

Hot topics in taxation in the Czech Republic

13 May 2022

Agenda

1. Tax audits in the Czech Republic in 2020 (statistics & trends)
チェコにおける税務監査の状況（統計と傾向）
2. Withholding tax audits
源泉税に対する税務監査
3. BEPS 2.0 - minimum tax rule
BEPS 2.0 最低税率ルール
4. Tax & Legal news
税務，法務に関するニュース
5. Eli Lilly case
Eli Lilly のケース



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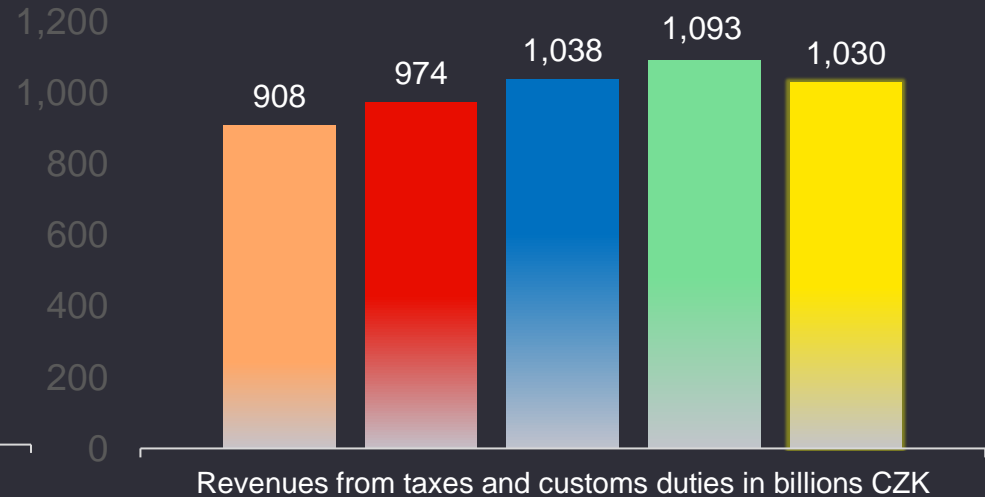
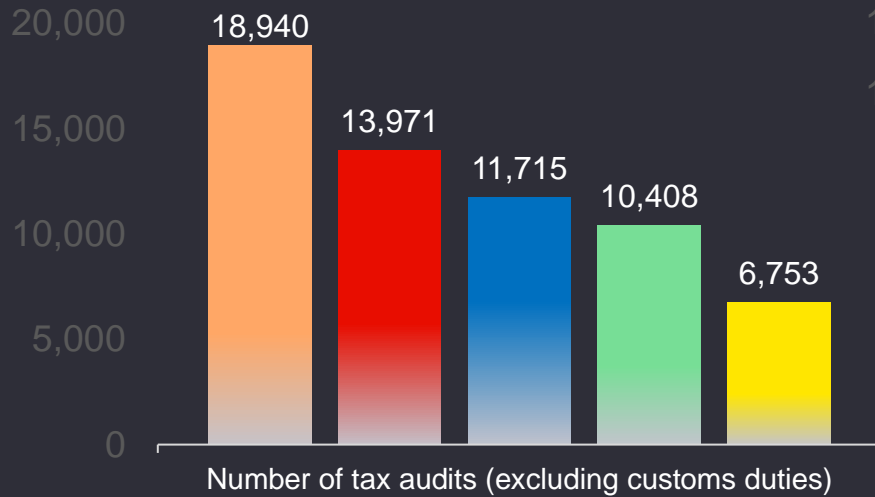
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Collection of taxes and customs duties and tax control in 2020

2020年の税収（関税含む）と税務監査の状況

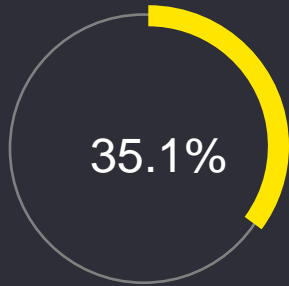


■ 2016 ■ 2017 ■ 2018 ■ 2019 ■ 2020
 税務監査の件数（関税関係を除く）

■ 2016 ■ 2017 ■ 2018 ■ 2019 ■ 2020
 税収（関税を含む）のCZK請求額



Tax audit statistic 税務監査に関する統計

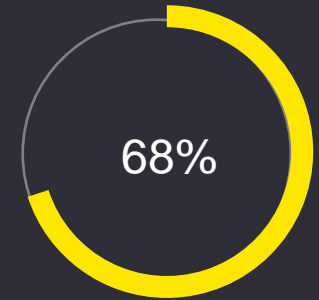


Year-on-year **decline** in the number of tax audits

対前年比・税務監査の減少率

The total additional tax
CZK 5.9 billion
 Compared to 2019 it is a
 decrease of **16.9%**

追徴課税の総額・対前年比の減少率



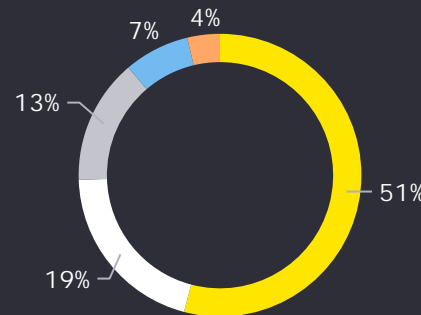
68% of tax audits completed with **additional assessment**

63% in 2019 and 61% in 2018
 追徴課税を伴う割合

Audits are focused especially at:

- ▶ Transfer pricing
- ▶ Tax deductibility of costs
- ▶ Koruna bonds
- ▶ VAT chain fraud
- ▶ Entitlement to deduct tax from fictitious (unproven) transactions

税務監査の重点エリア



- VAT
- Corporate tax
- Personal income tax
- Personal income tax from from dependent activity
- Withholding tax

追徴課税の内訳

A tax of
CZK 880,000
 was assessed on average for
 tax audit of one subject

1つのテーマに対する
 平均追徴額

Transfer Pricing 移転価格に対する税務監査



250 tax audits
of transfer pricing in 2020

移転価格を対象とした
税務監査の件数



Additional tax assessment
1.4 billion in 2020

追徴課税の総額



Average assessed
tax per inspection
CZK 6 million

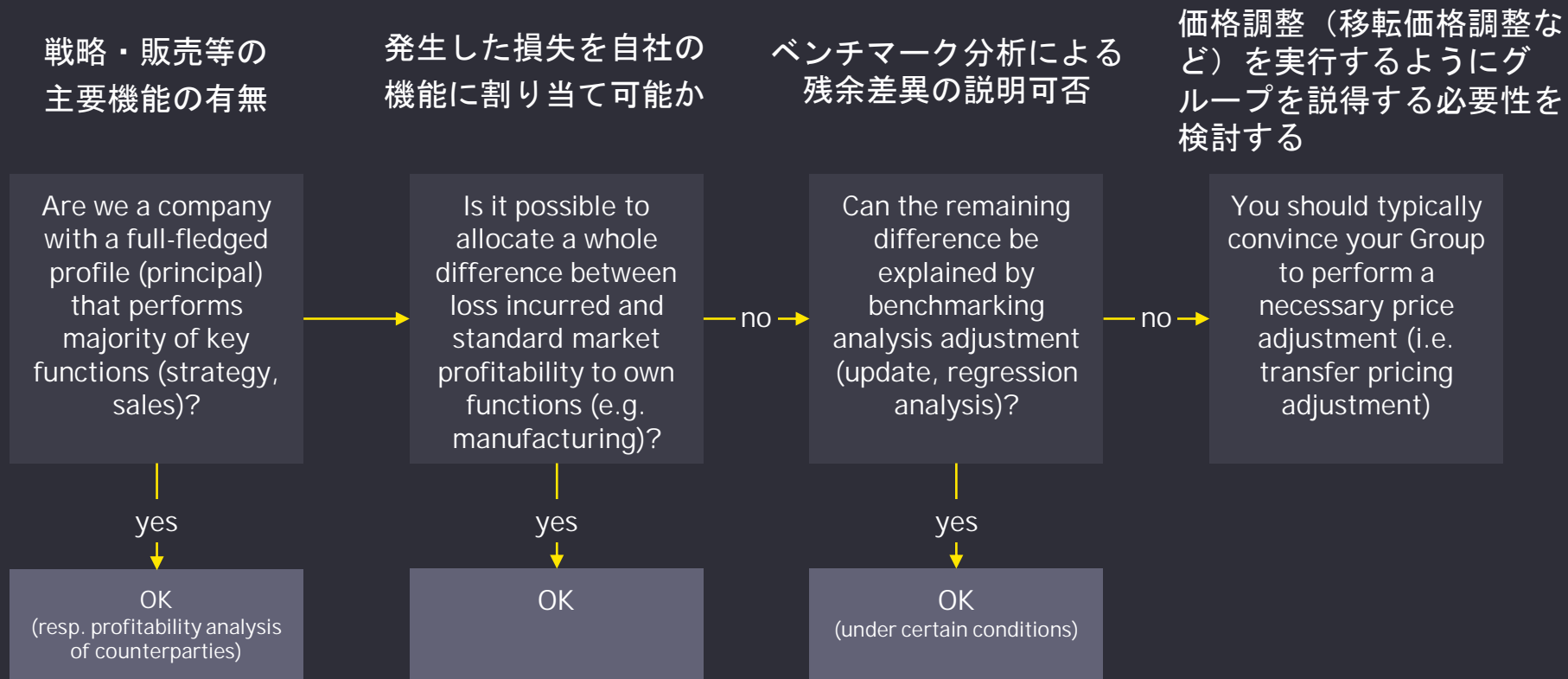
税務調査1件あたりの
平均追徴額



The largest tax
assessed in the
history of monitoring
in 2020 (**CZK 1.4
billion**)
最高追徴額

- ▶ Increasing tendency of transfer pricing-focused tax audits
- ▶ Increasing cooperation between states on the exchange of information
- ▶ 移転価格に焦点を当てた税務監査が増加する傾向にあります
- ▶ 国家間の情報共有が強化されています

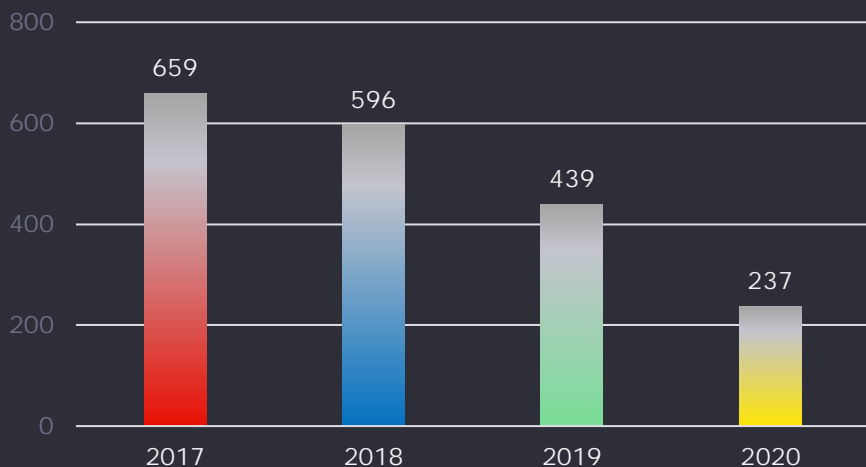
Functional and risk profile of an entity - who should bear potential losses? 機能とリスクに関するプロフィール（誰が潜在的な損失を負担すべきか）



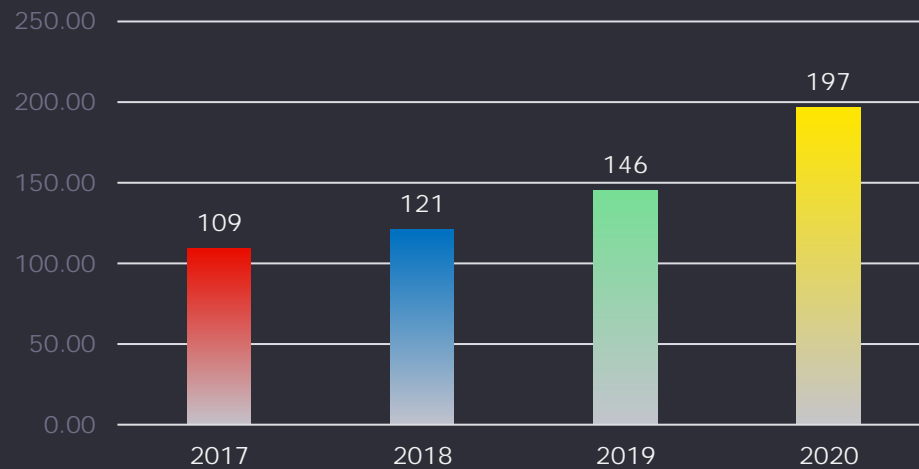
- ▶ VAT regime of price adjustment follows the VAT regime of the underlying transaction
- ▶ Buy and sale realized with third parties - variable payment for services or license
- ▶ 価格調整のVAT制度は、基礎となる取引のVAT制度に従います
- ▶ 第三者との売買-サービスまたはライセンスの変動支払い

Withholding tax audits 源泉税に対する税務監査

- ▶ Commonly focused on:
 - ▶ Interests 利息
 - ▶ Royalties ロイヤリティ
 - ▶ Dividends 配当
- ▶ It is likely that these payments made by Czech companies abroad will be subject to scrutiny by the tax administration (primarily Czech - but also from abroad).
 - ▶ Especially in the case of large amounts or beneficiaries from countries that have been perceived as jurisdictions with **lower taxation** or favorable tax regimes (e.g. Cyprus, Luxembourg, the Netherlands, etc.).
 - ▶ 特に高額を支払いのケースや、**低税率**、**税優遇国**とみなされている国（キプロス、ルクセンブルク、オランダ等）との間の支払いのケースが着目されている
- ▶ Increasing tendency of **information exchange** between states. **国家間の情報共有**が増えている
- ▶ Increasing **average amount** of additional tax assessment. **平均追徴額**が増加している



Number of audits aimed at withholding tax
源泉税に対する税務監査の件数



Average amount of tax assessment per 1 inspection (in CZK thousand)

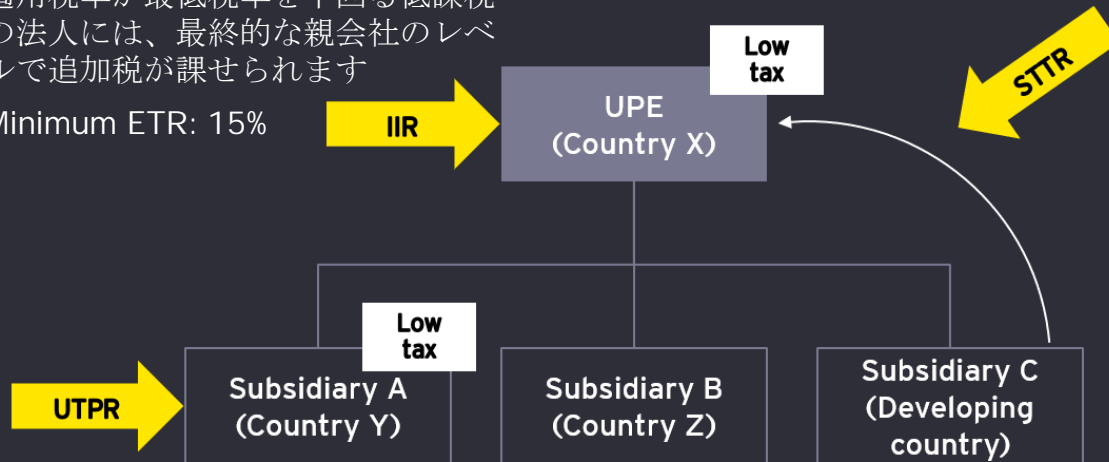
税務監査の1件あたりの追徴額

BEPS 2.0 – minimum tax rule 最低税率ルール

- ▶ In January 2023 IIR and UTPR in January 2024 are to be brought into law. IIR : 2023, UTPR : 2024に法制化
- ▶ Target multinational groups with revenues of 750 million euros and more. 750m以上の売上の多国籍企業が対象

GloBE: Income Inclusion Rule (IIR)

- Primary rule: a top-up tax is imposed at the level of the ultimate parent entity (UPE) for low-taxed constituent entities with an ETR below agreed minimum rate
- 適用税率が最低税率を下回る低課税の法人には、最終的な親会社のレベルで追加税が課せられます
- Minimum ETR: 15%



GloBE: Undertaxed Payment Rule (UTPR)

- Secondary rule: serves as a backstop rule to the IIR by limiting or denying deductions on intra-group payments or requiring an equivalent adjustment to the extent the low-taxed income of a constituent entity is not subject to tax under an IIR
- UTPRはバックストップとしてIIRが適用されていない場合に適用されます。軽課税国に所在する関連企業への支払（使用料等）に対し、支払会社側の国にトップアップ課税を配賦し、最低税率の負担となるように支払の損金算入を否認します。
- Minimum ETR: 15%

Subject to Tax Rule (STTR)

- A treaty-based rule that allows source countries to impose limited source taxation on certain covered related party payments subject to a tax below agreed minimum nominal rate
- Applies to interest, royalties and a defined set of other payments
- STTR will be creditable as covered tax under GloBE rules
- Minimum nominal tax rate: 9%
- 軽課税国に所在する関連会社への利息・ロイヤルティ・その他の支払に際して、受取側の国の名目税率が最低税率を下回る場合に、租税条約上の特典の適用が否認されます。

Tax & Legal news 税務, 法務に関するニュース

Tax depreciations

税務上の減価償却

- **Increase** of the limit for **tangible** assets (CZK 80,000)
- **Cancellation** of the tax category of **intangible** assets

Evidence of real owners

未登録の受益者

- A **share** of the profits **cannot** be **paid** to the unregistered beneficial owner
- The unregistered beneficial owner may not **vote** at the **general meeting**

VAT on the supply of medical devices

医療機器へのVAT課税

- Narrowing the range of 15% medical devices from 1 December 2022
- **End** of tax forgiveness for filter masks and **respirators FFP** and higher (31 December 2021)
- VAT **waiver** for COVID-19 **testing** and **vaccines** - until 31 December 2022

Tax losses

税務上の欠損

- Since 2020, it is possible to deduct a tax loss not only 5 tax periods following the period for which the tax loss was determined, but also **2 tax periods preceding the period in which the tax loss was actually incurred** (up to CZK 30,000,000)
- **欠損発生**の2年前まで遡って相殺が可能
- Renounce of the right to claim a loss - preclusive period reduced from 8 to 3 years

Road tax

道路税

- Abolition of road tax for vehicles up to 12 tons
- Cancellation of advances for vehicles over 12 tons - one future payment
- **April advances** are no longer to be paid

Intrastat report

イントラサット・レポート

- Introduction of a **simplified report** once a year if the value of exported and imported goods in 2021 did **not exceed CZK 20 million**
- Increase the limit for **small consignments** from EUR 200 to EUR 400
- ...

Separate marketing service or a third party payment for local delivery of goods?

- ▶ Czech company (Distributor) purchased pharmaceuticals from the European warehouse of a Swiss related party (Supplier).
- ▶ The Distributor also provided marketing services to the Supplier (without VAT) - this ensured the Distributor's reasonable profitability from the transfer pricing perspective, as the profit from the sale was not sufficient due to the price regulation.



- ▶ The tax administrator (subsequently also the municipal court) assessed the remuneration for marketing services as a third party payment to the price of medicines sold in the CR.
- ▶ The Supreme Administrative Court's decision was **positive** - Eli Lilly won the dispute.
 - ▶ The supplier may be interested in promoting its products in the Czech Republic and may be the recipient of a marketing service.
 - ▶ Emphasizing the importance of **contractual documentation**.
- ▶ **The importance of revisions of the current contractual and TP documentation and price settings.**

Does it apply to me?

- ▶ Concerns any industry which sells products on the Czech market for a regulated price and **receives** any sort of **payment** from the related parties to compensate for insufficient profits.
- ▶ The same risk applies to other industries (e.g. automotive), where we often see invoices and payments for various **"TP adjustments"** and **"TP true-ups"** which are unclearly titled from the VAT perspective.

商品の現地配送のための個別のマーケティングサービス、または第3者への支払い？


- ▶ チェコの子会社（ディストリビューター）は、スイスの関連当事者（サプライヤー）のヨーロッパの倉庫から医薬品を購入しました。
- ▶ ディストリビューターはサプライヤーにマーケティングサービスも提供しました（VATなし）。これにより、価格規制のために販売からの利益が十分でなかった状況から、移転価格の観点からはディストリビューターの合理的な収益性が確保されました。



- ▶ 税務当局（後には地方裁判所も）は、CRで販売された医薬品の価格とは別個に、第三者の支払いとしてマーケティングサービスの報酬を評価しました
- ▶ 最高裁判所の判決はEliに対して肯定的なもので、Eliが勝訴しました
 - ▶ サプライヤーはチェコでの製品の宣伝に興味を持っている可能性があり、マーケティングサービスの受益者である可能性があります
 - ▶ **契約文書の重要性**を強調されました
- ▶ **現行の契約および移転価格文書と価格設定の改訂が、重要視されました**

このケースは自社にも当てはまりますか？

- ▶ チェコ市場で規制価格で製品を販売し、不十分な利益を補うために関係者からあらゆる種類の支払いを受け取る業界において懸念が生じます
- ▶ 同じリスクが他の業界（自動車など）にも当てはまります。これらの業界では、VATの観点から不明確にタイトルが付けられているさまざまな「移転価格調整」や「移転価格補正」の請求書や支払いがよく見られます。

A blurred background image showing a person standing at the front of a room, likely a presenter or speaker, with several audience members in the foreground. Many of the audience members have their hands raised, suggesting an interactive session or a Q&A period. The scene is dimly lit, with a focus on the central text.

Thank you for your attention



Japan Chamber of Commerce and Industry

Fraud Awareness Seminar

13th May 2022

EY Forensics & Integrity Services - Agenda

1. Typical fraud scenarios in Czechia チェコにおける典型的な不正シナリオ
2. How to address fraud risk? 不正リスクにどの様に対処すべきか?
 - ▶ Fraud triangle 不正のトライアングル
 - ▶ Big data analytics ビッグデータ分析
3. Hot topics in compliance コンプライアンスに関するホットトピック
 - ▶ Anti-Russian Sanctions ロシアに対する経済制裁
 - ▶ Whistleblowing 内部通報制度

Speaker

Tomáš Kafka

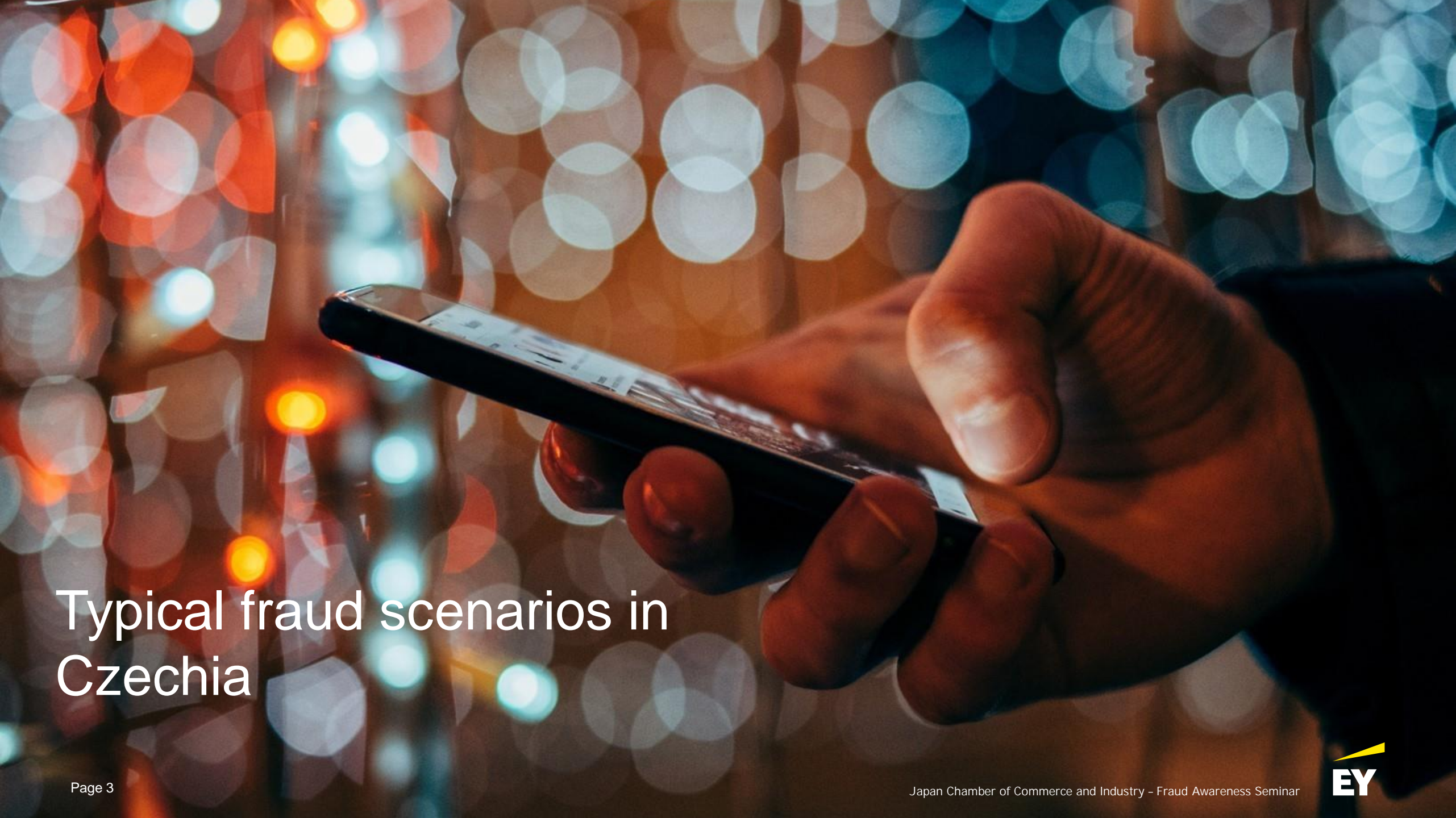
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A hand holding a smartphone against a bokeh background of colorful lights. The background consists of numerous out-of-focus circular light spots in shades of orange, yellow, and blue, creating a festive or urban night atmosphere. The hand is positioned on the right side of the frame, holding the phone horizontally. The phone's screen is visible, showing some indistinct content.

Typical fraud scenarios in Czechia

Typical fraud scenarios in Czechia



How to address fraud risk?



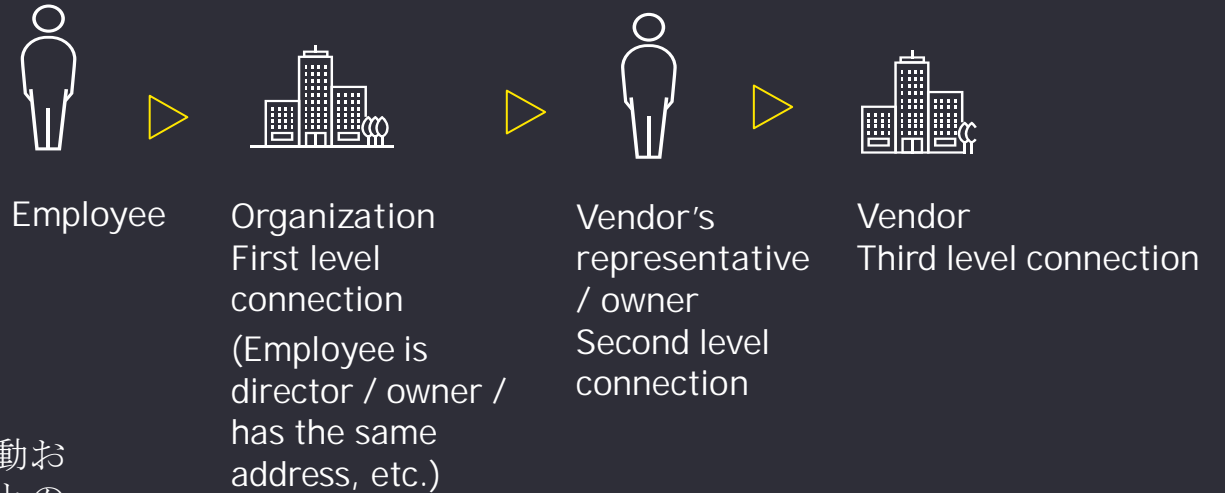
How to address fraud risk?

Hidden connections of employees to vendors or other third parties increase the risk of fraud.

ベンダーやその他の第三者との従業員の隠れたつながりは、不正リスクを高めます

Indirect connection between the inspected person and the vendor

検査対象者とサプライヤーとの間接的なつながりの例



主要従業員とベンダー・顧客との多段階の関係

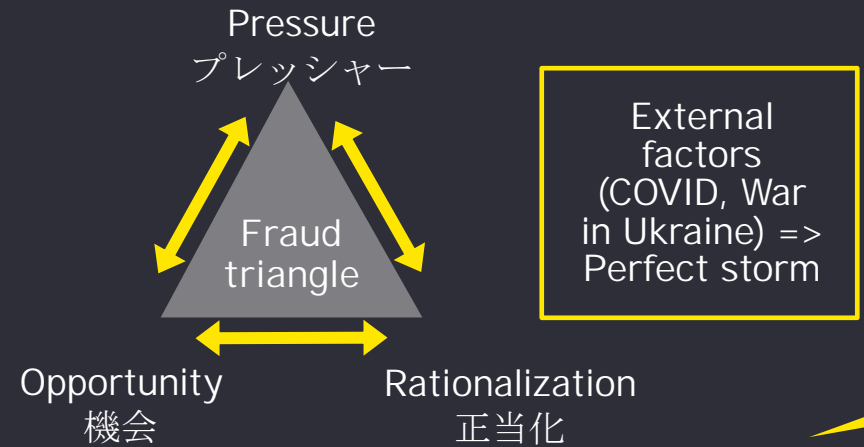
公的に利用可能なデータにより、潜在的な関係性を検出する自動ツール

ベンダー、顧客の検証

私的な事業活動およびベンダーとの関係



Fraud triangle 不正のトライアングル





Hot topics in compliance

Anti-Russian Sanctions

Key regulatory challenges 主要リスク

- 制裁対象がサプライチェーンに存在し、意図せずに制裁違反となるリスク
Is it possible that I unintentionally violate economic sanctions, including instances when a sanctioned entity is a part of supply chain?
- 金融機関への制裁により、資金移動に問題が生じるリスク
Can I expect any issues related to payments, due to sanctions imposed on financial institutions processing the transactions?
- 取引企業のオーナー、マネジメント等が制裁対象であることが判明し、金融機関により送金資金が凍結されるリスク
Am I at risk that financial transactions will be halted by banks, after sanctioned entities or individuals are identified in management or ownership structures of vendors / customers?
- 自社の評判を損なうリスク（レピュテーションリスク）
Am I putting my company's good name and reputation at risk?

Possible sanctions compliance actions 望ましい対処方法

- ▶ Automated screening of your customers and vendors lists using current sanctions and up-to-date sanction lists
 - ▶ Follow-up investigation of sanction hits and verification of identified flags including open sources research
 - ▶ Risk assessment of the supply chain and customers, detailed analysis of high-risk counterparties - ownership structure, ultimate beneficial owner, relationships with sanctioned individuals and entities
 - ▶ Updating and adjusting processes, policies and procedures on compliance with economic sanctions, their implementation, monitoring and updates
-
- ▶ 現在の制裁内容と最新の制裁リストを使用した、顧客とベンダーのスクリーニング
 - ▶ 制裁措置の追跡調査とオープンソース調査を含む認識されたフラグの検証
 - ▶ ベンダー、顧客、サプライチェーンのリスク評価、リスクの高いカウンターパーティの選択、所有構造の詳細な分析、最終的な受益者（UBO）、制裁対象の個人、法人、セクター、業界との関係の調査
 - ▶ 経済制裁の遵守、それらの実施、監視および更新に関するプロセス、ポリシー、および手順の更新と調整


Whistleblowing

Protection of whistleblowers from retaliation

匿名化による内部通報者の保護



Through anonymous communication channel, the company can obtain important information from employees.

- 
- ▶ Protection of whistleblowers already applies
 - ▶ 内部通報者の保護は既に導入されています
 - ▶ One of the measures expected for avoiding criminal liability of the company
 - ▶ 会社の刑事責任を回避するために期待される対策の1つとなります

What are the benefits?

Protection of company reputation レピュテーションリスクの軽減

Prevention of information leak to the media or reporting channel of the Ministry of Justice.

Protection of company property 企業資産の流出の防止

43% of fraud is detected through whistleblower reporting.



Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. EU Member States were to implement the directive by 17 December 2021.

EU指令によれば、EU加盟国は2021年12月までの実装化することが求められていました。

The adoption of the law in Czech Republic is currently postponed, adoption is expected in mid-2023.

チェコ政府による法制化が遅延しており、2023年の中頃または2024年からの導入が見込まれています。

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Questionnaire for attendances

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