

# On the Risk Economic Crime and its Identification

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## Abstract

Since the fourth national economic crime investigation work conference, it has become one of the key contents of economic investigation work to comprehensively improve the ability and level of fighting against economic crime and prevent the risks brought by economic crime. Therefore, from the perspective of risk, it is of great significance to identify and evaluate the risk-based economic crime. Firstly, this paper explores the concept of risk in the risk-based economic crime, and puts forward three kinds of understandings about the risk associated with economic crime; secondly, it defines the risk-based economic crime from the perspective of risk composition, and defines the risk-based economic crime from the perspective of risk identification; thirdly, it defines the real estate industry's illegal operation crime and its group events as an example, this paper puts forward the idea of risk-based economic crime identification and evaluation; finally, it probes into the risk prevention countermeasures of risk-based economic crime.

## Keywords

Risk type economic crime; Identification; Illegal business crime; Group event.

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## 1. Introduction

From the fourth national economic crime investigation work conference, which focused on risk prevention and control and service development, to constantly strengthen and improve the economic crime investigation work under the new situation, to the special action of "cloud 2017" deployed by the Ministry of public security to promote the fight against risk-based economic crime, comprehensively improve the ability and level of fighting against economic crime, and prevent the risk brought by economic crime has become One of the key tasks of economic investigation.[1] in recent years, most of the real estate development companies have developed commercial houses without the administrative licenses such as the state-owned land use license, construction planning license, construction engineering construction license, etc., and sold the buildings without the pre-sale license. Although the current criminal law and relevant judicial interpretation do not clearly identify the act as an illegal business crime, when the degree of social harm of the illegal business of real estate companies continues to expand, and there is the possibility of triggering mass incidents such as collective petitions of purchasers, the judicial authorities tend to treat the act as an illegal business crime. Therefore, strengthening the qualitative and quantitative research on the crime of illegal operation in the real estate industry can make a clearer understanding of the crime of illegal operation in the real estate industry and the risks it brings, and can exemplify the concept of risk in the risk-based economic crime.

## 2. The concept of risk in risk-based economic crime

### 2.1 The origin of risk

To study the risk-based economic crime, we should first understand the concept of risk. From the etymological point of view, it is generally believed that "risk" originates from the ancient shipping industry, and "wind" brings unpredictable risks to the ancient shipping industry. Wind means danger,

so it is called risk; from the lexical point of view, it is understood that "risk" means possible risks. In the above concepts, risk represents the uncertainty of loss caused by future events, with more emphasis on the negative side of risk. But risk not only has a negative and destructive side, but also has a positive side. In the financial field, risk is often accompanied by income, such as venture capital, financial risk prediction and evaluation, financial risk management, etc. as long as the risk can be well controlled, it can avoid losses for investors and bring income. Therefore, risk has the potential to bring benefits, and the understanding of risk should be regarded as a neutral word [2].

## 2.2 Concept of risk associated with economic crime

The concept of risk in sociology has different meanings. Baker defined risk as a systematic way to deal with the dangers and insecurity caused by modernization itself. [3] the risk mentioned by Shell is put forward on the basis of post-modern society, which is a macro concept indicating the end of nature and traditional society; Giddens believes that risk refers to the concept of uncertainty and possibility that is used to refer to the future development prospect of society with the development of modernity. [4] he believes that uncertainty is the concept most closely related to risk. In the risk criminal law, the risk crime refers to the behavior that does not cause the occurrence of harmful results, but has the possibility of causing risks, so that the legal interests protected by the criminal law are threatened, but it is not defined as a criminal behavior by the criminal law, and it is not a dangerous crime described by the criminal law theorists, but should be recognized as a criminal behavior [5].

The risk associated with economic crime is not the same as the concept of risk in sociology and the concept of risk crime in criminal law. Combined with the characteristics of economic crime, according to the different subjects of risk bearing, the risk associated with economic crime can be divided into the risks faced by the criminals and the risks faced by the society and the victims. There are risks for criminals to commit economic crimes. On the one hand, committing a crime will bring criminal benefits to the offender. On the other hand, the implementation of criminal acts must bear the cost of legal sanctions after the disclosure of criminal facts. But for the society and the victim, the risk associated with economic crime is a pure risk, which only has a negative side, that is, no matter whether the crime occurs or not, it will not bring benefits, risks or not, or losses to society and individuals.

Therefore, the author believes that there are three main understandings of the risks associated with economic crimes: first, the risks associated with economic crimes refer to the possibility of obtaining illegal benefits and the uncertainty of losses faced by the criminals when they commit economic crimes, such as the criminal punishment, the breakdown of family and social relations of the offenders, and the liability for compensation. Second, the risk associated with economic crime refers to the risk of economic crime, that is, the uncertainty of crime. The essence of crime is anti social, anti ruling, anti legal. Crime has serious social harm. From the perspective of risk, the occurrence of economic crime itself is composed of many elements, which means the uncertainty of economic and social losses. Third, the risk associated with economic crime refers to the risk brought by economic crime, that is, the social risk, economic risk and other secondary risks after the occurrence of economic crime, which has the uncertainty of causing secondary or multiple losses to the economic society. The risk of risk-based economic crime mainly refers to the risk brought by economic crime, that is, the generation of risk is the necessary condition of risk-based economic crime. However, the effective prevention and control of risk-based economic crime can not only stay in the risk level of management of economic crime, but first of all, it is necessary to identify the crime and non crime of economic crime; secondly, it is necessary to identify and evaluate the possible risks after the occurrence of economic crime; thirdly, it is necessary to make corresponding preparations before the occurrence of risk events. Only by implementing the prevention and control of "layer by layer diversion" for the risk-based economic crime, can the loss caused by the risk-based economic crime to the economic society be reduced.

### 3. Concept and defining elements of risk-based economic crime

Seven types of economic criminals are proposed in the cloud 2017 action to combat risk-based economic crimes deployed and promoted by the Ministry of public security, including illegal fund-raising crime, money laundering, underground banking crime, credit card and inter-bank bond crime, export tax refund fraud, false special invoice for value-added tax, insider trading, stock ticket manipulation market crime, online pyramid selling crime, counterfeit currency, making and selling counterfeit and inferior goods Crime [6], the concept of risk-based economic crime is a practical concept, and its crime types are various, so it is difficult to define the risk-based economic crime according to the known macro characteristics of a certain type of economic crime such as stakeholder type, network type, foreign-related type and the standards of crime composition. Therefore, this paper defines the risk-based economic crime from the perspective of risk composition, aiming to transform the definition of risk-based economic crime into the problem of risk identification in risk-based economic crime. As the general risk composition is the same, the risk of risk-based economic crime can also be composed of risk factors, risk events and losses. Among them, risk factor is the precondition of triggering risk event, risk event is the direct form of loss, risk factor is the indirect form of loss, and loss is the measurement standard of risk size [7].

#### 3.1 Elements of defining the concept of risk-based economic crime

1) The risk factors in the risks brought by economic crimes. The risk factors in the risks brought by economic crime refer to the reasons or conditions that promote the occurrence or increase the possibility of occurrence or increase the degree of loss of a particular economic crime. It is the potential cause of the risk of economic crime and the internal or indirect cause of the loss. For example, in the crime of illegal fund-raising, the more the number of audiences, the wider the scope and the larger the amount involved in the case, the greater the possibility of triggering mass incidents after the break of the capital chain. At this time, the number of audiences, the income of the audience and other factors are the potential causes of the risk accident of group events. For example, in the real estate industry illegal business crime, because the real estate company has not yet obtained the relevant procedures necessary for business, namely "five certificates and two books", the construction has been completed, and the pre-sale of the house has been completed under the condition that the pre-sale conditions have not been met, and because there is a certain lag in the investigation for the public security organ, the illegal and criminal income is often not recovered in time. Pay, once the real estate company's capital chain breaks, the company goes bankrupt and goes bankrupt and so on, due to the lack of relevant legal documents for the purchase behavior, the property rights of the house buyer are often difficult to be protected, and there is the possibility of loss or loss expansion. At the same time, purchasers often form a group. When the loss of purchasers' interests due to the ineffectiveness of the prepurchase behavior reaches a certain scale, it will also induce corresponding group events such as collective petition. Among them, factors such as the degree of education and social experience of the buyer, the psychological activities of the offender, the amount of the pre-sale money and the time for the public security organs to intervene have become the conditions that affect the degree of loss of the buyer and the occurrence of risk events.

2) Risk events in the risks brought by economic crimes. The risk event in the risk brought by the economic crime refers to an accidental event of the expansion of the crime loss brought by the economic crime. It is the result of the joint action of various risk factors, the direct cause of the expansion of the loss brought by the crime, and the external manifestation of the loss brought by the crime. For example, in the new type of internet pyramid selling cases such as "benevolence gathering", the group composed of investors is vulnerable to the bewitchment and incitement of Internet rumors. The event of collective petition in Beijing is a risk event that causes the expansion of criminal losses and a direct manifestation of the damage to social order.

3) Loss in risk brought by economic crime. The loss in the risk brought by economic crime refers to the damage result caused by the risk event induced by various risk factors brought by economic crime. The loss caused by risk can be divided into expected loss and actual loss according to the

assessment priority over risk event. The loss assessed before the occurrence of risk event brought by economic crime is expected loss, and the actual loss is obtained after the occurrence of risk event.

### **3.2 Concept and characteristics of risk economic crime**

Based on the above-mentioned elements of defining the concept of risk-based economic crime, risk-based economic crime refers to the economic crime that, in the process of the criminal's economic criminal activities, with the continuous accumulation of risk factors and the increasing probability of risk events, the risks may bring direct or potential losses to the economic society. From the definition point of view, the risk economic crime mainly has the following three characteristics:

The risk-based economic crime is accompanied by the risk. For example, in the crime of helping terrorist activities, the act of financing itself is the risk factor of terrorist activities. Whether terrorist activities occur or not, there are direct or potential threats to social stability and the vital interests of the masses.

The risk-based economic crimes need the risk factors to reach a certain degree, and meet the conditions of triggering risk events, that is, economic crimes that can not bring risks are called risk-based economic crimes.

The risk of risk-based economic crime may bring direct or potential losses to the economic society. This kind of loss is a kind of generalized loss, including not only the threat and loss of personal rights, but also the loss of property, including both direct loss and indirect loss.

## **4. Identification mechanism of risk economic crime**

### **4.1 Identification process of risk-based economic crime**

Starting from the composition of the risk-based economic crime, it is necessary to accurately determine the risk-based economic crime and effectively reduce the social harm of the risk-based economic crime. The specific process is as follows:

First of all, it is necessary to identify the possible social harm caused by the act from the perspective of the constituent elements of the crime, and determine whether the act is illegal or criminal. If the act constitutes a crime, it is necessary to analyze the constituent elements of the risk-based economic crime to determine whether the criminal act will bring risks. If the criminal act can bring risks, it is preliminarily identified as a risk-based economic crime. Among them, to do a good job of risk factors and risk events investigation is the primary task of risk research and judgment. Because of the uncertainty of risk, we also need to find out the source of risk, the cause of risk and the way of risk diffusion in the process of criminal behavior implementation according to the actual situation, and regularly update the investigation content, so that the risk investigation can keep pace with the times.

From the perspective of defining elements of risk-based economic crime, determine the risk assessment index of risk-based economic crime, and identify the risk-based economic crime. First, identify the type of risk-based economic crime and the type of risk brought by economic crime, and then measure the risk brought by economic crime. This kind of measurement is mainly reflected in the measurement of the possibility of risk accidents caused by crimes. From the characteristics of risk-based economic crime, the occurrence of economic crime and risk accidents caused by economic crime are related to risk factors. Because the risk factors in the defining elements of risk-based economic crime have the characteristics of objectivity, humanity and uncertainty, and are the preconditions for the occurrence of risk events and the potential causes of losses, therefore, identifying risk-based economic crime requires us to identify the risk factors in risk-based economic crime. To sum up, the specific flow chart of identifying risk-based economic crime is as follows:

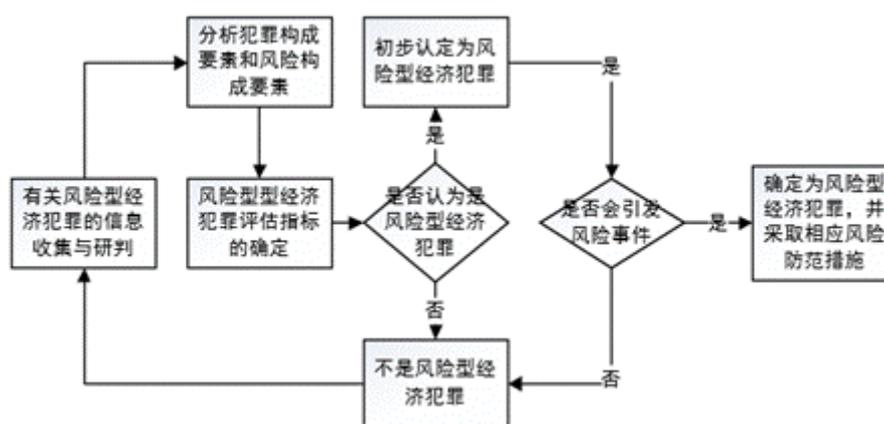


Figure 1 flow chart of risk economic crime identification

#### 4.2 Identification of risk economic crimes

The identification of risk-based economic crime requires us to fully define the criminal constitution and identification standards of each economic crime in the criminal law, and accurately define whether the same nature of the act is illegal or criminal. Secondly, we should be able to identify the risk factors related to this kind of behavior, and identify the behaviors that are about to occur or have occurred in time. Thirdly, analyze and judge whether the crime has the possibility of triggering risk events. Because of the social harmfulness of economic crime, and the risk of economic crime is the further damage to the economic society, the risk of economic crime is mainly an economic and social risk, that is, the risk of social production and people's life loss caused by criminal behavior. This kind of social risk is embodied in the following six aspects: first, it infringes upon the vital interests of the masses of the people, affects social stability, easily causes social conflicts, and even triggers mass incidents; second, some financial crimes will seriously damage the order of market economy, and even trigger regional financial crisis, systemic financial crisis [8]; third, rent-seeking activities, black economic activities. Economic espionage and other illegal and criminal activities will seriously impact the national economic development and threaten the national economic security; fourth, the risks of other types of crimes caused by economic crimes, such as corruption and bribery, seriously damage the image of the party and the government; sixth, the direct or potential harm that other risks may bring.

#### 4.3 Identification of risk factors caused by risk-based economic crime

The risk factors (hereinafter referred to as risk factors) in the risk-based economic crime not only affect the occurrence of economic crime, but also affect the probability of the occurrence of risk events brought by the crime. Therefore, the core of risk identification is to identify the risk factors brought by the risk-based economic crime. According to the constitution of economic crime and the risk types that economic crime may cause, this paper mainly puts forward the following six risk factors:

1) human factors. The human factor mainly includes the victim factor, the criminal factor and the related person factor. The victim factors mainly include the number of victims, nationality, characteristics of the victims' group, region, income level, social status, and subjective satisfaction with the handling of public security organs. As a risk factor, the criminal factors mainly include: the subjective psychological attitude of the criminal, the criminal record, the number of criminals and so on. The related person factor mainly refers to the factors that affect the formation of crime and risk in the risk caused by economic crime, except for the offender and the victim.

2) Material factors. As a risk factor, the factors of things mainly refer to the value, form and type of things. If the cash in the real estate purchased by cash has value, cash payment belongs to one of the means of payment.

3) Risk diffusion factors. Risk diffusion factors mainly include diffusion tools, diffusion channels, diffusion scope and so on. For example, in the network pyramid selling crime and P2P illegal fund-raising crime, the fund-raising platform and some designated app software as the main crime platform are risk diffusion tools, and the Internet is the risk diffusion channel.

4) As a risk factor, the handling of economic crimes includes the case filing of the public security organs and the strength of the crackdown.

5) Impact of risk environment factors, economic development situation, policies, systems, technologies, laws and regulations, etc. For example, in the real estate industry may cause the risk of money laundering, the impact of anti money laundering system.

6) Other influencing factors.

Because risk factors are often known and deterministic factors, the occurrence and loss of most risk accidents are not predictable and measurable, and the path of risk transmission and actual damage is also not predictable, so risk factor analysis can only explore the risk factors of known risk events. However, before the formation of risk, there must be omens and signs. Therefore, in order to solve the problem that the known risk factors lag behind the changes of risk, we need to constantly standardize the information collection work and form a scientific list of risk factors collection (such as table 1). On the basis of obtaining a large amount of information, we can summarize new risk factors through induction, which will bring about crimes. The risk has a comprehensive and accurate judgment.

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