, with the assistance of the Liechtenstein National Police, responsible for investigating all punishable acts that come to its attention and for prosecuting the suspected perpetrator.

In this context, the Prosecution Service has the task of submitting motions for investigation activities to be applied (eg, freezing orders, interrogation of witnesses, or seizure of objects or information stored on data carriers). Upon a court order, the investigation activities are carried out either by an investigative judge or with the assistance of the Liechtenstein National Police (eg, the Princely District Court can request the Liechtenstein Police to interrogate a witness or assist to conduct a house search).

In cases of white-collar crime, the support of the Liechtenstein National Police is provided by its specialised unit for white-collar crime.

Once the facts of the case have been fully established, the Prosecution Service must decide whether the suspected perpetrator should be indicted. If the Prosecution Service concludes that the probability of a conviction is more than 50%, it is required to file an indictment. In such circumstances, the case is taken to court for trial and judgment. The powers to render a judgment and enforce white-collar crimes therefore lie, with the Princely Courts. Since the Liechtenstein legal system does not provide for specific criminal courts for white-collar offences, these cases are handled by general criminal judges.

With regards to possible conflicts of jurisdiction between the Prosecution Service and administrative authorities, it should be noted that the administrative authorities are responsible for investigating, prosecuting, and executing administrative offences in accordance with administrative (criminal) law, for example, the Liechtenstein Financial Market Authority is responsible for imposing fines on perpetrators of administrative offences in relation to violations of the Due Diligence Act. Besides that, administrative law can also provide for the competence of the Prosecution Service to prosecute misdemeanours and infringements, for example, the Prosecution Service is responsible for imposing fines on perpetrators for misdemeanours and infringements in relation to violations of the Due Diligence Act. Against this background, circumstances can exist in which both the Prosecution Service and the administrative authority are authorised to investigate the same facts of a case.

Civil courts are generally not competent in criminal cases. However, civil judges are obliged to refer any suspicion of an offence which they obtain in the course of civil proceedings to the Prosecution Service.

2.2 Initiating an Investigation

White-collar investigations are initiated as soon as the authorities become aware of a suspicion that an offence could have been committed (which can either be ex officio or by means of a criminal complaint). The competent authorities are then required to investigate and to assess whether an initial suspicion can be established. If in the affirmative, an investigation will be conducted.

In recent years, reports of the Liechtenstein Financial Unit (FIU) to the Liechtenstein Prosecution Service have regularly led to white-collar crime investigations. Financial intermediaries (eg, banks, insurance undertakings, investment

companies, asset managers, or professional trust service-providers) are required to file a report with the FIU if there is any suspicion of money laundering, a predicate offence to money laundering, or terror financing detected. Based on the information and documentation received by the financial intermediary, the FIU must determine whether there is an initial suspicion of an offence and, if so, file a respective report with the Liechtenstein Prosecution Service.

2.3 Powers of Investigation

Investigating authorities generally have a wide range of powers to gather information and documents related to white-collar crime offences. The most relevant investigative measures in white-collar crime proceedings are the following:

- seizure of evidence by means of a court decision ordering an information holder (ie, a person subject to the Due Diligence Act) to produce documents related to the investigated white-collar crime offence to the Princely District Court;
- house search and seizure of evidence by means of a court decision ordering the raid of premises and the seizure of white-collar offence-related evidence;
- freezing assets that purportedly derive from the investigated white-collar crime offence in order to secure these assets for forfeiture; and
- examination of suspects and witnesses.

Freezing and seizure orders are issued by the Princely District Court upon the respective motion of the Prosecution Service. According to established case law, the raid of the premises of an entity under investigation and the seizure of documents require a reasonable probability arising from established facts that the evidence sought can be found in the searched premises. Further, the simple (concrete) suspicion that a crime has been committed must be established. Lastly, a house search-and-seizure order is only admissible if it is not disproportionate.

Such orders issued by the Princely District Court are subject to an appeal with the Princely Court of Appeal by the suspected perpetrator and the (legal or natural) person whose premises have been raided and where objects (especially documents) or information stored on data carriers have/has been seized.

Further, the directors of the legal entity under investigation, as well as those employees who are suspected of having committed the offence or who have already been convicted of it, are questioned as suspects in the proceedings against the legal entity. In this context, the general rules of interrogations apply (eg, the right to avoid self-incrimination). In practice, employees of an entity under investigation are examined as witnesses (provided an employee is not also subject to prosecution).

2.4 Internal Investigations

In principle, legal entities are not legally obliged to conduct internal investigations. However, the conduct of such investigations on a voluntary basis may have various advantages because offences may be detected before the Prosecution Service initiates investigations and therefore steps can be taken in order to avoid prosecution (for example, voluntary disclosure in criminal tax law).

Further, internal investigations appear to be highly advisable in the event that a legal entity becomes aware of an alleged crime committed by one of its employees or directors. Such a crime committed by an employee or director can trigger criminal liabilities of the entity itself.

The Prosecution Service can refrain or withdraw from prosecuting a legal entity, if the latter, inter alia, is specifically co-operative with the investigation authorities (see **2.5 Prosecution**). Conducting an internal investigation and sharing its results on the possible criminal conduct of employees or directors with the investigation authorities is considered as an example of co-operative behaviour.

Even if the prosecutor does not decide to refrain from prosecuting the legal entity, providing the investigative authorities with the results of an internal investigation can at least constitute a mitigating factor in the case of a conviction of the legal entity.

Additionally, it might become crucial in both civil and criminal proceedings (as a consequence of an employee's or director's misconduct) to prove that the legal entity does not lack the necessary organisation. This evidence may be provided by the results of an internal investigation.

2.5 Prosecution

Once the facts of the case have been fully established, the Prosecution Service must decide whether the perpetrator should be indicted. If it concludes that the probability of a conviction is more than 50%, it is required to file an indictment. In assessing the probability of a conviction, both reasons for discontinuation of the proceedings (eg, legal reasons against prosecuting the accused) and reasons for withdrawal from the proceedings (eg, by means of applying a "diversion" – see **2.6 Deferred Prosecution**) must be taken into consideration by the Prosecution Service.

The accused has the right to object to the indictment within 14 days upon service to the Princely Court of Appeal. An objection is, for example, granted and the indictment rejected, if:

- the indictment lacks the necessary form;
- the facts of the case have not sufficiently been clarified; or
- there are circumstances that abolish criminal liability (eg, active repentance) or preclude prosecution (eg, the prosecution is time-barred).

According to the Liechtenstein Criminal Procedure Code, the Prosecution Service may refrain from prosecuting a legal entity if certain prerequisites are met. This includes, inter alia, that prosecuting and sanctioning the legal entity seems dispensable in view of the seriousness of the predicate offence, the consequences of the offence, the weight of the lack of organisation, the conduct of the legal entity after the offence (in particular, restitution for damage or the extent of the co-operation), the expected amount of the corporate fine to be imposed on the legal entity and any legal disadvantages already suffered by or imminent for the legal entity or its owners as a result of the offence.

Further, the Prosecution Service may also refrain from prosecuting a legal entity if inquiries or applications for prosecution lead to substantial efforts that would obviously be disproportionate to the significance of the matter or to the expected sanctions in the event of conviction.

In any event, prosecution must not be refrained from:

- if there is a risk emanating from the legal entity that an offence with serious consequences, and for which the legal entity might be responsible, will be committed;

- in order to discourage the commission of acts by other entities; or
- because of any other particular public interest.

2.6 Deferred Prosecution

Liechtenstein criminal law does not provide for deferred prosecution agreements, non-prosecution agreements, or any equivalent thereto.

However, the Liechtenstein Criminal Procedure Code stipulates the possibility of withdrawal from the prosecution of misdemeanours and other minor offences (with not more than a three-year prison sentence) – "diversion" – if:

- the suspect's culpability is not to be considered serious;
- the facts are sufficiently clear;
- no general or special preventive reasons require a conviction; and
- the offence has not caused a person's death.

If these prerequisites are met, the prosecution will be withdrawn upon payment of a certain amount of money, an out-of-court settlement with the possible victims, or performance of community service.

A "diversion" is available for both natural and legal persons in criminal proceedings if the prerequisites are met.

3. White-Collar Offences

3.1 Criminal Company Law and Corporate Fraud

Liechtenstein criminal law does provide for specific criminal company law and corporate fraud provisions. The most relevant offences in the Liechtenstein Criminal Code in a corporate context are as follows.

Fraud

The offence of fraud is committed by any person who, with the intent of unlawfully enriching themselves or a third party through the conduct of the deceived person, induces someone to commit an act, to acquiesce in, or refrain from committing an act which damages their assets or those of another person by deception of facts. The sentence for the commission of fraud is imprisonment of up to six months or a monetary penalty of up to 360 daily rates. The qualified form of fraud (ie, severe fraud) is committed by anyone who, for example, uses falsified or forged documents to deceive or causes financial damage of more than CHF7,500. The offence of severe fraud is punished with a sentence of up to three years of imprisonment. The commission of fraud causing financial damage exceeding CHF300,000 is punished with a sentence of imprisonment of one to ten years.

Embezzlement

The offence of embezzlement is committed by any person who knowingly abuses their authorisation to make dispositions in respect of assets belonging to another person or to bind that other person and thereby causes damage to the assets of that other person. The sentence for the commission of embezzlement is imprisonment of up to six months or a monetary penalty of up to 360 daily rates. If the financial damage caused exceeds CHF7,500, the offence is punishable with imprisonment of up to three years. In the case of the caused financial damage exceeding CHF300,000, the sentence is imprisonment of one to ten years.

Fraudulent Bankruptcy

The offence of fraudulent bankruptcy is committed by any person who conceals, disguises, sells, or causes damage to a component of their assets, purports the existence of or recognises a non-existent liability, or otherwise actually or in pretence decreases their assets, and thereby frustrates or reduces satisfaction of the claims of their creditors or of at least one of them. The sentence for the commission of fraudulent bankruptcy is imprisonment of six months to five years. In the case of the financial damage caused exceeding CHF300,000, the sentence is imprisonment of one to ten years.

Forgery of Documents

Forgery of documents is committed by any person who draws up a forged document or falsifies an authentic document with the intent to use it in legal transactions to prove a right, a legal relationship, or a fact. The person who uses the forged or falsified document in legal transactions to prove a right, a legal relationship, or a fact is to be punished in the same way. The offence is sentenced with imprisonment of up to one year or a monetary penalty of up to 720 daily rates.

Both private and legal persons can be liable for the commission of these offences (see **1.5 Corporate and Personal Liability**).

In addition, various misdemeanours and infringements (both to be punished by the courts) and administrative offences (to be punished by the administrative authorities) relating to corporate activities are regulated in subsidiary laws (eg, in the Due Diligence Act).

3.2 Bribery, Influence Peddling and Related Offences

The most relevant bribery and influence-peddling offences according to the Liechtenstein Criminal Code are as follows.

Active and Passive Bribery

The offence of active bribery is committed by any person who either offers, promises, or provides to an office-holder or arbitrator a benefit to be granted to that officeholder or arbitrator or to a third party in return for any execution or omission of official duties in violation of such duties, or offers, promises, or provides to an expert appointed by the court a benefit for that expert or a third party in return for the provision of a false finding or a false opinion.

The offence of passive bribery is committed either by any office-holder or arbitrator who demands, accepts, or accepts the promise of a benefit for themselves or a third party in return for any execution or omission of official duties in violation of such duties, or a person who, as an expert appointed by a court or another authority in relation to particular proceedings, demands, accepts, or accepts the promise of a benefit for themselves or for a third party in return for providing a false finding or a false opinion.

The sentence for the commission of both active and passive bribery is imprisonment of up to three years. The offences are punished with imprisonment of six months to five years or one to ten years in the event that the acts are committed in relation to benefit values exceeding CHF5,000 or exceeding CHF75,000 respectively.

Granting and Acceptance of a Benefit

The offence of granting a benefit is committed by any person who offers, promises, or grants an inappropriate advantage to a public official or

arbitrator in return for the dutiful performance or omission of an official act.

The offence of acceptance of a benefit is committed by an office-holder or arbitrator who demands, accepts, or accepts the promise of an inappropriate benefit in return for the dutiful performance or omission of an official act.

The sentence for the commission of both granting and acceptance of a benefit is imprisonment of up to two years. The offences are punished with a prison sentence of up to three years or a prison sentence of six months to five years in the event that the acts are committed in relation to benefit values exceeding CHF5,000 or exceeding CHF75,000 respectively.

Active and Passive Bribery in Commercial Transactions

Any person who, in the course of business, offers, promises, or grants an advantage to an employee or agent of a legal entity or a third party in return for an unlawful act or omission commits active bribery in commercial transactions. The offence of passive bribery in commercial transactions is committed by any employee or agent of a legal entity who demands, accepts, or allows themselves to be promised an advantage in the course of business from another person for themselves or a third party in return for the performance or omission of a legal act in breach of their duties.

The offences of active and passive bribery in commercial transactions are punishable with a prison sentence of up to two years. The offences are punishable with imprisonment of up to three years or imprisonment of six months up to five years if the acts are committed in relation to benefit values exceeding CHF5,000 or exceeding CHF75,000 respectively.

3.3 Anti-bribery Regulation

Liechtenstein is a member of numerous European and International Conventions combating bribery and corruption. Particularly noteworthy is its membership in the Council of Europe Group of States against Corruption (GRECO) and the UN Convention against Corruption (UNCAC).

Within the framework of these Conventions, the anti-corruption regulations are continuously evaluated by other members. Within the framework of GRECO, the implementation of anti-corruption recommendations is also reviewed.

In Liechtenstein, legal entities are not obliged to introduce an anti-bribery compliance programme. However, it is advisable for legal entities to have anti-bribery measures in place as this could avoid criminal and civil liability as a consequence of organisational failure.

3.4 Insider Dealing, Market Abuse and Criminal Banking Law

In Liechtenstein, the Market Abuse Regulation is directly applicable. Certain provisions are (as provided for in the Market Abuse Regulation) regulated by national law (Market Abuse Act).

Both the provisions of the Market Abuse Regulation and the Market Abuse Act serve to combat market abuse in financial markets. Market abuse is a generic term for unlawful acts in the financial markets and includes both insider dealing, unlawful disclosure of inside information and market manipulation.

To be found guilty of insider dealing, it must be established that the offender, by means of using inside information for their own account or for the account of a third party, even if only with gross negligence, directly or indirectly:

- acquires or disposes of financial instruments or auctioned products based on emission allowances to which the information relates;
- cancels or modifies orders for the acquisition or disposal of financial instruments or auctioned products based on emission allowances to which the information relates that were placed prior to obtaining the insider information; or
- submits, withdraws, or modifies bids in relation to auctions of emission allowances or other auctioned products based on emission allowances to which the information relates.

Similarly, this applies to anyone who, as an insider, on the basis of inside information, even if only with gross negligence, recommends (i) the acquisition or disposal or (ii) the cancellation or modification of orders for acquisition or disposal to another person.

In addition, the person who, even if only with gross negligence, uses such a recommendation and, in the same respect, does not recognise that it is based on inside information is also to be punished.

The unlawful disclosure of inside information and the passing on of recommendations based on such, even if only with gross negligence, are also punishable offences.

In simple terms, inside information consists primarily of precise information that has not been made public, and that, if made public, would likely have a significant impact on the price of those financial instruments or the price of related derivative financial instruments.

To be found guilty of market manipulation, it must be proven that the offender – even if only with gross negligence – for example, entered into a transaction, placed an order to trade, or displayed any other behaviour, and therefore:

- gave false or misleading signals as to the supply of, demand for, or price of a financial instrument, a related spot commodity contract or an auctioned product based on emission allowances;
- secured an abnormal or artificial price level of financial instruments, a related spot commodity contract, or an auctioned product based on emission allowances; or
- managed or is likely to, under false pretence or by using other artifices or forms of deception, to influence the price of financial instruments, a related spot commodity contract, or an auctioned product based on emission allowances.

All of these offences carry a penalty of up to three years. If they are committed intentionally and in relation to benefit values exceeding CHF75,000, the sentence is imprisonment of six months to five years.

3.5 Tax Fraud

Offences relating to tax obligations are stipulated in the Liechtenstein Tax Act. In particular, it is necessary to distinguish between tax evasion and tax fraud.

Tax evasion is an infringement that is prosecuted by the Liechtenstein Tax Administration and punishable with a fine (tax evasion being an administrative offence). The fine is usually the amount of the evaded tax or duty. It can be reduced to one-third for minor offences and increased to three times as much for serious offences. In principle, tax evasion is committed by any person who, as a taxpayer, wilfully or through negligence frustrates a demand for tax which they are liable to pay by making incorrect

or incomplete statements on a tax return or in voluntary disclosures, or by providing incorrect or incomplete information, or who otherwise culpably withholds payment of tax.

Any person who deliberately designates someone else to carry out tax evasion or who deliberately contributes to its execution in any other way is liable to a fine of up to CHF10,000 (or CHF50,000 in serious cases or repetition of the offence), irrespective of the taxpayer's criminal liability.

Tax fraud is committed by a person who evades tax by deliberately using false, falsified, or untrue accounts or other documents. The Princely District Court has the power to render judgment in cases of tax fraud. The offence is punishable with imprisonment of up to six months or a monetary penalty of up to 360 daily rates.

With regards to corporate criminal liability, a legal entity is subject to a fine if it has evaded taxes. However, its organs will be held liable in the event that the imposed fine is not settled by the legal entity. In cases of tax fraud, the organs of the legal entity will be held criminally liable.

It should be emphasised that the Liechtenstein Tax Act provides for the possibility of a voluntary disclosure in the case of tax evasion or tax fraud committed after 1 January 2011. The offender will not be held criminally liable in the case of a voluntary disclosure and payment of the uncollected tax plus interest. Any subsequent voluntary disclosure does not grant immunity from prosecution but reduces the fine to one-fifth of the tax evaded. The offender would then have to pay the uncollected tax plus interest and the fine.

3.6 Financial Record-Keeping

The requirements of financial record-keeping are primarily stipulated in the Liechtenstein Person and Company Law (*Liechtensteinische Personen und Gesellschaftsrecht* – PGR). As a rule, business accounts, accounting records, and the business correspondence must be stored for ten years.

The most relevant offence relating to the obligations of financial record-keeping is the failure (i) to keep business accounts or records or (ii) to prepare accurate annual financial statements as part of the offence of gross negligent interference with creditors' interests that is subject to a sentence of imprisonment of up to one year or a monetary penalty of up to 720 daily rates. In the case of the financial damage caused exceeding CHF1.2 million, or if the economic existence of many people is damaged, the sentence is imprisonment of up to two years.

3.7 Cartels and Criminal Competition Law

Liechtenstein has not introduced any national antitrust or merger control law. Liechtenstein has, however, adopted a law on the implementation of competition rules in the European Economic Area.

The Agreement on the European Economic Area and its appendices are directly applicable in Liechtenstein with regard to antitrust or merger control law. According to the Agreement on the European Economic Area, cartels, joint ventures, and other forms of concerted action which may affect trade between the contracting parties or have the effect of hindering, restricting, or distorting competition are prohibited. Further, the merger control regulations of the European Union Competition Law according to Appendix XIV of the European Economic Area Agree-

ment are also applicable in Liechtenstein. In the case of breaches of the above laws and with the authorisation of either the EFTA Surveillance Authority or the EU Commission, the Liechtenstein Office of Economic Affairs is responsible for imposing fines or periodic penalty payments.

The Liechtenstein Unfair Competition Act (*Gesetz gegen unlauteren Wettbewerb* – UWG) governs unfair competition and contains respective criminal law provisions. The commission of unfair competition is punishable with a fine of up to CHF100,000 or, in the event of non-recovery, with imprisonment for up to three months. The offence is not prosecuted by the Prosecution Service, but by a private party (eg, a competing legal entity that is negatively affected by unfair competition or other consumers is entitled to file an indictment against the offender with the Princely District Court).

Further, the Unfair Competition Act stipulates a criminal provision dealing with breaches of the obligation to disclose prices to consumers (eg, the rule on disclosure of prices in advertising). The commission of a breach of the obligation to disclose prices to consumers is punishable by a fine of up to CHF20,000 (in the event of non-recovery, with imprisonment for up to two months). In the event of negligent commission, the upper limit of the fines is reduced to half.

In accordance with the respective applicable EU Directives and Regulations, the Unfair Competition Act, inter alia, includes provisions on geo-blocking. The commission of a violation of the ban on geo-blocking is punishable with a fine of up to CHF100,000 (in the event of non-recovery, with imprisonment for up to three months). Further, specific provisions on trade secrets were introduced as well (see **3.10 Financial/Trade/Customs Sanctions**).

3.8 Consumer Criminal Law

Consumer protection in Liechtenstein is primarily regulated in the Consumer Protection Act (*Konsumentenschutzgesetz* – KSchG) and the Distance and Foreign Trade Act (*Fern- und Auswärtsgeschäftegesetz* – FAGG).

In the event of breaches of the protective provisions of the Consumer Protection Act and the Distance and Foreign Trade Act (eg, breach of obligation to disclose information or sending goods to consumers without being asked to do so and thereby incurring a demand for payment), the Office of Economic Affairs will impose a fine of up to CHF5,000 for an infringement or up to CHF20,000 in the event of a repeat offence, unless the act constitutes a criminal offence falling within the jurisdiction of the courts or is punishable by a more severe penalty under other administrative penal provisions. Additionally, the Liechtenstein Unfair Competition Act contains a provision dealing with fines for the breach of information disclosure obligations towards consumers (see **3.7 Cartels and Criminal Competition Law**).

3.9 Cybercrimes, Computer Fraud and Protection of Company Secrets

The Liechtenstein Criminal Code stipulates several provisions dealing with cybercrimes, computer fraud, and breach of company secrets.

The most relevant provision of the Liechtenstein Criminal Code relating to cyberfraud is the fraudulent misuse of data processing. This offence is committed by any person who, with the intent of unlawfully enriching themselves or a third party, causes financial or other material damage to another person by influencing the result of an automated data processing system, by designing the programme, by entering, modifying, deleting or suppressing data, or otherwise

influencing the course of the processing operation. The offence is punishable with imprisonment of up to six months or with a monetary penalty of up to 360 daily rates. In the case that the financial damage caused exceeds CHF7,500 or the act is committed for commercial gain, the offence is punishable with imprisonment of up to three years. In the case of the financial damage caused exceeding CHF300,000, the sentence is imprisonment of one to ten years.

The Liechtenstein Criminal Code further punishes data theft. This offence is committed by any person who, with the intent of unlawfully enriching themselves or a third party, procures data processed with the aid of automation, which they are not allowed to access or to access on their own. The offence of data theft is sentenced with imprisonment of up to three years or with a monetary penalty of up to 360 daily rates (whereby both penalties can be imposed concurrently).

Further relevant criminal offences stipulated in the Liechtenstein Criminal Code are data corruption, interference with the functioning of a computer system, and improper use of computer programmes or access data. These offences are generally punishable with imprisonment of up to six months or a monetary penalty of up to 360 daily rates. The available penalty increases if the damage exceeds a certain amount or if several computer systems are affected (eg, the sentence is imprisonment of six months up to five years if the caused damage exceeds CHF300,000).

The Liechtenstein Criminal Code provides for the following provisions dealing with the breach of company secrets.

- The violation of a business or trade secret which the perpetrator by law was obliged to protect is punished with imprisonment of up to one year or a monetary penalty of up to 720 daily units. The perpetrator is only prosecuted upon the demand of the person whose confidentiality interest has been violated.
- Espionage of a business or trade secret with the intent to exploit it or to disclose it to the public is punished with imprisonment of up to two years. The perpetrator is only prosecuted upon the demand of the aggrieved party.
- Espionage of a business or trade secret with the intent to exploit it or to disclose it to a foreign state is punished with imprisonment of up to three years.

Further, the Liechtenstein Unfair Competition Act punishes the intentional unlawful acquisition, use, and disclosure of a trade secret as well as the breach of the obligation to maintain the confidentiality of trade secrets in the course of legal proceedings. Therefore, specific conditions were stipulated as to whether and to what extent trade secrets can be disclosed in the course of proceedings and how this information is to be treated by the court. The violation of trade secrets is punishable with imprisonment of up to one year or a monetary penalty of up to 360 daily rates. In line with these provisions, the Liechtenstein Criminal Procedure Code provides for the possibility to exclude the public from hearings if otherwise a business or trade secret would be jeopardised.

3.10 Financial/Trade/Customs Sanctions

According to the Law on the Enforcement of International Sanctions (*Gesetz über die, Durchsetzung internationaler Sanktionen* – ISG), coercive measures may be taken to enforce international sanctions decided by, inter alia, the United Nations and Liechtenstein's most important trading partners. These sanctions include direct or indirect restrictions on the movement of goods, services, payments, capital, and per-

sons, as well as on scientific, technological, and cultural exchanges, and prohibitions, authorisation, notification, and other restrictions on rights.

On the basis of the Law on the Enforcement of International Sanctions, numerous coercive measures have been adopted. The Liechtenstein Financial Intelligence Unit is responsible for monitoring the implementation of these measures. Anyone who intentionally violates these coercive measures is punishable by the Princely District Court with imprisonment of up to three years or a monetary penalty of up to 360 daily rates. In the event of a negligence commission of the offence, the upper limit of the penalty is reduced to half the amount of the penalty. The Princely District Court further imposes fines for the infringements of provisions of the Law on the Enforcement of International Sanctions (eg, for the breaches of notification obligations).

3.11 Concealment

According to Liechtenstein criminal law, a person who supports the perpetrator of a punishable act against the assets of another person in concealing or realising an object the perpetrator has obtained through that act is punishable with imprisonment of up to six months or with a monetary penalty of up to 360 daily rates. If the concealed object has a value of more than CHF7,500 or CHF300,000, the sentence is imprisonment of up to two years or imprisonment of six months to five years respectively.

The latter sentence also applies if the concealment is committed on a commercial basis.

Predicate offences to concealment are offences against the assets of another person (eg, theft, fraud, or embezzlement). Since the perpetrator can be any person except the one who has committed the predicate offence, a person cannot be held liable for both the predicate offence and concealment.

3.12 Aiding and Abetting

According to the Liechtenstein Criminal Code, not only is the immediate perpetrator criminally liable for the commission of an offence, but also every person who directs another person to commit the offence or who otherwise contributes to its commission. The same penalties therefore apply to all perpetrators.

3.13 Money Laundering

According to Liechtenstein criminal law, a person who conceals or disguises the origin of assets resulting from an offence punishable with imprisonment of more than one year or certain misdemeanours (eg, forgery of documents or tax fraud) – in particular by making false statements in legal transactions concerning the origin or true nature of the ownership or other rights in the powers of disposal over or the transfer of those assets – is subject to money laundering charges. The offence of money laundering is also committed by a person who takes any such assets or assets of a criminal organisation or a terrorist association into custody, whether for the sole purpose of keeping them in safe custody, investing or managing them, or converting, realising, or transferring the assets to a third party.

Assets are considered to derive from a crime if the perpetrator has obtained them through the offence, received them for the commission of the offence, or they represent the value of the asset originally obtained or received. Additionally, assets that were not taxed as a result of tax or VAT fraud are considered proceeds of a crime (ie, saved taxes).

Any person who commits the crime of money laundering to a value exceeding CHF75,000, or

as a member of a criminal group that has joined together for the purpose of continued money laundering, shall be punished with imprisonment of one year to ten years.

Money laundering is punished with imprisonment of up to two or three years (depending on whether, for example, assets deriving from an offence are held in custody or whether false statements in legal transactions are made concerning the origin or true nature of such assets). If the offence of money laundering is committed in relation to a value exceeding CHF75,000 or as a member of a criminal group that was formed for the purpose of the continued commitment of money laundering, the penalty is imprisonment of one to ten years.

The most relevant laws relating to combating money laundering, organised crime, and terrorist financing are stated in the Liechtenstein Due Diligence Act. Persons subject to the Due Diligence Act (eg, banks, insurance undertakings, asset managers, investment firms, or professional trust service-providers) are required to take the necessary measures in order to combat money laundering and are, inter alia, required to report to the Liechtenstein Financial Intelligence Unit any suspicion of money laundering, a predicate offence to money laundering, or terrorist financing. Any breaches of the obligations stated in the Liechtenstein Due Diligence Act are either prosecuted by the Liechtenstein Financial Market Authority (in the case of administrative offences) or the Liechtenstein Prosecution Service and the Princely District Court (in the case of infringements and misdemeanours).

4. Pleas and Defences

4.1 White-Collar Defences

As a general rule, the best defence strategy must always be decided on a case-by-case basis. Suspects often only learn that criminal proceedings are being conducted against them after a seizure of objects or information stored on data carriers or an asset-freeze has been ordered. In these circumstances, it can be in the best interest of the suspect to argue in an appeal that no initial suspicion can be established and therefore request the lifting of the respective order, which in turn leads to the discontinuation of the investigations (at least, in most cases).

Another best-case scenario is to prove that the objective elements of an offence are not met. This can be achieved by a written statement and therefore does not require the interrogation of a suspect (which can be burdensome).

If a conviction appears likely on the basis of the available evidence, a co-operative strategy (eg, making a confession and contributing to establish the facts of the case) can be beneficial, as it creates mitigating factors that must be taken into consideration when a sentence is determined. Provided that the prerequisites are met, it can also be appropriate to try to achieve a "diversion" (see **2.6 Deferred Prosecution**) which does not result in a conviction and a detrimental entry in the criminal register, but only a reduced punishment.

With regards to the criminal liability of a legal entity, the introduction of an adequate compliance programme is an important defence instrument. Firstly, the commission of offences can be prevented by effective compliance programmes. Secondly, an effective compliance programme makes it extremely difficult for the prosecu-

tor (who carries the burden of proof) to prove an organisational fault, which is mandatory in order to hold a legal entity criminally liable for an offence committed by a subordinate (ie, the criminal act of a subordinate must be at least facilitated by the lack of adequate risk management). However, an effective compliance programme does not prevent a legal entity from being held criminally liable if a manager or director commits a crime.

In this context, co-operation (among other factors) can be of the utmost importance and can even lead to the discontinuation of proceedings.

4.2 De Minimis

Liechtenstein criminal law does not provide for de minimis exceptions for white-collar crime offences, nor are any specific industries and/or sectors exempted from prosecution.

However, the Princely District Court can rule that the commission of an offence is not punishable if certain prerequisites are met, for example, that:

- the act to be prosecuted is only punishable by a monetary penalty or imprisonment of not more than three years;
- the suspect's culpability does not require punishment;
- the offence had only insignificant consequences or consequences incurred were remedied (or at least seriously attempted to be remedied); and
- a penalty is not required to deter the suspected predator or the public.

However, this possibility of discontinuing proceedings in white-collar crime cases is of little practical relevance.

4.3 Plea Agreements, Co-operation, Self-Disclosure and Leniency

Liechtenstein criminal law does not provide for the possibility of a plea agreement. However, pleading guilty and showing remorse constitute mitigating factors that must be taken into consideration when determining the sentence of the perpetrator. It has become apparent in recent years that confessions can considerably reduce prison sentences in white-collar crime trials.

Liechtenstein criminal law does also not generally provide for leniency for material witnesses. However, the Liechtenstein Criminal Code does provide for extraordinary mitigation of penalty in the case of co-operation of an offender with the law enforcement authorities in relation to offences of criminal organisations and terrorist groups (the so-called "small leniency programme").

Both self-disclosure and co-operation are mitigating factors which can reduce a possible penalty significantly, help to achieve a "diversion", or lead to the discontinuation of investigations. Against this background, it can be deemed advisable for legal entities to co-operate under certain circumstances. However, legal entities are not required by law to self-disclose any misconduct.

According to the Liechtenstein Tax Act, self-reporting of a tax offence leads to an exemption from punishment.

4.4 Whistle-Blower Protection

Liechtenstein does not provide specific legal protection for whistle-blowers. However, both the Financial Market Authority and the Liechtenstein Police have set up a platform to ensure whistle-blowers have access to an anonymous and secure reporting process.

CHAMBERS GLOBAL PRACTICE GUIDES

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email Katie.Burrington@chambers.com