

**FACTORS AFFECTING WHITE-COLLAR CRIME WITHIN
THE STOCK EXCHANGE OF THAILAND**

KAMOL SUPREYASUNTHORN

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY
(CRIMINOLOGY, JUSTICE ADMINISTRATION AND SOCIETY)
FACULTY OF GRADUATE STUDIES
MAHIDOL UNIVERSITY**

2008

COPYRIGHT OF MAHIDOL UNIVERSITY

Thesis

Entitled

**FACTORS AFFECTING WHITE-COLLAR CRIME WITHIN
THE STOCK EXCHANGE OF THAILAND**

.....

Mr. Kamol Supreyasunthorn

Candidate

.....

Asst.Prof. Srisombat Chokprajakchat, Ph.D.

Major-Advisor

.....

Mr. Arayan Trangarn, Ph.D.

Co-Advisor

.....

Pol.Lt.Gen.Wichianchot Sukchotrat,Ph.D.

Co-Advisor

.....

Asst.Prof. Nittaya Sumretphol. Ph.D.

Co-Advisor

.....

Prof. Banchong Mahaisavariya, M.D.

Dean

Faculty of Graduate Studies

.....

Asst.Prof. Srisombat Chokprajakchat, Ph.D.

Chair

Doctor of Philosophy Programme

in Criminology, Justice Administration

and Society

Faculty of Social Sciences and Humanities

Thesis
Entitled

**FACTORS AFFECTING WHITE-COLLAR CRIME WITHIN
THE STOCK EXCHANGE OF THAILAND**

was submitted to Faculty of Graduate Studies, Mahidol University
for Doctor of Philosophy (Criminology, Justice Administration and Society)
on
October 3, 2008

.....
Mr. Kamol Supreyasunthorn
Candidate

.....
Mr. Prasong Vinaiphat, Ph.D.
Chair

.....
Mr. Arayan Trangarn, Ph.D.
Member

.....
Asst.Prof.Srisombat Chokprajakchat, Ph.D.
Member

.....
Asst.Prof. Nittaya Sumretphol. Ph.D.
Member

.....
Pol.Lt.Gen. Wichianchot Sukchotrat, Ph.D.
Member

.....
Prof. Banchong Mahaisavariya, M.D.
Dean
Faculty of Graduate Studies
Mahidol University

.....
Assoc.Prof. Wariya Chinwanno, Ph.D.
Dean
Faculty of Social Sciences and Humanities
Mahidol University

ACKNOWLEDGEMENT

I would like to extend my sincere gratitude to the Stock Exchange of Thailand for all knowledge about white-collar crime provided to me. My gratitude must be also extended to the Office of the Securities and Exchange Commission for its information supports for this research, as well as questionnaire and other meaningful advice. I also feel appreciative to other related agencies, including the Ministry of Finance, the Department of Special Investigation, the Ministry of Justice, the Anti Money Laundering Office, the Office of the National Anti-Corruption Commission, the Office of Attorney General, Court of Justice, securities companies, listed companies on the Stock Exchange of Thailand and every questionnaire respondent whose name may not be mentioned here.

Most importantly, my gratefulness and deepest appreciation is given to Assoc.Prof. Dr. Somjat Tinnapong Asst.Prof. Dr. Om huvanandana and Assoc.Prof. Veerapong Boonyopas who sparked the idea of continuing my doctorate study, as well as Dr. Prasong Vinaipad, Chairman of Thesis Advisors, Asst.Prof. Dr. Srisombat Chokprachakchud, Thesis Committee and Thesis Advisor, Dr. Arayan Tra-ngarn, Thesis Committee and Co-thesis Advisor, Asst.Prof. Dr. Nittaya Somredpol, , and Pol.Lt.Gen. Dr.Wichianchot Sukchotrat Thesis Committee,and the most one Mr. Vasant Thienhom for their invaluable advice for the outline of this thesis.

Finally, I would like to give my special thanks to my wife, Mrs. Arunee Chotvijit Supreyasunthorn and my two daughters, Napassorn and Sasuta Supreyasunthorn, who have always encouraged me. My deepest gratitude must also be extended to my parents, Mr. Yik – Mrs. Sohjeng Supreyasunthorn, who both made me reach my success today.

Kamol Supreyasunthorn

FACTORS AFFECTING WHITE-COLLAR CRIME WITHIN THE STOCK EXCHANGE OF THAILAND

KAMOL SUPREYASUNTHORN 4636164 SHCJ/D

Ph.D. (CRIMINOLOGY, JUSTICE ADMINISTRATION AND SOCIETY)

THESIS ADVISORS: SRISOMBAT CHOKPRAJAKCHAT, Ph.D.,
ARAYAN TRANGARN, Ph.D., NITTAYA SUMRETPHOL. Ph.D.,
WICHIANCHOT SUKCHOTRAT, Ph.D.

ABSTRACT

The research investigated some of the key concepts involved in white-collar crime within The Stock Exchange of Thailand and other countries. This thesis also sought to find out the original causes of white-collar crimes within The Stock Exchange of Thailand. This research was quantitative research in terms of Factors Analysis and also in terms of document research.

The results demonstrated that most targeted populations were people governed by the rules of these agencies and most were male between ages of 46-55. As well most had completed a masters degree, were married, Buddhist and had never been accused of previous offences. Only 8.9% of the questionnaire respondents were accused of offences and, among these, most were accused of committing more than one offence and were punished by fines. There were 14 factors affecting white-collar crime within The Stock Exchange of Thailand : 1) culture of competition, 2) structure of opportunities, 3) motivation, 4) belief in capitalism, 5) businessmen's concepts, 6) commercial practice, 7) social structure, 8) enforcement, 9) life and business objectives, 10) impact by offences, 11) punishment, 12) social equality, 13) investment worth and risks, and 14) dishonest officers. There were 3 factors which were similar to other countries, including motivation, structure of opportunities, and culture of competition while there were 11 different factors. Factors affecting white-collar crime within The Stock Exchange of Thailand may be caused by a single variable or by multiple variables. All factors have been supported by theories and research papers.

Solution and preventive measures should focus on-1) motivations for setting up The Securities Learning and offence prevention center, amended by the securities law and the criteria of delisting and Listed companies; 2) structure of opportunity by classified securities offences to special cases and the establishment of on a investment college that is systematic and official; 3) culture of competition that has policies which are in the best interest of the public rather than being in the best interest of shareholders, setting up a media policy that is neutral and fair; 4) others preventive measures such as setting up Chinese wall, Give and take policy, policy in accordance with the Sarbanes Oxley Act 2002 and the setting up of a the clear policy of enforcement and punishment for investor protection.

KEY WORDS: WHITE-COLLAR CRIME/
STOCK EXCHANGE/THAILAND

294 pp.

ปัจจัยที่เป็นสาเหตุของการเกิดอาชญากรรมคอปกขาวในตลาดหลักทรัพย์แห่งประเทศไทย (FACTORS AFFECTING WHITE-COLLAR CRIME WITHIN THE STOCK EXCHANGE OF THAILAND)

กมล สุปรียสุนทร 4636164 SHCJ/D

ปร.ด. (อาชญาวิทยา การบริหารงานยุติธรรมและสังคม)

คณะกรรมการควบคุมวิทยานิพนธ์ : ศรีสมบัติ โชคประจักษ์ชัด, Ph.D., อารยัน ตระหง่าน, Ph.D.,
นิตยา สำเร็จผล, Ph.D., วิเชียรโชติ สุกโชติรัตน์, Ph.D.

บทคัดย่อ

การวิจัยสืบค้นแนวคิดเกี่ยวกับอาชญากรรมคอปกขาวในตลาดหลักทรัพย์ทั้งต่างประเทศและประเทศไทย เพื่อศึกษาปัจจัยที่เป็นสาเหตุของการเกิดอาชญากรรมคอปกขาวในตลาดหลักทรัพย์แห่งประเทศไทย ด้วยการวิจัยเชิงปริมาณ แบบการวิเคราะห์ปัจจัย (Factors analysis) ประกอบการวิจัยเอกสาร

ผลการวิจัยพบว่า(1)ประชากรเป้าหมายส่วนใหญ่อยู่ในกลุ่มผู้ถูกบังคับใช้กฎหมาย เพศชาย อายุระหว่าง 46-55 ปี สำเร็จการศึกษาปริญญาโท สมรสแล้ว นับถือศาสนาพุทธ ไม่เคยถูกกล่าวหาว่ากระทำความผิดมาก่อน โดยมีผู้ตอบแบบสอบถามที่เคยถูกกล่าวหาว่ากระทำความผิดมาก่อนเพียง อัตราร้อยละ 8.9 ในจำนวนนี้เคยถูกกล่าวหาว่ากระทำความผิดมากกว่าหนึ่งครั้ง และส่วนใหญ่ถูกลงโทษปรับ (2)ปัจจัยที่เป็นสาเหตุของการเกิดอาชญากรรมคอปกขาวในตลาดหลักทรัพย์แห่งประเทศไทยมี 14 ปัจจัย ได้แก่ 1) วัฒนธรรมการแข่งขัน 2) โครงสร้างโอกาส 3) การทุจริต 4) ความเชื่อในระบบทุนนิยม 5) แนวคิดนักธุรกิจ 6) ธรรมเนียมปฏิบัติทางการค้า 7) โครงสร้างทางสังคม 8) การบังคับใช้กฎหมาย 9) จุดมุ่งหมายของชีวิตและธุรกิจ 10) ผลกระทบจากการกระทำผิด 11) การลงโทษ 12) ความเป็นธรรมในสังคม 13) ความคุ้มค่าและความเสี่ยงในการลงทุน และ 14) เจ้าหน้าที่ทุจริต โดยมี 3 ปัจจัยที่เหมือนกับต่างประเทศคือ 1) ปัจจัยด้านการทุจริต 2) ปัจจัยด้านโครงสร้างโอกาส และ 3) ปัจจัยด้านวัฒนธรรมการแข่งขัน และมี 11 ปัจจัยที่แตกต่างกัน (3) ปัจจัยที่เป็นสาเหตุของการเกิดอาชญากรรมคอปกขาวในตลาดหลักทรัพย์แห่งประเทศไทย อาจเกิดจากตัวแปรเพียงตัวเดียว หรือหลายตัวรวมกันหรือเกี่ยวเนื่องกัน และ(4) ทุกปัจจัย มีทฤษฎีและงานวิจัยรองรับ

การวิจัยมีข้อเสนอแนะมาตรการป้องกันและแก้ไข 4 ด้านคือ 1) ด้านการทุจริต โดยจัดตั้งศูนย์การเรียนรู้และป้องกันอาชญากรรมด้านหลักทรัพย์, การแก้ไขพระราชบัญญัติหลักทรัพย์ฯ และหลักเกณฑ์การเพิกถอนสมาชิกภาพของบริษัทจดทะเบียน 2) ด้านโครงสร้างโอกาส โดยกำหนดให้คดีความผิดเกี่ยวกับหลักทรัพย์เป็นคดีพิเศษ และจัดตั้งวิทยาลัยการลงทุน 3) ด้านวัฒนธรรมการแข่งขัน โดยกำหนดเป้าหมายของชีวิตธุรกิจและจิตสำนึกของสังคมใหม่ให้เน้นกำไรสูงสุดของสังคมแทนกำไรสูงสุดของผู้ถือหุ้นและกำหนดให้สื่อมวลชนเสนอข่าวอย่างเป็นกลางและเป็นธรรม และ 4) มาตรการป้องกันด้านอื่นๆ เช่น การตั้งกำแพงเมืองจีน การขอมให้และการรับ การปฏิบัติตามแนวทางกฎหมายซาร์บานส์ ออกซ์เลย์ ของอเมริกา รวมทั้งกำหนดนโยบายการบังคับใช้กฎหมายและการลงโทษอย่างชัดเจนเพื่อคุ้มครองนักลงทุน

CONTENTS

	Pages
ACKNOWLEDGEMENT	iii
ABSTRACT	iv
LIST OF TABLES	viii
CHAPTER 1 INTRODUCTION	1
1.1 Background and Rationale of the Research	1
1.2 Objective	13
1.3 Scope of Research	13
1.4 Definition	14
1.5 Expected Benefits	16
1.6 Conceptual Framework	16
CHAPTER 2 LITERATURE REVIEW	18
2.1 Concepts about white-collar crime	18
2.1.1 General concepts about white-collar crime	18
2.2 Problems and enforcement to white-collar crime	54
2.3 Impact by white-collar crime	83
2.3.1 Individual victimization	83
2.3.2 Communities and the quality of life	84
2.3.3 Institutional and organizational victimization	84
2.3.4 National and global impact	85
2.4 Case studies of white-collar crime	86
2.5 Related theories	113
2.6 Related researches and literature, both in Thailand and other countries	141

CONTENTS (CONTS.)

	Pages
CHAPTER 3 METHODOLOGY	155
3.1 Approaches	155
3.2 Target population and sampling	157
3.3 Data collection	162
3.4 Research tools and testing of tools	163
3.5 Conceptual framework	164
3.6 Data analysis	166
3.7 Research duration and plan	169
CHAPTER 4 DATA ANALYSIS	170
4.1 Analysis for personal data	170
4.2 Analysis of factors affecting white-collar crime within the Stock Exchange of Thailand	173
CHAPTER 5 DISCUSSION	194
5.1 Analysis of personal background	194
5.2 Analysis of results	195
CHAPTER 6 CONCLUSION AND RECOMMENDATIONS	250
6.1 Conclusion	250
6.2 Suggestion	251
6.3 Recommendations for further study	260
BIBLIOGRAPHY	262
APPENDIX	272
BIOGRAPHY	294

LIST OF TABLES

	Pages
Table 2-1 Administration Proceedings	44
Table 2-2 Settlement as classified by offence	46
Table 2-3 Comparative cases of price manipulation	47
Table 2-4 Comparative cases of insider trading	48
Table 2-5 Complaint filing	49
Table 2-6 Outcome of prosecution	51
Table 3-1 Research methodology connecting objectives, questions and approaches	165
Table 3-2 8-month research duration and plan from 1 August 2007–1 March 2008	169
Table 4-1 Number and percentage classified by personal data	171
Table 4-2 Number and percentage of offence records	173
Table 4-3 Number and percentage of allegations	173
Table 4-4 Number and percentage of punishment in case of conviction	173
Table 4-5 Adequacy of the sample group and co-variance matrix and correlation of variables (KMO and Bartlett's test)	175
Table 4-6 Total variance explained	176
Table 4-7 Analysis of factors affecting white collar crime within the Stock Exchange of Thailand	178

CHAPTER 1

INTRODUCTION

1.1 Background and Rationale of the Research

The present world has been greatly changing, especially after the collapse of socialism led by Russia. Moreover, the great success of renovating the computer information technology shrinks distances, time and many places in the world; as a result, our global system has been seriously and rapidly changed and affected, particularly capitalism has enormously expanded its scope, production network, trading and marketing across the world (The Thailand Research Fund, 1996: 13).

The influence of capitalism is derived from thoughts of Greek-Roman Empire and western people who have deviate and applied many sciences for their living purposes, survival, increasing comfort, increasing power, empire expansion, unlimited profit seeking and material growth for their empire or individuals' prosperity, which led to happiness in this world and living guideline. Later, such thought has been more stimulated and emphasized by Adam Smith, an English economist and author of "The Wealth of Nations". This book put so huge influence on western economists' thoughts that many western warships were armed to subjugate weaker countries (colonialism) for personal profits or wealth. The force by arms was turned to be the force by knowledge; capitalism or globalization of capital and international cooperative organizations under measures and strategies, now, become efficient tools for wealth seeking.

The effect from changes of global system and influence of capitalism causes a number of conflicts in the economic system, politics and global culture, especially conflicts between actual capital and counterfeit capital. The renovation of computer information technology leads to the financial revolution, which results to the accumulation of new investment; from investment for production, trading and service

activities to be a new kind of investment that there is no production but seeks for profits from manipulation, speculation of money, land and real estate, which could generate some income like the production investment but it is called the counterfeit capital. This counterfeit capital seems a parasite of real investment and it can destroy such real investment as well. The expansion of counterfeit capital may cause inflation and make land and property prices higher so quickly that a real investment will be impossible. The counterfeit capital also causes the insecurity or fluctuation in exchange systems. In addition, a big manipulation may result to an economic crisis or explosion of bubble economy like economic crises in the United States, Mexico and Thailand.

The borderless capital not only causes such effect, it results to the conflicts of interest between benefits of multinational corporations and monopoly capital owners, and state benefits and people in many countries around the world. Financial benefits of this multinational capital place influence and power over the state, laws, information, mass media, government officers and politicians. The success of capitalism also gives effect to the representative democracy because this capital system puts influence on politicians and political parties until they are under financial influences and politicians are no longer representatives of people, but ones who protect benefits of capital system. Eventually, the state becomes the corruption center, there are problems of unemployment, cultural declines, moral ruin, collapse of Rule of Law, and the inevitable consequences will be many criminal problems.

Crime within the era of globalization capital has been greatly changing. It is so different from the original street crime; criminals are not poor or disadvantaged, but those, with good knowledge and abilities, who are in high job positions, respectful and top-crème of the society. The malfeasance is also changing from offences against few properties, life and body by way of physical force under charges of larceny, snatching or robbery, assault, rape, murder committed by only one criminal or 2-3 criminals to offences committed by an organization comprising several tens or hundreds criminals. The organization criminals carry out the systematic offence and utilize updated information technologies for their financial and economic security

offences. Such new-age offences are so complicated and cause a huge amount of damage costs. Some offenders are corporate ones or such crime is called “white-collar crime”. White-collar crime was widely recognized when Edwin H. Sutherland, an American criminologist, first proposed his idea about white-collar crime within his speech to The American Sociological Society and the American Economics Association) held at Philadelphia, the United States in 1939. Sutherland cited the principle and scope of crime within issues and vision in “higher world” of business and government, which was changing from previous crimes committed by the poor and unprivileged persons to be ones committed by respectful and high social status persons. These new crimes were business crimes, especially violations of American economic and trading rules and regulations. Up to now, white-collar crime has originated the conceptual conflicts in the American society.

White-collar crime is not only a conceptual conflict among people in the society, it affects the global justice procedures that must be improved to respond to such problem gradually expanding and being serious, especially white-collar crime within capital markets around the world. Consequently, many organizations were established to regulate, supervise and enforce laws whereas many related laws, regulations and obligations have been amended to respond to such crime; namely, Sarbanes Oxley Act 2002 prescribing listed companies to form necessary mechanism to report their reliable activities to the public, etc.

A main conceptual conflict is the viewpoint on wealth seeking by nations. Adam Smith viewed that wealth was derived from working and every action that depended on capital. A nation might be so rich or not by comparing the proportion resulted from employment and number of consumers by 1) outcome of any employment amount and 2) amount of employment performed. He viewed that 1) was important than 2) that dealt with efficacy of work. He disagreed that agriculture was the only one origin of wealth and he objected to monopoly since it made monopoly individuals gain huge profits but such huge profits made a great number of poor inventors go to wreck and ruin eventually. Smith proposed that everyone might have any mistakes in his spending; otherwise he would be able to watch out his interest

better than the state. Therefore, the state should give full liberty in one's employment and capitalizing. However, Adam Smith founded core duties for the state, including 1) prevention of either internal or external invasion by any form of forces; 2) protection and prevention citizens to face any forms of injustice done by citizens in that state; and 3) construction of facilities and infrastructure that were so useful for economic goods inventors. However, Smith had some exclusion about commercial freedom; the national defence was just although some commercial freedom might be losing because the national defence or security was more significant than national commerce or wealth (J. F. Hutjesson, 1980: 56-59).

Another important viewpoint is the marketing price of goods. George Soros, a Jew money trader who was born in Hungary before fleeing the Nazi to England, graduated in economics from London School of Economics and moving to be the money trader in the United States, stated that the marketing price was wrong always and economic theories were wrong at their conceptual base. Soros believed in the philosophy of Descartes that "I think, therefore I am". But Soros's viewpoint was wider, that is, people were a part in their thinking and what people thought also set up incidents and the world being or the relationship between men and incidents. This idea was proposed in a book entitled, "The Burden of Consciousness" and Reflexibility Theory. He tested this theory by establishing a quantum fund for his mobilization from 1969 up to now. The returns from this fund have been so high or at 35% per annum. Soros viewed that the existing market price did not reflect the real price, but one in one's expectation or thinking; so the market price was wrong always because it included involving persons' opinions towards the future. The price was usually set up by expectation of buyer and seller as a result of thought, belief, advertisement and the unknown instead of actual demand and supply in the market. The fundamental economics, therefore, was wrong due to the objective view that deleted out persons involving in the economic process. Future events were set up from present expectation. Humans had expectations but they also had wrong understanding and wrong perspective; so general people thought that "market price indicates future tendency". But, Soros stated that it was a wrong view.

Moreover, Soros had a financial viewpoint that his life was not for the sake of money; money was a tool to meet targets. He valued money because of his occupation because he realized that “our society is likely to excessively value money” or “our society sets up value in form of money.” Finally, Soros stated that his stock trading or speculation practice comprised the following: 1) always holding a theoretical assumption before any purchase; 2) if you could not borrow some money for your investment, the speculation would be meaningless; 3) he made the macro investment rather than micro investment or he scrutinized the global outlook including economic, political and social factors that gave effect to changes of share price, foreign exchange, interest and others; 4) he used an investment method making him get the result within 2 days or down in one day and up in one day that he could calculate the profit and loss immediately; and 5) he did not believe in scientific quantitative measures. He said that he was a volunteer analyst only since he did not have any scientific measures but, in his final decision, he used his intuition or instinct not advised in any textbook (Siripong Vittayaviroj, 1997: 30, 35-36, 61-62).

Another influent thought originating white-collar crime is the life goal in terms of investment. This thought was formed by 3 main thinkers. The first thinker is Lionel Robbins, an economist, who mentioned about the core of economy system until it is widely accepted that economic behavior means the allocation of limited production factors by using many methods to meet appropriate targets and each target competes with each other. He also states that the economic criteria is to meet the target with the least factor or to make the economic efficacy be a social morals like equality, fairness, health and good quality of life. He views that good and prosperous business obviously upgrades everyone's living standard. Normally, a corporate company uses every method for its shareholders' best interest without concerning correctness, fairness, ethics or other effect. The second thinker is Milton Friedman, a Nobel economist, who states that the business target is to generate profits for every shareholder because:

1. Shareholders are business owners; so profits are belonged to them.
2. Shareholders hold the right in their profits as the outcome of agreement made between all corporate stakeholders.

3. If a company manager does not perform his work for benefits of business owner but for social responsibility, this means that he is spending others' money or profits of shareholders, which is beyond his responsibility.

4. In democracy, there is a check and balance system. The legislation has a duty of law issuance to collect more taxes up to the public demand. The administration has a duty of allocating the budget for the national administration and legal enforcement for good order in the country. Candidates to be responsible for the whole society must be elected by the election process. But, the manager is either directly or indirectly assigned to be the controller or representative of shareholders for that corporate management because he is a specialist in the corporate management, including goods production, service and financial management. If such manager utilizes those three aspects of power to solve inflation or social problems, it shall be deemed that he is shortsighted for other matters not relating to his business or he takes actions in what threatens the business survival.

5. Friedman disagrees with an inquiry of Adam Smith about profit seeking resulted by "trading for public peace". He thought that anyone requesting for businessmen to have social responsibility had better persuade general people to agree with tax increases and allocation of expenditures for this matter; otherwise it may contradict the democratic principle. He also states that, in a free society, it is difficult for an evil man to do badness, especially when ones' good thing is another's evil; and

6. He believes that, in a free society, individuals join hands to perform business activities willingly; therefore, the management process derived from willingness leads to economic freedom.

His concept is widely accepted by judgment of the Superior Court of Michigan in the case between Dodge Co., Ltd. and Ford Motor Co., Ltd. The Court judged that the benefits deriving from increasing the salary for employees and from reducing the car sale price for customers should not prevail shareholders' benefits, that is, shareholders' benefits were the most important. Friedman proposed a concept of protecting business targets in his book entitled "Capitalism and Freedom (Beauchamp & Bowie: 108-110).

The last thinker is Theodore Levitt, a former editor of Harvard Business Review. He viewed that forming an entire peace is under the government's responsibility because business is not a charity organization. A corporate will get much more survival chance if it does not involve other non-sense matters, that is, if generating the best profit in a long run is the corporate main target, both in practice and theory, that corporate should accept what is the government's duty and let the government take actions. The corporate will fight against the government when the business operation is intervened by the government. The corporate should allow the government to take care of general peace so that it could pay more attention to material wealth." Levitt viewed that the company directors and managers are not elected by election like politicians. For the balance of power in the democracy, social institutes, including business, government and labor, should have the check and balance of power. Since social institutes obviously gain benefits and compete with each other, if corporate companies perform duties belonged to the government, the power check and balance system will be damaged (Harvard Business Review, July – August, 1970: 84-92).

According to the aforesaid contradict concepts; the idea about life goals in terms of investment seeking for the best interest for shareholders without concerning methods, laws or ethics has stimulated various forms of violations and offenses. Since 1908, USA currency exchange controllers reported that, for violations of laws by 75% of banks as inspected in a period of 3 months and 20% of officers in several banks located at Chicago who confessed that they stole banks' assets before the establishment of the Office of the Securities and Exchange Commission, 80% of such financial statements was wrong. This event led to a saying that Diogenes philosopher might have difficulties in finding only one honest man in the Wall Street who was the company's lawyer (James M. Beck, 1919). Later, in 1920, Federal Trade Commission reported that trade bribery was a common guideline in many industries. Moreover, there were other persons' statements about white-collar crime. For example, James A. Farley cited that the working standard of government officers and politicians was equal to trading standard.

Cermak, Chicago Governor, stated that political bribery was less than the business one. John Flynn wrote that “a politician, averagely, is the most evil volunteer in the art of bribery if compared with his brother in the business.” Walter Lippmann wrote that “it’s bad like they are the standard of public life. It’s more social than a businessman who jumps into the political circle and views that he is a kindhearted one who gives love to all humans.” (Gilbert Geis, Robert F. Meier, and Lawrence M. Salinger, 1995: 31-32).

The above statistics and statements may be unable to definitely measure white-collar crime, but they adequately evidence that crime is not committed by low-class people only as generally known. This means that every businessman and professional may be a criminal. This kind of criminal also includes any leading corporate in the United States, quacks, lawyers finding clients in accidents and inciting clients to have lawsuits or claim for damages, embezzling politicians, merchants gambling with customers, out-of-work speed meter in taxis and unreliable crooks, etc. (cited in the same title on page 33).

The above conduct indicates that white-collar crime exists and has emerged for a long time in the American society at least since 1908, but it was recognized and seriously concerned when Edwin H. Sutherland, an American criminologist, addressed his speech in the American Social Society and the American Economics Association at Benjamin Franklin Hotel in Philadelphia in 1939. Earlier, crime was regarded as problems of migrants and the poor in rural areas. But, Sutherland viewed that, at present, crime came from influences and aristocrats. His speech sparked general thought and interest but originated the conceptual conflicts in sociology. According to his definition, white-collar crime “is a crime committed by respectable persons who hold high social status in their professions.” Crime scope was extended to the higher world of business and government; it changed and challenged the traditional political feeling and benefits of influential persons. Although his definition was so wide and included everything starting from embezzlement, industrial negotiations to bribery to government officers, especially new-economics crimes such as offences relating to tax or stock, etc., in particular, offences in the capital market or

securities market, offences during the economic great regression of the United States in 1930, offence committed by AIG (American International Groups) in 2005 when the Company had creative accounting to show its excessive revenues for 1.7 billion USD, offence committed by Enron Plc. during 2001-2005 causing the damage amounting to 1,158 million USD, and offence committed by WorldCom Co., Ltd. in 2002 causing the damage amounting to 200 billion USD as well as subsequent offences committed by Tyco International Ltd. and Adelphia Communications Corp. White-collar crime within the US Stock Exchange has carried huge catastrophes to all American people. To elaborate, from 1998 to 2002, the stock value of the US Stock Exchange decreased from 16 trillion USD in 1999 or 640 trillion baht or it is equivalent to Thailand's fiscal budget for 533 years. Wealth of American people and foreigners investing in the US Stock Exchange has been losing under actions of several dishonest executives in those giant corporate companies. As a result, the stock value of the US Stock Exchange had a sharp drop to be 11 trillion USD in 2002. Finally, 5 years later, on 25 May 2006, the Court judged that two senior executives of Enron, Mr. Jeffrey Skilling, former management, and Mr. Kenneth Lay, company founder, committed offence in the charge of information concealment. The triumph of US Attorney General is not only the US historical triumph but that in the history of the world business management because it destroys legal tricks and creative accounting referring transparency, market transparency and business achievement without legal and social responsibilities, especially scarcity of business ethics. Though this victory is a turning point from the Government's effort to overcome legal violations by the private business, a legal specialist warns that this case is not the end of white-collar crime (David N. Kelly, former US Attorney General).

For white-collar crime within the Stock Exchange of Thailand since its establishment in 1975, offences relating to white-collar crime within the Stock Exchange have been supervised by the Stock Exchange of Thailand. In 1978, stock prices have been dropping so quickly and, in the following year, the first crisis emerged from the collapse of Racha Finance Co., Ltd. In 1992, when the Office of the Securities and Exchange Commission was established, the supervision of offences relating to securities has been borne by the SEC up to now. From its supervision, at

the end of 1996, it seemed that Thailand was confronting economic problems: stock trading on the SET fluctuated due to internal and external factors such as slowdown of real estate business, many giant listed companies had difficulties regarding concealment or unreal disclosure of financial information in their financial statements, several listed companies in the real estate sector confronted the severe liquidity, which gave huge effect to the operating outcome of commercial banks and finance & securities companies. There were offences relating to stock manipulation and offences committed by company executives. Those company executives were fined in several cases, but, in other cases, claims were filed to the interrogation officers. On 1997-1999, the economic crisis flooded the Asian region, especially in the midyear of 1997, Thailand changed its currency exchange system to be the float exchange system; so many financial institutions and companies listed on the SET took out foreign loans have been hugely affected. Consequently, the stock exchange index and trading volume have been decreasing gradually, baht depreciation, closing of 16 financial institutions and 42 finance and finance & securities companies. In 2001, there was an offence committed by Brinton Group, a foreign company operating the securities business in Thailand without any license and the proceedings was done finally.

Later, at the end of 2002, a big seminar was held to survey and assess the proceedings done by the Stock Exchange of Thailand during 10 years from 1992 to 2003. This seminar was jointly held by Thailand Criminal Law Institute, the Office of Attorney General, the Bank of Thailand, the Office of Securities and Exchange Commission, and the Stock Exchange of Thailand. The seminar found that the proceedings against white-collar crime within the SET were not successful due to many problems in personnel, working system, coordination and performance follow-up. For the total damage in 10 years, there were total 46 cases in the financial market under the damage amount at 42,678.1 million baht, which could be divided into offences in the financial market with the total damage amount at 29,144.1 million baht for 27 cases, and offences in the SET with the total damage amount at 13,533.7 million baht for 19 cases (Thailand Criminal Law Institute, the Office of Attorney General, 2002: 132). Price Waterhouse Coopers conducted a survey regarding offences in Thailand in its Global Economics Crime Survey 2005, 51% of 101

companies in Thailand experienced fraud in their organizations during the past 2 years. According the global statistics on white-collar crime, the rate of dishonesty has been sharply increasing to be 37-45% from 2003 and continued increasing at 22% on average.

In 2004, Chaipattana Foundation, the Office of the National Economic and Social Development Board, Community Organizations Development Institute, the Ministry of Natural Resources and Environment, and Thailand Development Research Institute arranged the 2004 Annual Seminar on “Look Back and Look Ahead: Twenty Years of Thai Economics” The related issues were stated in Group 1 regarding Justice Systems for the Future. Thailand’s Crime and tendency of offences in next 20 years was mentioned that Thai society was not a holistic one. It was difficult to control alien labors and alien families in Thailand settling in many communities across the country; so they were risky groups to commit crime. Under the globalization in form of borderless network, crime would be more severe, e.g. transnational crime, human trafficking, organization crime and crime to the state in many forms of terrorism (Dr. Kittipong Kitayarak and Dr. Chularat Ua-amnoi, 2004: 7). The forecast for crime tendency in the global society indicated that, in next decade, knowledgeable persons, women, children and youth would commit more crimes (Schmallegger, 1997: 477). Thailand’s present information also told the similar tendency, that is, offenders who were graduates or post-graduates have been reported in the newspapers and in serious offences although there were no clear statistic records. According to the official statistics, there were the most cases regarding violence against property and these cases were likely to be increasing every year from Year 2004 to 2006. The statistic details were as follows: (1) serious cases and shocking cases totaling 9,010 cases in 2004 to 9,586 cases in 2005 and 13,225 cases in 2006; (2) offences relating to life and body totaled 45,494 cases in 2004 and they totaled 45,804 cases in 2005 and 66,252 cases in 2006; (3) offences relating to violence against property totaled 68,665 cases in 2004 and they totaled 76,178 cases in 2005 and 114,090 cases in 2006; and (4) other interesting cases totaled 37,613 cases in 2000 and they totaled 41,240 cases in 2005 and 65,369 cases in 2006 (source: Royal Thai Police: 2007).

Moreover, according to the 5th National Conference on Juridical Work held on 5 September 2007. Mr. Charnchai Likitjitha, Minister of Justice cited that the present world has been greatly changing; so crimes and offences have been changing as well. The number of crimes has been higher and new crimes looked complicated and severe. Sometimes, those crimes were beyond expectations of agencies in the justice process or juridical officers could not know what offenders were driving at. Crimes did not emerge in city areas, but they expanded to grass-root people.

However, the Constitution Year 1997 gave a great effect and awoke Thai justice process to develop its standard. The Constitution Year 2007 totally changed Thai juridical system; investigation work and proceedings are improved by concerning people's right and freedom, in the meantime, checking systems for personnel in the justice process, including judges, attorney general and police, are set up as well.

White-collar crime within the Stock Exchange of Thailand has been more severe and caused huge damages and losses. They have affected all sectors in the society. Therefore, examining factors forming white-collar crime as the preventive guideline of crimes and preventing other people to commit existing crimes is the core objective of penalty, not torture or canceling existing crimes, which are the main thought of traditional criminological schools, and such, is the current principle of law issuance in Thai justice process (Pornchai Khantee et al., 2000: 17-18).

This research on White-collar Crime was conducted to examine factors leading to offences. It was essential to get information from persons enforcing laws, persons being enforced by laws, and other persons relating to such enforcement in order to learn their opinions, which would be useful to analyze and synthesize the information got from the questionnaire. This research dealt with reasons given by offenders after accusations or punishment as their excuses to sustain their good looking or status or image of individuals or companies. The questions in the questionnaire were improved to fit to business conditions in Thai society. Those questions were reviewed by qualified experts and tested with top management in the

studied agencies until those questions were technically accepted. The revised questionnaires were then distributed to the targeted group. The answers were finally analyzed by the statistic means.

1.2 Objective

To examine factors affecting white-collar crime within the Stock Exchange of Thailand.

1.3 Scope of Research

1.3.1 To survey opinions about offences relating to securities in securities cases within the Stock Exchange of Thailand in accordance with regulations of the Stock Exchange of Thailand and the criminal offence in accordance with the Act on Securities Exchange of Thailand, B.E. 2535. The data was collected by subjective measures (Akers, 1994). The opinions of persons enforcing securities laws, persons being enforced by securities laws and other persons directly relating to such securities laws were examined to find out whether white-collar crime offences in the Stock Exchange of Thailand comprising motives, offence opportunities and culture of competition were stimulant factors for white-collar crime within the Stock Exchange of Thailand or not. The statistic data was analyzed under the technical complicated and powerful principle, which would be useful for the sociological research on Factor analysis (Kerlinger, 1973: 659); it did not come from the measurement or calculation of actual criminal statistics.

1.3.2 To survey, from persons directly relating to such offences who were target populations, under the conceptual framework for theories and methodologies relating to dominant factors affecting white-collar crime within the Stock Exchange of Thailand. This part was the in-depth research.

1.4 Definition

1.4.1 White-collar crime is an illegal action violating trust and confidence, honesty or carefulness in occupations and it is committed by individuals who hold power and positions, are accepted and respected, or by a group of persons with high social, economic and political status. The offence is committed to acquire money, right or property in order to avoid any payment or useless loss of money, right or property, or to acquire any advantages or benefits, either for him or others.

1.4.2 Motivation is the condition in a person as being motivated by any stimulus to take actions to meet some purposes with clear and continuous direction while that person has no experience on such matter. The motivation mainly focuses on the offender.

1.4.3 The structure of opportunity is the condition of opportunity in any situation from a person, which leads to a critical or risky action or behavior, or a channel of being treated by a person in any matter. The structure of opportunity mainly focuses on the victim.

1.4.4 The culture of competition is the way of living of people in the society as formed by reactions or transfers from competition circumstances to meet any target or objective of a society until such circumstances become the thinking pattern and actions of most people in that society, which may convey either prosperity or decline to that society.

1.4.5 The Stock Exchange of Thailand or SET is a juristic person established by virtue of law to operate businesses regarding stock trading of listed companies and other activities relating to the SET or other businesses approved by the Office of the Securities and Exchange Commission, but the profits shall not be shared in the SET.

1.4.6 The Office of the Securities and Exchange Commission or the SEC is a juristic person established by virtue of law to perform duties according to the

resolutions of the SEC Board and other duties pursuant to provisions set forth in the Act on the Securities Exchange of Thailand, B.E. 2535.

1.4.7 Securities and Exchange Commission or SEC consists of the Minister of Finance as the Chairman, the Governor of the Bank of Thailand, Permanent Secretary to the Ministry of Finance, Permanent Secretary to the Ministry of Commerce and not fewer than four but not exceeding 6 qualified experts appointed as commission members by the council of ministers based on the recommendation of the Minister. Among whom there shall be at least one legal expert, one accounting expert and one financial expert. The Secretary-General to the Office of the SEC shall also act as the commission member and secretary of the SEC.

1.4.8 Securities include: 1) treasury bill, 2) bond, 3) bill, 4) share, 5) debenture, 6) unit trust comprising instrument of evidence representing the rights to the property of a mutual fund; 7) certificates representing the rights to purchase shares; 8) certificates representing the rights to purchase debentures; 9) certificates representing the rights to purchase investment units; and 10) any other instruments as specified by the SEC.

1.4.9 A securities company is a company or financial institution licensed for the operation of securities business by virtue of the Act on Securities Exchange of Thailand.

1.4.10 Securities business means any of the following securities businesses:

- 1) Securities brokerage
- 2) Securities dealing
- 3) Investment advisory advice
- 4) Securities underwriting
- 5) Mutual fund management
- 6) Private fund management
- 7) Other businesses relating to securities as specified by the Minister based

on the recommendation of the SEC.

1.5 Expected Benefits

To obtain the information or factors affecting white-collar crime within the Stock Exchange of Thailand to guide the public policies, measures and practice guidelines in issuing regulations and laws by related justice agencies, e.g. The Stock Exchange of Thailand, The Office of the Securities and Exchange Commission, Special Investigation Department, Ministry of Justice, Royal Thai Police, the Office of Attorney General, The Judiciary of Thailand, politicians, businessmen, scholars and juridical administrators, etc. in order to prevent and curb the behavior of white-collar crime within the Stock Exchange of Thailand, improve and alter the criminal justice procedure, increase penalties to prohibit general people to commit offences, reduce criminals' opportunities to commit crimes, and reduce general people's chance to be victims of crimes that should not occur or be repeated (Senna & Siegel, 1990). The obtained information could be further studied or used for next researches.

1.6 Conceptual Framework

Under the concept of Toward an Integrated Theory of White-collar Crime of James William Coleman, white-collar crime manners were results of motivation, structure of opportunities and culture of competition and in what extent they are consistent when compared with offences relating to white-collar crime within the Stock Exchange of Thailand or if they were results of other factors, and to which theories or researches they were suitable or consistent in accordance with the criminological principles, administration of justice and society in Thai society.

Pursuant to the foresaid conceptual framework, dominant factors along with demographic characteristics, which included gender, age, position, income and social status, would be studied.

	Motivation	The Classical School Theory	Factor	
		The Positive School		Factor
		Neo-Marxist Theory	Factor	
		Social Control Theory		Factor
		General Theories of Crime	Factor	
		Matza's Delinquency and Drift Theory		Factor
		Differential Associations Theory	Factor	
		Rational Choice Theory		Factor
		Routine Activity Theory	Factor	
		Economic Theory		Factor
		Strain Theory	Factor	
		Maslow's Hierarchy of Needs		Factor
		Toward an Integrated Theory of White-collar Crime	Factor	
		Deterrence Theory		Factor
	Opportunity Structure	The Classical School Theory		Factor
		The Positive School	Factor	
		Neo-Marxist Theory		Factor
		Social Control Theory	Factor	
		General Theories of Crime		Factor
		Matza's Delinquency and Drift Theory	Factor	
		Differential Associations Theory		Factor
		Rational Choice Theory	Factor	
		Routine Activity Theory		Factor
		Economic Theory	Factor	
		Strain Theory		Factor
		Maslow's Hierarchy of Needs	Factor	
		Toward an Integrated Theory of White-collar Crime		Factor
		Deterrence Theory	Factor	
	Culture of Competition	The Classical School Theory	Factor	
		The Positive School		Factor
		Neo-Marxist Theory	Factor	
		Social Control Theory		Factor
		General Theories of Crime	Factor	
		Matza's Delinquency and Drift Theory		Factor
		Differential Associations Theory	Factor	
		Rational Choice Theory		Factor
		Routine Activity Theory	Factor	
		Economic Theory		Factor
		Strain Theory	Factor	
		Maslow's Hierarchy of Needs		Factor
		Toward an Integrated Theory of White-collar Crime	Factor	
		Deterrence Theory		Factor

CHAPTER 2

LITERATURE REVIEW

For the research on “Factors Affecting White-collar Crime within the Stock Exchange of Thailand”, related concepts, theories and researches have been reviewed that included the following 6 parts:

1. Concepts about white-collar crime
2. Problems and enforcement
3. Impact by white-collar crime
4. Case studies of white-collar crime
5. Related fourteen theories
6. Related researches and literature, both in Thailand and other countries

2.1 Concepts about white-collar crime

2.1.1 General concepts about white-collar crime

According to the background and rationale of white-collar crime problems as mentioned in Chapter 1, it is obvious that humans’ reasons and necessities are expressed through their behavior and social concepts after passing many competitions in a long history and social process that emerges and end finally. This cycle could be seen in the prosperity and collapse of many historical empires so humans had learning, revolution and thought crystallization, which have been gradually developed up to now. The clearest example is the revolution from Greek-Roman Empire to powerful European countries and the United States at present. When the social structure has been developed and it becomes more complicated, crimes stuck in every society have been developed as well or from street crime to white-collar crime. To make the research on white-collar crime problems go on step by step, this chapter contained general concepts and problems of white-collar crime within other countries

and in Thailand by placing emphasis on dominant factors affecting white-collar crime within the Stock Exchange of Thailand in order to test the hypothesis based on Toward an Integrated Theory of White-collar Crime of James William Coleman to find out whether white-collar crime within the Stock Exchange of Thailand was derived from the conjunction of motivation, opportunity of offence and culture of competition or not and how, and what solutions should be.

In 1939, Edwin Sutherland, an American criminologist, developed the topic regarding alternatives from crimes that, in traditional researches and theories, focused on individual offences and poverty, to be crimes committed by high socio-economic status people. The process of handling offenders and process instability were different. White-collar crime was not common crimes as defined in criminology, but it was defined as crime committed by respectful persons with high social status and good jobs (Sutherland, 1949: 9). He linked white-collar crime with company managers, and classified their offences. He found that many companies committed a number of offences, both criminal and civil. But, in criminology, such offences were interpreted as offences to criminal law only (Tappan, 1977). Sutherland argued that criminologists should define the behavior that was not under the scope of criminal offence, and personal matters should not be also regarded for penalties. Importantly, there was some bias against prosecution and penalties in the criminal law due to its definition. He also challenged the attitude that no activity, actually, was the deviation behavior or crime, but it's the attitude that was the deviation behavior or crime. In Marxist attitude, the criminal law and enforcement reflected powerful persons' interest and they were important for controlling activities of low-class offenders who had no power. The very dangerous activities done by the business group were greatly beyond the scope of offences committed by such low-class offenders (Pearce, 1976). Therefore, there were problems in studying each type of crimes, in part of law and criminal justice procedure, according to existing criminological and sociological definitions (Pearce and Tombs, 1998).

The progress of such theory gave a great impact to the system of studying white-collar crime within English where the tradition of criticism was the strongest

(Punch, 1996) for researches surveying the development of criminal law to business activities and roles, enforcement and government respectively (Carson, 1971; Paulaus, 1974). Moreover, in the United States, problems about criminal law enforcement were also regarded. Sutherland has continuously tried to explain the scope of white-collar crime, especially consumer protection and the scandalous case at Watergate. However, certain criminological subjects were still missing, especially theoretical or idealistic problems. Although white-collar crime looked simple and disproved general concepts about offences as legally defined, it did not mean that white-collar crime was theoretically guaranteed or clear for criminologists (Weisburd and Schlegel, 1992: 352).

Main criminological principles to the management could turn its focus. From the failure in recovery process under normal condition, and strategy in the crime rate reduction project, both in institutions and in policies, but the crime rates have been sharply and continuously increasing, the focus was turned from searching for reasons to remedies, which led to resistance to crimes under concrete means, penalties to individuals actually committing offences, more surveys for crime victims, studies on emerging and impact to victims by offences, techniques and resistance to crimes, etc., which were more useful than changing offenders' behavior. But, most methods focused on general crimes rather than white-collar crime (Croall, 1999a, 1999c). Left realist was used to criticize criminology in respect with crimes committed by powerful people, criminal law, enforcement and expenses to crimes actually occurred (Lea and Young, 1993, Young, 1997) by looking crimes in a square frame leading to a tense mutual relationship between victims, common offenders and government bodies. Some argued that white-collar crime and street crime should be merged together, but this argument was unacceptable since this was to use common methods for more complicated problems, particularly to organizations not individuals and few victims (Riggieri, 1992; Pearce and Toms, 1988). In addition, there were questions about the structure of crime, activities in the criminal justice procedure, women's rights, violence, police's rights, natural features of criminology that was blind to gender when it failed to concern the loophole of offences by different gender in the criminal justice procedure, as well as race, minority, working of police, attorney

general, court and imprisonment, etc. Although white-collar crime became more important, fewer people have paid attention to it (Croall, 1999a) even in 1980s and 1990s when many financial scandals occurred such as collapse of Bank of Credit and Commerce International (BccI), Maxwell's pension fraud in England, collapse of Bearings caused by Nick Lesson and electronic banking fraud transferring a huge lot of money in several seconds, leaking methylisocyanate to the climate causing 3,000-5,000 dead people at Bhopal of India, disaster from Chernobyl nuclear power plant in Europe. Finally, there were many requests for responsibilities to state or political crimes such as actions of General Pinochet or the massacre in Yugoslavia, which were criminal offences earlier, especially offences committed by corporate companies that have been permanently ignored and unknown. These cases were slightly attended by criminology and criminological theories had no effort to explain them even the research on criminology in the graduate level (Slapper and Tombs, 1999: 9).

White-collar crime within England was put in only one chapter in Oxford's criminological textbook, but there were in-depth details in other theoretical textbooks, giant newspapers in England such as The British Journal of Criminology or England's Criminological Conference (Maguire et al., 1997). Until 1999, white-collar crime was under public interest, but there were no studies in the level of school of thought and few funds for this matter so it seemed that white-collar crime was isolated (Punch, 1996). In the United States, white-collar crime has been more studied. But, if compared with other types of crime, studies on white-collar crime were so few. Although white-collar crime concepts still contained many conflicts, it has played more important roles and has been criticized more and more. To understanding the conceptual framework of white-collar crime, the Researcher was interested in examining the nature of white-collar crime, its definition and real meaning, types and characteristics of white-collar crime before further examining forcing conditions and impact. The studied details could be divided into 6 parts as follows:

a. Nature of white-collar crime

After Edwin H. Sutherland first proposed 'white-collar crime' in his chairman speech addressed in The American Sociological Society in 1939, white-collar crime has been discussed. It expanded the space and scope of criminologists by

examining higher world of business and government. White-collar crime has been protested while it has challenged the traditional political feeling and benefits of powerful people. Hence, there were questions if the illegal behavior was white-collar crime and white-collar crime was crime because fixing of prices such as Thailand's fixed oil prices, agricultural prices, the offenders were rarely carried out in criminal cases, but in management aspect only. These made someone criticize that white-collar crime did not mean all crimes or, at least, it was no real crime. The contradict nature of white-collar crime partly came from Sutherland defining white-collar crime as crime committed by respectful people with high social status in their career. Although his definition was wide, Sutherland directed to business crime, especially violations of economic rules in the United States, and he also requested the US Government to carry out serious prosecution to company executives. His proposal was not supported by high-class American people who influenced American mass media, supported researches demanding financial funds, which were so important for criminological scholars.

Although, later, Sutherland could wipe out a doubt that white-collar crime was not real crime, the subsequent problem was to give a new different definition. This could be seen in the comment of Herbert Edelherts, Attorney General of the US Ministry of Justice in 1970 that white-collar crime should not cover only offences relating to careers and high-social status people. White collar crime should be re-defined as an illegal act or series of illegal acts committed for a continuous period by non-physical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage. Consequently, it was understood that every crime relating to property committed by tricks and deceit was white-collar crime; so white-collar criminals were not mentioned in the group of white-collar crime any more. This matter put great influence on US government officers, especially several research projects requiring official information. The Researcher observed that the above definition contained 2 deviations: 1) prosecution against high-social status people, 2) severe offences affecting the public, environment and goods safety. As a result, white-collar crime absolutely lost its significance.

There were 2 reasons that some persons were not included in the group of white-collar crime pursuant to the definition of white-collar crime:

1. Illegal action resulted by the offender's behavior, not his social status. Therefore, the criminological types should be like that as well; and

2. Social status in the definition of white-collar crime was a mistake since it blocked us to use the social status to be a variable. For example, Gary Green stated that the socio-economic status could not be a variable to explain about white-collar crime because it covered high social-status people only. Later, such idea was dropped because although it was true that Sutherland did not include low-social status people in his definition, it was unreasonable to divide the socio-economic status into 2 groups.

Later, David O. Friedrichs and Susan Shapire formed new dominant factors of white-collar crime or breaking of assigned trust. Sutherland stated that general crimes broke assigned trust but the definition did not indicate that if white-collar crime offenders were in a high-social status, all methods would collapse. Also, others gave several new definitions to replace the old one such as business crime (Marshall Clinard), occupational crime specifically used for crime committed by persons for their personal benefits and not committed by employers (Richard Quinney), and organizational crime (Laura Shill Scharager and James Short). However, these definitions would be more useful if they were subtypes of white-collar crime because they did not include many offences like the original definition given by Sutherland. Later, Green defined the occupational crime that covered much broader meaning than Clinard and Quinney and his definition could substitute the entire concept of white-collar crime. He defined the occupational crime as any act punishable by law which was committed through opportunities created in the course of an occupation that is legal. However, definitions of Clinard and Quinney became highly influential for several years. But, the attempt to change its meaning could lead to confusion. In the meantime, David Simon proposed the term 'elite deviance. This definition not only included white-collar crime but deviant behavior but no violations of law done by people. This idea was useful, but there was problem that which degree that behavior became deviant and which behavior was deviant. Although the criminal

law was unclear, the jurisdiction of courts and standard of law should be clear after passing the official procedure. But, standards of different groups have been changing so quickly and they have been uncertain; so the words 'elite' and 'business' had less significance when being connected with the criminal law.

The subsequent problem was that if the definition of white-collar crime within included violations of civil and criminal laws. After more studies and more criminologists, Sutherland's statement was confirmed that white-collar crime should include both laws. Steve Blum-West and Timothy Carter said that the difference between behavior violating others' rights (civil offence) and criminal offence was not the offence itself but the administrative response to such offence. Most white-collar offenders violated both laws. The civil and criminal judgments, mainly, came from the violation of law as well. In June 1996, the National White-collar Crime Center held a conference for specialists to examine definitions of white-collar crime. The meeting had a consensus definition that white-collar crime was illegal or unethical acts that violate the fiduciary responsibility of public trust committed by an individual or organization during the course of legitimate occupational activity persons of high or respectable social status for personal or organizational gain. This flexible and wide definition, therefore, was widely supported by criminologists. Later, this definition was wider than that proposed by Sutherland in 2 important aspects: 1) white-collar crime was not longer restricted to persons of high social status but criminals in respectable positions; so high-social status and powerful persons were the core of problem of white-collar crime; and 2) although the occupational related crimes were still central, other related offences such as income tax evasion were included as well. However, white-collar crime did not involve other illegitimate criminal groups such as Cosa Nostra or other occupational crimes, e.g. cat burglar, con men.

However, there were some different issues in different contemporary economics in the international level. Some actions might be the unreasonable behavior in one country but the offence in another country due to the different scope of law and extraterritorial right of the country where that foreigner stayed. In particular, in a poor and undeveloped county, issuance of laws, notifications and rules

were influenced by trading right formed by customs tariff, human rights and sovereignty (Raymond Michalowski and Rouald Kramen, 1987: 34-53). Although there were problems about international enforcements, the world held the United Nations' doctrine in form of international declaration on human rights for customer protection, and draft practice on transnational companies. Violating these standard doctrines was also included in the definition of criminal behavior. At least, white-collar crime was a very useful conceptual tool since it could identify specific problems about concerns of people around the world. White-collar crime became the most top hit phase in the sociological research. It was not only used by Sutherland in his research, it became a common English word in our daily life and has been used in other languages as well.

b. Definition of white-collar crime

Willem Bonger was the first one who developed the theory on crime, which involved both street crime and white-collar crime. He said, "Capitalism develops subjectivism under expenses of altruism" (Criminality and Economic Conditions, 1916). Bonger assumed that poverty was the reason of crime by ignoring crimes committed by the ruling class until Sutherland dug it up.

White-collar crime might be called differently; namely, economic crime, business crime, commercial crime, corporate crime, organized crime, occupational crime, etc. In each country, white-collar crime was called differently. For example, in France, it was called "Crime en col blanc". In Italy, it was called "Criminalita in colletti bianchi". In Germany, it was called "Weisse-Kragen-Kriminalitat".

Definitions of white-collar crime were given by several authors:

1. Edwin H. Sutherland, 1941: "A violation of criminal law by the person of the upper socio-economic class in the course of his occupational activities" (Sutherland: Crime and Business, 1941).
2. Clinard & Richard Quinney, 1973: An offence committed by corporate officials for their corporation and the offenses of the corporation itself.

3. Herbert Edelhertz et al., 1977: “An illegal act or series of illegal acts committed by non-physical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage.”

4. James William Coleman, 1985: “A violation of the law committed by a person or a group of persons in the course of an otherwise respected and legitimate occupation or financial activity.”

5. The National White-collar Crime Center, 1996: “White-collar crimes are illegal or unethical acts that violate fiduciary responsibility of public trust committed by an individual or organization, usually during the course of legitimate occupational activity, by persons of high or respectable social status for personal or organizational gain”, James William Coleman, *the criminal elite*, 2006 : 6.

6. From different definitions mentioned above, they not only directed to offenders but also offences and the scope covered the course of ethics. The Researcher considered that they were so greatly beyond the definition objective; so, herein, white-collar crime would be defined as “an illegal act violating the course of trust, honesty or carefulness relating to occupations under accepted and respectable positions or high social, economic and political status or respectful to obtain money, rights or property, or to avoid the loss of money or property uselessly or to obtain advantage or gain for himself or other people.”

c. Characteristics and types of white-collar crime

- Characteristics of white-collar crime

1. The nature of activity or social status of offenders should be mainly concerned for classifying the characteristics of white-collar crime. The nature of white-collar crime might be regarded in a holistic pattern as August Conte, a French philosopher, said that society was a system of joining among persons consistently and each part had to rely on with each other, have interactions or the structure and changing process of city society had to be observed (Orcutt, 1983: Akers, 1994). Sutherland focused on the separation of crimes in respectable or legal occupations from street crime. The problem was that in which level deemed high socio-economic status or respectable status. Although white-collar crime has been

frequently committed by managers and top management, not general employees, the characteristics of offenders were so broad, including the level of employment. Customers and employers might be cheated by a small salesperson while workers in top levels such as executives, secretary or bellboy could sell the insider information (Levi, 1987a). Therefore, deleting out certain characteristics of white-collar crime within part of persons of high social status, the characteristics of white-collar crime would be broader.

2. Respectable or legal jobs: In practice, it is difficult to draw a line dividing between legitimate business and unlawful business (Ruggiere, 1996a) such as legitimate business to blind hidden business or the case of BCCI involving legitimate investors, government and professional crime (Punch, 1996) or in the same business involving both lawful and unlawful activities.

3. Using offenders' status as a starting point of hypothesis setting: the research to which respondents were in educational institutes usually defined white-collar criminals as offenders in high-social status; so there would be an endless argument what the high-social status was. Using class and status to separate the characteristics of offence would make offenders be treated differently. Although explaining about class, status and condition of offenders for separating many factors, it was a factor leading to the definition but it was not important.

- Types of white-collar crime

White-collar crime, in Thailand and other countries, could be classified as follows:

1. White-collar crime within other countries could be divided into 2 means:

1.1 According to the mean of common wealth, white-collar crime consisted of 26 types:

1.1.1 Corporate Fraud

1.1.2 Securities Frauds

1.1.3 Market and Trading abuses

1.1.4 Manipulation of Markets

1.1.5 Smuggling

1.1.6 Exchange control violation and illegal currency smuggling

1.1.7 Counterfeiting of currency and illegal currency smuggling

1.1.8 Forgery

1.1.9 Franchise Frauds

1.1.10 Loan sharking and illegal money lending

1.1.11 Fraudulently obtaining government subsidies

1.1.12 Social security and welfare frauds

1.1.13 Fraudulent insurance claims

1.1.14 Shipping Frauds

1.1.15 Credit Frauds

1.1.16 Credit card frauds

1.1.17 Economic and industrial espionage

1.1.18 Bribery and corruption

1.1.19 Tax evasion

1.1.20 Pirating of records, films, publications etc.,

1.1.21 Advance fee frauds

1.1.22 Fraudulent factoring

1.1.23 Criminal banking

1.1.24 Frauds associated with bankruptcy and insolvency

1.1.25 False accounting

1.1.26 Computer fraud

1.2 According to Interpol, white-collar crime consisted of 5 types:

1.2.1 Banking fee frauds

1.2.2 Commercial frauds

1.2.3 Retail payment frauds

1.2.4 Investment related frauds

1.2.5 Miscellaneous frauds, etc. (Veerapong Boonyopas, 2005: 22-27)

2. White-collar crime within Thailand according to government bodies could be divided into 3 means:

2.1 Means of Royal Thai Police: white-collar crime consisted of 5 groups:

Group 1: Violent crime: 1) murder, 2) gang-robbery, 3) robbery, 4) kidnapping, 5) arson

Group 2: Crimes against person: 1) murder, 2) non-negligent manslaughter, 3) negligent manslaughter, 4) attempted murder, 5) assault, 6) rape

Group 3: Property of crimes: 1) theft, 2) snatching, 3) blackmail, 4) extortion, 5) robbery, 6) gang robbery, 7) possession of stolen good, 8) vandalism

Group 4: Interesting crimes: 1) motorcycle theft, 2) car theft, 3) cattle theft, 4) agricultural instruments theft, 5) bus robbery, 6) taxi robbery, 7) rape and murder, 8) kidnapping, 9) cheating and fraud, 10) misappropriation

Group 5: Victimless crimes: 1) offensive weapon, 2) gambling, 3) narcotics, 4) prostitution, 5) pornography

Source: www.royalthaipolice.go.th/showstatic.php

Thailand's white-collar crime should stay in Group 4: Interesting crimes, Clause 4.9) cheating and fraud, which was not divided separately and clearly. Thai police, so, have not yet paid attention to white-collar crime.

2.2 Means of the Office of Attorney General

2.2.1 Offence relating to finance and banking, e.g.

- Offences relating to finance and banking in which the Bank of Thailand, commercial banks, finance and securities companies, credit foncier companies are injured persons or alleged offenders.

- Offences relating to exchange control law

- Loans in type of public fraud

- Frauds by document via bank for goods exporting

- Frauds by Letter of Credit or money transfer document or bill of exchange

- Frauds by counterfeit bond, patent or share certificate or use either of them wrongfully

- Commodity futures frauds
- Frauds associated with purchase of shares in the Stock Exchange of Thailand
- Counterfeit credit card, international traveller cheque frauds
- Automatic cash dispenser frauds
- 2.2.2 Offences relating to trade and commerce, e.g.
 - Wholesale purchasing frauds
 - Bankruptcy criminal and fraudulent trading
 - Wrongful offering or transfer of trading property owned by juristic person
 - Counterfeiting of purchase of order or trading contract
 - Unlawful establishment of juristic person
 - Frauds by use of new technologies, e.g. counterfeit computer or telex
 - Philatelic and stamp duty counterfeiting
 - Counterfeiting of insurance companies
 - Trade frauds by use of confidence game
 - Frauds and counterfeiting of travelling tickets or documents
 - Disclosure of trade secret and intellectual property
 - Violation of literature and art work rights
- 2.2.3 Offences relating to commodity controls and consumer protection and harmful acts to the environment, especially offences relating to food and drugs, hazardous objects and the like
- 2.2.4 Offences relating to price-fixing and antitrust
- 2.2.5 Offences relating to tax, tariff, revenues and excise tax
- 2.2.6 Offences relating to forests, minerals, fuel, petroleum and the like
- 2.3 Means of the Department of Special Investigation: white-collar crime consisted of 27 types:

- 2.3.1 Loans in type of public fraud
- 2.3.2 Trade competition
- 2.3.3 Commercial bank
- 2.3.4 Operation of finance, securities and credit foncier
businesses
- 2.3.5 Time sharing
- 2.3.6 Exchange control
- 2.3.7 Price proposal to government bodies
- 2.3.8 Integrated circuit layout protection
- 2.3.9 Consumer protection
- 2.3.10 Trademark
- 2.3.11 Currency
- 2.3.12 Compensations for export tax for goods
manufactured in the kingdom
- 2.3.13 Loan interest of financial institutions
- 2.3.14 Bank of Thailand
- 2.3.15 Public limited companies
- 2.3.16 Money laundering prevention and suppression
- 2.3.17 Industrial Standard
- 2.3.18 Copyright
- 2.3.19 Investment promotion
- 2.3.20 Promotion and conservation of quality of
environment
- 2.3.21 Patent
- 2.3.22 Securities and Stock Exchange
- 2.3.23 Code of Revenue
- 2.3.24 Customs duty
- 2.3.25 Excise tax
- 2.3.26 Liquor
- 2.3.27 Tobacco

d. Measures of white-collar crime

Most of street crime came from 3 sources: 1) records of enforcement agencies, 2) reports from victims; and 3) reports from criminals themselves. But, for white-collar crime, it was so difficult to get data sources since victims were not aware that they were victimized by unlawful corporate price-fixing or they were victims of environmental criminals or voters. Their troubles were not concerned by politicians who sold their power to business for their own special gains or wealth. The problem was that the national survey on victimization did not question about most white-collar crime, which was the most important. This could be seen in the reports of the Ministry of Justice of English; they have been published irregularly and most reports dealt with street crime and did not mention about offences committed by the state and business sector.

e. Variation and difference of white-collar crime

There were many white-collar crime types. But, due to political reasons and ideal, certain white-collar crime types were focused. When talking about white-collar crime, only crimes affecting business would be mentioned, e.g. computer frauds or crimes. But, in sociology, it emphasized on crimes committed by businesses, e.g. price-fixing, misrepresentation in advertising, pollution from environment, etc. The classification system was important for white-collar crime, which could be divided by different viewpoints as follows:

1. Anthropological viewpoint: it focused on the impact by white-collar crime to victims; so white-collar crime was divided into 2 main groups:

1.1 Property crime that caused huge damages.

1.2 Knowledge-based crime causing pain and death, which was important for setting up social policies. Although these 2 types of white-collar crime were different, their causes and inner mechanism were quite similar.

2. Social viewpoint: types of white-collar crime were divided by acts of offenders rather than victims as Clinard and Quinney said that most criminologists divided white-collar crime withinto:

2.1 Occupational crime comprising offences committed by persons in their occupations.

2.2 Offences of employees for employers comprising offences committed by corporate employees for their companies.

2.3 Business crime and offences by corporate company. Both types focused on real behavior of offenders. But, this system contained deficiency since it did not involve crimes committed by the government or non-business organizations. Thus, the organizational crime should consist of 2 types: business crime and state crime. Later, Karmer proposed the third crime or state-business crime, e.g. offences relating to goods from joint reactions between business organizations and state agencies such as the accident of ValuJet Flight 592 in 1992 causing 110 dead persons, etc. In addition, Calavita and Pontell named one crime coming from an offence to the saving and borrowing industry where company executives used fraud instrument to cheat some money from their organization as “mutual fraud”, which was a combination between organizational crime and occupational crime. It was crime by business to business. The crimes could be divided as follows:

1. Occupational crime: crime committed by persons in their occupations for personal gains without their organization’s support.

2. Organizational crime: crime committed by employees under their organization’s support for employees’ job promotion. This could be sub-divided into:

- 2.1 Business crime = crime committed by corporate organization or organization representative.

- 2.2 State crime – business = crime committed by private organization and government bodies co-working with it.

- 2.3 State crime = crime committed by government body or its representative.

However, for business crime committed by a representative should be liable or not, it resulted to drafting of criminal policy because corporate companies deviated a penalty from person to company that was a no-life, no feeling object. Arguments to push business or organization to get criminal penalties contained the following reasons:

1. Corporate organization was different from a person. It was reasonable to chase a group of persons instead of an individual who was only the representative of organization doing offences.

2. Penalty to individuals instead of organization was not an efficient strategy since, for employees, risks to criminal offences were less important than the company management's instruction for their organization's needs.

3. Shame or moral decline or accusation to an organization that it had the criminal offense could stop the business or corporate organization's offence more efficiently than punishment to individuals.

4. It was simple and convenient for the attorney general to openly carry out criminal prosecution against business or organization rather than against individuals.

5. A corporate organization possessed more properties than individuals working there. There was more chance to remedy damages until it was satisfactory. Damaging the company's property gave better outcome than imprisoning employees.

f. Types of white-collar crime

White-collar crime could be divided into several types depending on offenders, offences or victims. The benefit obtained from studying types of white-collar crime was to observe the distribution or find out the correlation between severity and impact by offences (Weisburd et al., 1991). For example, offences committed by offenders were sorted in several classes: persons of high status were more believed and committed more complicated crimes in higher level of victimization, which was compared with common offences like embezzlement by low-level employees. White-collar crime could be divided into 3 types: characteristics of offenders, characteristics of offences, and characteristics of victims.

1. Characteristics of offenders

1.1 Elite offenders: This group of offenders clearly reflected compounds of status and reliability. Offenders in the top level of social and economic class included giant company owners, top management, senior government officers, ministers or prime minister of the government.

1.2 Middle-class offenders: This group included middle-class managers, government officers, and specialists of each field, employees and politicians. The offences were committed in their occupations and depending on the opportunities of crime committing. According to studies in America, most tax offenders were single business owners or new business owners or professional specialists such as lawyer or physician, accountant, local officers, health specialist (Weisburd et al, 1991).

1.3 White-collar workers: This group included clerical workers, bank tellers and junior employees who had frauds or were thefts of company cheques and conversion them into cash (Levi 1999a). This group of offenders was found younger than other offenders and more likely to be female and to come from stable working families. The offences of those higher up the occupational ladder had a more serious impact (Weisburd et al., 1991).

1.4 Corporate offenders: This group of offenders included large multinational companies committing offences in several countries and their members or employees committed the hierarchy of offences.

2. Characteristics of offences

2.1 Types of false accounting

a) False evidence for accounts

Core motivations of building false evidence for accounting records were to tailor good-looking financial statements of the company, and most importantly, to make such financial statements rely on investment analysts' expectation (partly deriving from image formation or advanced information disclosure to the capital market or signing by using many techniques and methods) so that the company's shares became interesting or rising. Another important issue was that each corporate executive held a number of company shares given as annual bonus and dividends or issuance of new shares. These were sources of enormous benefits. Thus, when share prices were dragged higher satisfactorily, those executives could sell out shares they held in the market.

b) Counterfeit accounts

Creative accounting for higher share prices, actually, was done for executives themselves not most shareholders because those crooked CEOs and CFOs held insider information not yet disclosed to the public, which were usually created by dishonest intent or embezzlement. A good example of creating a huge amount of profits could be seen in the case of former CEO and CFO of Enron who scooped profits before the company's collapse (they have already been aware of the company's bankruptcy after they failed to cover the sky by two hands).

c) Accounting records by fake income

Dishonesty by way of fake income has been widely done by public companies to raise their share prices. The executives of public companies in the United States or western countries were absolutely different from those in Asia or Thailand because US or European public companies did not have major shareholders or most shares held by family members; so those executives intended to make the company income be good-looking without being afraid that they had to make many tax payments. Much fake income meant huge profits and a lot of tax payments; thus, the cash flow would come out from the company. If the fake income has been done continuously, the company might face the cash flow crisis. Consequently, a solution of this event was to take out loans from financial institutions by a normal method or image building method, which was called the specific company as briefly explained in case of Citigroup giving cooperation to Enron and Dynegy.

d) Accounting records by false expenses

If a company did not aim at manipulating its share prices, it may record operating expenses over than actual ones for the least tax payment as found in many countries including Thailand. A corporate organizations not listed on the stock market might report its loss for consecutive 10 years but its business was not bankrupt.

e) Accounting records by time overlap

Accounting records by time overlap could be done by either postponing the records of expenses and income so that such records were tailored

pursuant to the company's purpose, that is, in which quarter it wanted to show profits. When creative accounting became complicated, the accounting maker could not remember all details or think carefully at every stage, he had to find out 2-3 major advisors: auditor, financial god and service or product seller to design the creative accounting pattern and to create the simulation by a financial administration software before adapt some information to fit to that designed simulation.

f) Accounting records by concealment or false liabilities

The outcome of concealment or false liabilities could be seen in the expense section of income statement, that is, if liabilities were not recorded, either intentionally or unintentionally, expenses would not be recorded or assets in the same amount would not be recorded. This concealment would occur when the company's management wanted to make the company profits and debt-to-equity ratio in its financial statement good-looking in the financial analysts' view.

Inappropriate disclosure of financial reports aimed at stock manipulation. Thus, if financial statements of any company continuously showed much higher growth than the growth of that industry, it is highly likely that such company might have creative accounting as seen now. Belief, perspective, structure and process of preparing financial statements to be disclosed to the public aimed at grapping impression of securities analysts and investors without any concern of methods to obtain success and lure people (Kiattisak Jirathiennart, 2005: 30-47, 54-103, 115-120).

2.2 Problems and enforcement

a) Economic Crime

Criminals committed economic crimes to destroy or stop wealth or growth of individual or country because they might require growth of another person or country. These crimes included currency attack, stock attack, gold or oil price attack, real estate, antitrust, customs tariff, import quota or setting of export or import standards in order to destroy competitors, even granting credits with low interest before using such credits for currency attack to make the currency value drop and to

get more debt repayments such as economic crisis in Asia in 1997. In the future, there may be virus computer attack, attack to agricultural plants, nature, environment, herbs that have some market value or other products owned by competitive countries and the national economics must rely on them, etc.

b) Social Crime

Criminals intended to commit crimes to destroy social security, form disunite or form new value or to open a new market for an economic outcome by creating a new consumption value or facilities, establishing new generations of trading or competitive countries by mean of cartoons giving new thought or culture or investment in business or enterprise requiring so huge capital amount that small countries could not compete with; so that business or enterprise would be monopolized such as big-brand department store or retailing or wholesale department store, etc.

c) Political Crime

Criminals intended to commit crimes to occupy, direct or destroy political stability to gain or protect benefits of their group. They might give supports to politicians or political parties possibly ruling the country or they might force or press or destroy the national unity; for example, giving wrong belief or doctrine or setting rules for other member countries whereas power countries do not comply with them, etc. by exercising power through international organizations, e.g. the United Nations, aid funds. This could be called policy crime as well.

2.2.1 Characteristics of victims that could be divided into 5 types:

a) Against competitors in trading or industry, e.g. information espionage, arson, counterfeiting or copying of trademark, bribing the competitor's officers or government members, conspiracy for price-fixing, business merger, acquisition of other enterprises for business monopoly, etc.

b) Against the government e.g. tax evasion, financial supports to politicians' election campaigns, bribing government officials, giving fake information, putting influence on issuing or cancelling laws, etc.

c) Against employees e.g. payment of wages lower than prescribed by law, no compliance with requests of labor union, no welfare for employees' health and safety.

d) Against consumers e.g. cheating the amount of goods, misrepresentation in advertising, labels informing of false product type and weight, under-qualified goods production and distribution, profiteering.

e) Against the public e.g. emitting wastewater to public canals, emitting hazardous smoke, dumping hazardous rubbish, deforestation, intrusion of public rivers, canals, land, etc. (Supoj Suroj, 1991: 23-24).

2.2.2 Concepts about white-collar crime within the Stock Exchange of Thailand

The first period of white-collar crime within the Stock Exchange of Thailand started from Year 1974 to 1991. Supervision, inspection and enforcement were the power and duties of the Stock Exchange of Thailand. When the Securities and Exchange Act, B.E. 2535 was enacted and the Office of the Securities and Exchange Commission was established to regulate the entire capital market; such supervision, inspection and enforcement have been transferred from the Stock Exchange to the Office of the SEC up to now. White-collar crime under this part could be divided into 3 topics:

a) Monitoring of stock trading

1. Stock trading in the Stock Exchange of Thailand

In 2006, the SEC has valued the prevention of stock manipulation, either stock trading in form of price manipulation or rumor or fake news distribution in order to raise stock prices. The SEC had several discussions with the SET and they mutually agreed to place more preventive measures to curb abnormal stock trading. Those measures included:

- Limiting stock trading line causing any abnormal trading. This measure instructed every securities company to monitor and check their customers' account status and to review customers' stock trading line. This helped reduce the strong reaction of stock trading and it helped securities companies to manage risks of stock trading payments and improve stock delivery.

- Halting the delivery of inappropriate trading instructions to the stock trading system. This measure instructed every securities company to control the receipt and delivery of stock trading instructions by its marketing officers and licensed officers. The compliance unit would play more roles to monitor and set up preventive measures for inappropriate trading instructions, and to emphasize and repeat understanding about records of trading instructions by phone calls that should be done completely and checked at any time and at any case.

- Urging the disclosure of information possibly affecting the stock trading of listed companies/companies issuing new securities such as rumor, information undisclosed to the capital market that might affect investors' decision. The SEC has coordinated with the SET regularly to monitor listed companies/companies issuing new securities to disclose accurate information to all investors. In 2006, the SEC has coordinated with the SET for this matter totaling 115 times.

- The SEC disclosed the list of high-turnover securities or turnover list in order to remind investors about exuberant stock trading without rational factors that accelerated the abnormal stock trading until stock trading was damaged. Such turnover list was also useful for the SET as initial information to monitor the stock trading.

Moreover, the SEC and the SET have mutually monitored and shared related information to put the stock trading in the SET in good and fair system and order. The SET continued applying the net settlement or margin trading for several securities with abnormal trading in order to reduce those speculative stocks and to turn stock trading back to normal. In the past year, the SET exercised this measure to 8 stocks. If the abnormal trading still existed, the SEC would support the SET by having a specific inspection in the securities company in order to review its customer trading accounts, to review the securities company's operation in respect with its line available or credit line for stock trading granted to customers, and to emphasize and urge executives and officers of that securities company to monitor their customers' trading behavior as well as trading service provided by related officers.

In 2006, there were certain important events giving great effect to the stock trading; the revolution on 19 September 2006 and the Bank of Thailand's notification regarding the maintenance of short-term capital inflows on 18 December 2006. The SEC had close coordination with the SET to assure that they were ready to comply with the Circuit Breaker measure. If the SET index dropped sharply, they could have remedies and coordinate with related parties to recover the investment confidence, which made the stock trading turn to normal quickly.

2. Sale and purchase of futures contract in the derivative market

The derivative market put its first merchandise of futures contract on April 2006 named SET50 (SET 50 Index Futures). The SEC, under the scope of power and duties set forth in the Derivatives Act, has mission in supervising the operation of Derivative Market to make all related sale and purchase in good order like the SET's supervision on the same matter. Except checking the preparedness of Derivative Market before its service launching, the SEC also imposed that Thailand Futures Exchange Public Company Limited submitted its reports about daily and monthly trading information, other related audit reports, large open positions reports and sector-based trading reports to assure that Thailand Futures Exchange Public Company Limited performed its duties effectively, and to obtain interest from monitoring and auditing in case of abnormal trading.

On 19 December 2006, after the Bank of Thailand's notification regarding the maintenance of short-term capital inflows, the SET50 Index Futures trading covered 8,500 contracts from 1,078 contracts per day in normal situations while the SET50 Index Futures values have sharply dropped. Thus, the SEC has closely coordinated with Thailand Futures Exchange Public Company Limited to recover investors' confidence. The Company first applied the Circuit Breaker measure to curb the exuberant trading degree. Such action could be carried out smoothly; so the investment climate turned to normal quickly.

b) Auditing

From the monitoring system to stock trading in the SET carried out by the SEC, many news published in the mass media, many requests and other

incidents informed by the SET and other local and international organizations in 2006, the SEC has examined 50 cases in total and had the following summary:

Types of Offences	Total Inspected Cases
Stock price manipulation	23
Insider trading	12
Rumor spreading/ informing of inaccurate information	1
Dishonesty/ offences of executives in listed companies/companies issuing securities and offences relating to accounting or documents	12
Unlicensed operation of securities business/futures exchange business	2
Total	50

Source: The Office of the Securities and Exchange Commission, 2002

1. Unfair acts relating to stock trading

- Stock manipulation

In 2006, the SEC has inspected 23 cases associated with price manipulation: 11 new cases submitted in 2006 and another 12 successive cases continued from the previous year. Among these, 4 out of them were closed due to insufficient evidence or the acts of these 4 cases were not relevant to characteristics of any offence. But, the SEC could have prosecution in 3 cases by proposing these cases to the Settlement Committee to fine the offenders (See Table 2-3).

- Insider Trading

In 2006, the SEC has inspected new 7 cases filed in 2006 and another 5 successive cases continued from the previous year under suspension that they had insider trading. Most cases were informed by the SET and 1 case was found by the SEC from its Securities Alert System. Among these, 3 out of them were closed due to insufficient evidence or the acts of these 4 cases were not relevant to characteristics of any offence. But, the SEC could have prosecution in 3 cases by proposing these cases to the Penalty Commission to fine the offenders (See Table 2-4).

2. Dishonesty/offences of executives in listed companies

According to the SEC's policy emphasizing on good corporate governance of listed companies/companies issuing new securities, in 2006, the SEC has continuously inspected cases relating to dishonesty/offences of executives in listed companies/companies issuing new securities. Among these, 3 out of them were newly filed in 1996 and 9 out of them were successive cases. The SEC has carried out allegations of acts relevant to conversion of company due benefit and preparation of inaccurate accounting or documents in 3 cases (See Table 2-5).

3. Other offences

In 2006, the SEC has inspected 1 case relating to unlicensed securities business operation and 1 case relating to unlicensed futures exchange business operation in accordance with the Futures Exchange Act. The SEC joined hands with the Department of Special Investigation to inspect the companies under suspension. These 2 cases are now under investigation.

c) Enforcement

1. Administration proceedings

To carry out administration proceedings against offenders who had deficiency of duties, did not comply with regulations or were disqualified, the SEC would instruct them to remedy and improve those defects, suspend a sentence, suspend an approval or remove an approval depending on the degree of offences. The information on these matters was also disclosed to the public through the SEC news and website. In 2006, the SEC's administration proceedings were as follows:

Table 2-1: Administration Proceedings

Types of Approval	Offences	Insisting/ Warning	Suspension of Sentence	Suspension of Approval	Removal/ Disapproval
Securities Company's executives	No professional ethics/ incompliance with operation standards		5		
	Cooperation/ support to stock price manipulation				1
	Providing shark loans to customers to pay for their share purchase				1
Total			5		2
Contact persons with Investors	Incompliance with operation standards				
	1. Dishonest, cheating				4
	2. Not implementing full knowledge and ability like general professionals				
	- Make decisions on stock trading for investors	14	3	4	
	- Be aware/ provide shark loans for customers to pay for their share purchase		6	1	
	- Give inappropriate advice/ no technique-based advice	2	1		
	- Cooperate/ support the price manipulation			2	2
	- Demand the profit sharing from investors			1	
	- Submit inappropriate trading instructions	2			

Table 2-1: Administration Proceedings (Continued)

Types of Approval	Offences	Insisting/ Warning	Suspension of Sentence	Suspension of Approval	Removal/ Disapproval
	3. Not keeping customers' secrets				
	- Disclose investors' information	2			
	- Allow the third party to access into customers' information		1		
	- Disqualified due to certain prohibited characteristics				
	1. The SEC had punishment for performing duties of fund manager.			1	
	2. The SET had punishment for:				
	- disclosing Trader ID.		18		
	- submitting inappropriate trading instructions.			1	
	- offering other interest apart from the normal service to customers (rebate).			1	
	Total	20	29	11	6
Financial advisor	Deficiency in performing duties				
Property appraiser	Deficiency in performing duties				2 ¹
Grand Total		22	34	11	10

Note: 2¹ The prohibiting period for the application of approval was also fixed.

Source: The Office of the Securities and Exchange Commission as of 31 December 2006

2. Criminal Proceedings

- Settlement

The settlements, according to the SEC Act, in 2006 were summarized below:

Table 2-2: Settlement as classified by offence

Offences	Settlement	
	Number of Cases	Amount (Baht)
Operation of securities business		
No compliance with regulations regarding		
- Securities brokerage	9	2,816,775.00
- Securities trading	-	-
- Securities underwriting	3	190,875.00
- Maintenance of property	4	384,250.00
- Financial basis	3	435,550.00
Total	19	3,827,450.00
Investment management business		
No compliance with regulations regarding		
- Mutual Fund	18	2,440,712.50
- Private Fund	2	332,400.00
- Provident Fund	3	184,450.00
Total	23	2,957,562.50
Unfair securities trading practice		
- Price manipulation (See Table 3)	15	6,333,333.31
- Insider trading (See Table 4)	4	20,459,391.25
Total	19	26,792,724.56
Issuance and offering for sales of shares	18	953,655.00
Acquisition of securities for business takeover	5	13,889,200.00
Total	23	14,842,855.00
Grand total	84	48,420,592.06

Note: 1. In some cases, each committed several offences.

2. The aforesaid information did not show the number of offenders.

3. There were 75 offenders; some were settled for punishments for several offences.

4. The amount of fine was based on the rate of fines fixed by the Settlement Committee, but some offenders paid for fines in installments (as of 31 December 2006, the outstanding amount totaled 2,867,833.36 baht).

Table 2-3: Comparative cases of price manipulation

Related Securities	Behavior	Number of Offenders	Fines (Baht)
Shares of Concrete Chonburi Product Public Company Limited (CCP)	To use the offender's trading account and other persons' accounts to buy or sell CCP shares continuously in concealment to mislead the general public to believe that such securities were bought and sold in great volume and the prices of such securities changed independently from the normal market conditions.	1 offender and 1 offence supporter	833,333.33
Shares of Bangkok First Investment & Trust Public Company Limited (BFIT)	To sell and buy BFIT shares like sustaining and boosting its share prices, and in concealment to mislead the general public to believe that such securities were bought and sold in great volume and the prices of such securities changed independently from the normal market conditions.	3 offenders and 4 offence supporters	2,666,666.66
Shares of C.I. Group Public Company Limited (CIG)	To use other persons' accounts to sell and buy CIG shares in concealment to mislead the general public to believe that such securities were bought and sold in great volume so that the public were lured to sell and buy its shares.	3 offenders and 4 offence supporters	2,833,333.33

Source: The Office of the Securities and Exchange Commission as of 31 December 2006

Table 2-4: Comparative cases of insider trading

Related Securities	Behavior	Fines (Baht)
Shares of Thai Gypsum Product Public Company Limited (TGP)	An executive secretary of TGP sold and bought TGP shares based on a fact that BPB Gypsum B.V., a major shareholder of TGP, desired to have the tender offer to buy all TGP shares in order to delist the Company from the SET and her transaction was done before this information was disclosed to the public. In this case, there was another offender supporting this secretary to open the securities trading account and support her to sell and buy TGP shares successfully.	2,129,400.00
Shares of Power Line Engineering Public Company Limited (PLE)	One PLE director learnt a fact, in the meeting of the PLE Executive Board, about PLE's necessity and plan in its capital increase. This director sold his shares before this information was disclosed to the public.	13,456,000.00
Shares of Thai Factory Development Public Company Limited (TFD)	A TFD executive learnt and used a fact about TFD's future income gained from its asset selling, which resulted to the significant increase of yearly operating outcome. This executive bought TFD shares and TFD-W1 before this matter was disclosed to the public.	4,873,391.25

Source: The Office of the Securities and Exchange Commission as of 31 December 2006

- **Complaint filing to the interrogation officer**

In 2006, the SEC filed 4 complaints to the interrogation officer as described below:

Table 2-5: Complaint filing

Offence	Violated Sections	Number of Alleged Persons
Directors and executives of Circuit Electronics Public Company Limited (Circuit) totaling 5 persons with supports by another person mutually embezzled or allowed others to embezzle payments made by customers to the Company, which caused some damages to the Company. These persons also prepared or allowed the Company to prepare incorrect or inaccurate documents and accounts of foreign debtors while they actually learnt that those recorded foreign debtors were not real ones, and the amount recorded in accounts were incorrect. This act lured the Company's auditor, investors and general people reading its financial statements.	307, 308, 311, 312, 313, 315	5
Two former executives of Picnic Corporation Plc. (PICNI) and another 3 offence supporters embezzled the Company's asset and unlawfully sought for gains of themselves or others, which caused some damages to the Company. There was a reasonable ground that the sale and purchase transaction for big gas tanks and the purchase transaction for small gas tanks were dishonestly formed to pay some money to its former executives and other persons. In addition, related documents and accounts regarding such transactions were incorrect, inaccurate and lure others.*	307, 308, 311, 312, 313, 315	5

Offence	Violated Sections	Number of Alleged Persons
3 executives of Power-P Plc. (POWER) and related persons mutually prepared or allowed other persons to prepare incorrect and inaccurate accounting of the Company to lure the public to recognize the service income in the Company's financial statements whereas such service was not actually offered. This act was not in compliance with the generally accepted accounting principles (GAAP); as a result, it exaggerated the Company's financial condition and operating performance.	312, 315	4
Disobeying the competent officer's order to meet and deliver documents pursuant to the competent officer's order.	303	5

Note: *This is another complaint after the SEC filed another complaint against these 2 executives on 30 June 2005 (See results of complaint filing in 2005 at Table 6).

Source: The Office of the Securities and Exchange Commission as of 31 December 2006

For the outcome of complaint filing by the SEC to the interrogation officers in the previous year, 4 cases were judged by the Court in 2006 as detailed below.

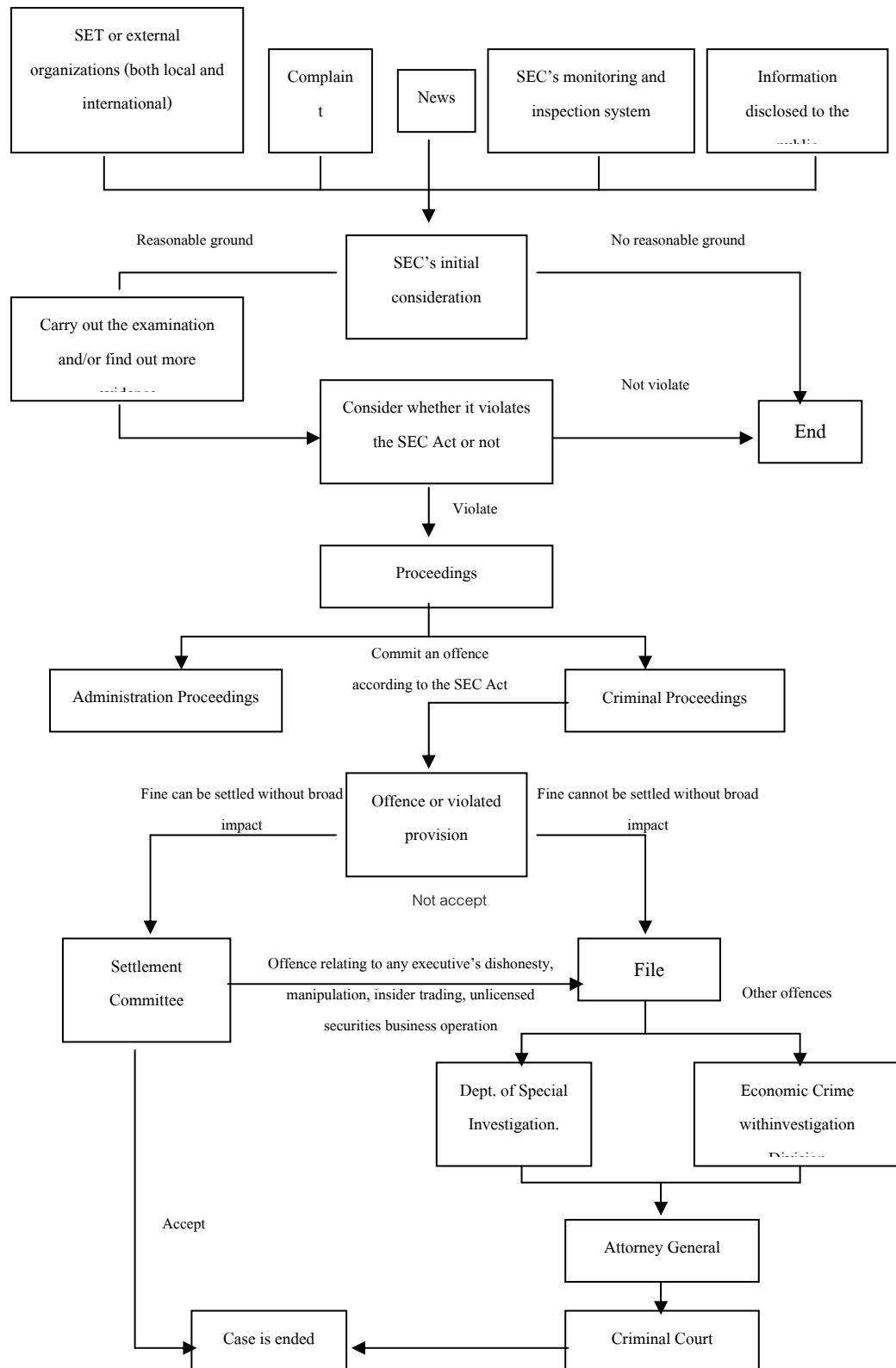
Table 2-6: Outcome of prosecution

Offences to be filed	Sentence
Unlicensed operating the securities business on behalf of Chartered Asset Management Co., Ltd., which was relevant to the violation of Section 90 (complaint was filed on 9 March 2004).	On 27 January 2006, South Bangkok Criminal Court sentenced that C.J.B. Asia Co., Ltd. should be fined at 100,000 Baht and Mr. Clifford James Brown should be imprisoned not exceeding 1 year (2-year suspension of the execution of imprisonment) and fined at 100,000 Baht.
Unlicensed operating the securities business on behalf of Bill Trade Co., Ltd., which was relevant to the violation of Section 90 (complaint was filed on 2 December 2003).	On 2 May 2006, Thonburi Criminal Court sentenced that Mr. Sutho Sangkum and Mr. Krit Thanawinchi should be imprisoned not exceeding 1 year (2-year suspension of the execution of imprisonment) and fined at 145,000 Baht and 173,000 Baht respectively, and the common property should be forfeited.
Manipulating share prices of Krisada Mahanakorn Plc. (complaint was filed on 22 April 1993).	On 31 August 2006, South Bangkok Criminal Court sentenced that Miss Suree or Ravi Sansirikul and Mrs. Chompoonuch Pimhathaiwut should be imprisoned not exceeding 1 year and 2 months and be fined at 700,000 Baht per each.
Two former executives of Picnic Corporation Plc. (PICNI) prepared incorrect financial statements by joining hands with other related persons to sign gas-tank rental contracts in order to make the Company recognize unreal revenue and to exaggerate its 2004 revenue and profits, which was relevant to the violation of Section 312. In addition, the SEC found the dishonest practice and inaccurate preparation of documents and accounting relating to signing the loan agreement to grant loans to other juristic persons, which was relevant to the violation of Section 307, 308, 311 and 312 (complaint was filed on 30 June 2005).	On 21 December 2006, South Bangkok Criminal Court dismissed the plaint against 2 former executives and all defendants for every charge. The plaintiff appealed against such order to the Appeal Court on February 2007.

Source: The Office of the Securities and Exchange Commission as of 31 December 2006

To examine and consider criminal cases, the Office of the Securities and Exchange Commission accepts complaints and information from the SET or external organization (local and international) or complaints from investors, news posted in many mass media, information disclosed to the public and monitoring and examination system in divisions under the Office of the SEC. The SEC would have initial consideration if each case violates provisions set forth in the Securities and Exchange Act. The SEC would start examining that case and find out supplementary evidence. If there is a reasonable ground, the prosecution against that case would be carried out. But, if there is no reasonable ground or no violation of the SEC Act, the consideration would end. After the case is under prosecution and it is relevant to any offence, the SEC would take actions in 2 ways: 1) administration proceedings by giving a warning or fining the offender as the case may be; or 2) if the case is so serious and the alleged offender objects to the SEC's allegation, the complaint would be filed to the interrogation officer; most of such complaints could not be settled for fines and give broad effect. If a fine could be settled, the offender accepts his acts and the case does not give broad effect or it does not give effect to the public, the Settlement Committee would consider the amount of fine as it deems appropriate. After that such case will come to an end. Most complaints to the SEC deal with company executives' frauds, stock manipulation, insider trading and unlicensed securities business operation. Some complaints may be sent to the Department of Special Investigation, Ministry of Justice or the Economic Crime with investigation Division, Royal Thai Police as the case may be. After that the case would be further sent to the Office of Attorney General and the Criminal Court respectively as illustrated in the following chart.

Examination and Criminal Proceedings Procedure



(The Office of the Securities and Exchange Commission, 2006: 65-73)

2.2 Problems and enforcement to white-collar crime

a) White-collar crime problems

1. White-collar crime problems in other countries could be divided into 4 problems:

1.1 Different implementation of laws, which could be divided into 3 issues:

1.1.1 Status of businessmen: Law is implemented up to types of offender. Law has been designed by legislation agencies, personnel in the justice procedure and in the justice procedure administration who have both fear and appreciation because the personnel in charge of criminal law system fear the relation with businessmen whereas legislators appreciate and respected businessmen; they hardly believe that businessmen become criminals but businessmen's offences are results of unserious pressure. This thinking is rejected by persons believing in equal society where everyone is equalized under law or rule of law. Therefore, the enforcement of criminal law is different depending on each presidential administration. The enforcement of criminal law was totally ignored if the presidents were friendly with businessmen, e.g. McKinley, Harding, Coolidge and Hoover, etc.

1.1.2 Punishment tendency: Because of the status of businessmen, almost physical and life punishment measures are ignored and replaced by other non-punishment methods, e.g. probation and other methods. The influence of social class and higher economic position results to more understanding and sympathy, which mirrors the failure of punishment to curb crimes, and also weakens legal professions. Individualism and psychology believing in happiness use pain to control behavior, but it seems that crimes have been controlled by home, school and church or culture; so enforcement to white-collar crime was not effective.

1.1.3 Differences in the relationship between law and tradition: Since white-collar law is a new kind of law and it is not actually based on social morals or business ethics. Unlawful behavior of businessmen such as price embezzlement, whether how long it has been done, has been neglected. Moreover, such unlawful behavior is accepted by people in the same industry even price embezzlement such as underweighted canned food. Meanwhile, communication state

agencies have not paid attention to present these issues or arouse public morals to disgust those acts. The reasons may be complexity of those issues or difficulties of presenting such news or communication channels are belonged to or controlled by businessmen who violate laws. Offenders, certainly, will not distribute their wrongdoing to the public.

The above issues are a part of different enforcements. Sometimes, white-collar crime excuses that white-collar crime is the technical violation of law, not moral violation. In fact, nonfeasance means the serious moral violation. Actually, law and tradition are correlated; tradition has formed law and the enforcement of each law supports tradition as well. Hence, enforcement of white-collar law is to enforce business tradition (Edwin H. Sutherland, 1995: 29-30).

1.2 Regulating organizations

According to Hawkins' research on arrests as conducted in 1970, 35 organizations concluded that all regulatory agencies in charge of pollution, safety and occupational hygiene, consumer protection, housing, double standard, wage and price control, forestation, meat inspection and agriculture were likely to use the compromising practice instead of enforcement by way of punishment. As a result, sociologists criticized those agencies' roles that they have built up the structural inequality in the criminal law system because they did not think that they were part of criminal law system. Someone said that because regulators rejected that prosecution were not the best way of enforcement. This is due to viewpoints of regulators who considered their purpose as the acquisition of goal in laying down core regulations. But, in fact, they are created unequal criminal law system by rejecting the prosecution until the enforcement could not meet its objective. Thus, Reiss named the superior regulatory strategy as "compliance strategy" instead of enforcement in form of "practice prohibition". McCormick gave a summary that a core objective of enforcement system by law compliance was to ensure the compliance with law without favor, carry out pursuant to established procedure and punish for any violations. Not enforcing the antitrust law against US merchants was the criminal violation, which symbolized the enforcement, stimulated exasperation and converted something unlawful to be lawful.

Various stories in newspapers mirrored more anxieties over white-collar crime among mass media, general people, legislators and investigation officers, particularly over prosecution and trial. Additionally, stiffer and new legal methods, innovations in punishing white-collar crime have been inserted. Those new laws included Racketeering and Corrupt Influence Act (RICO) that directed to the organizational crime, which was proved a very important weapon of white-collar crime. There were also obligations relating to crime, organizations announced in bills enacted by the US Sentencing Commission and Sarbanes-Oxley Act 2002 of the United States in order to promote corporate governance after the financial crisis. The Researcher viewed that such enactments were soft laws since they had weak sanctions and could not actually solve problems although they intended to set up preventive measures and take legal actions against frauds and dishonesty of listed companies on the SET, in particular, they prescribe that directors and executives of listed companies have duties and responsibilities in accordance with obligations issued by the SET.

One main problem of enforcement is that the possibility of arrest, especially white-collar crime, is quite low. This could be seen from the in-depth interview of business executives and managers that the possibility of official punishment has been hardly considered when they thought to break the law though if being arrested, it would lead to the disgrace of reputation and job (John Hagan and Patricia Parker, 1985: 302-316).

The enforcement to white-collar crime would be studied in 2 issues: structure of social classes and legal punishments for violations of securities laws. The research would start from laying down the outline and testing the structural theory by first examining related social classes. The research would also be connected with Sutherland's concept that white-collar crime was established by implementing positions and sources. The structural positions in the social employment organization formed such established criminal pattern and possibility. Under the concept of social classes, individuals were positioned under structural conditions. The relationship index was ownership and power, which positioned individuals in social classes directly dealing with breaking of law by white-collar crime. To understand about

enforcement, the example on enforcement of The Province of Ontario (Canada) is presented below.

The Stock Exchange plays a dominant role in new capitalist societies to mobilize financial resources from the public. Unlawful capital manipulation in the stock exchange, therefore, is an explicit white-collar crime; it involves both local and international stock markets. The Province of Ontario has a main role in regulating the Toronto Stock Exchange that is the busiest stock market in Canada, second to the New York Stock Exchange of the United States only. The United States is No. 1 major trader of Canada and Toronto Stock Exchange is the joint economic point of these two countries. So, power in such relationship and implementing such power to securities rules and regulations are inevitable.

For better understanding about enforcement and punishment, the summary of Wheeler and Rothman's research is presented below. The research examined the action outcome under the securities laws or Criminal Code in Ontario from Year 1966 to 1983 in order to replace the Structural Theory on white-collar crime and punishment. The research separated persons in occupations positions into 4 classes: employer, manager, small-sized shop owner and labor. These classes were adapted from Marxist Work of Wright. Testing was based on a hypothesis that many organizations, especially official corporate organizations, sought for resources to commit larger crime. Frequently, various organizations had efficient concealment and evasion. For these committed crimes; thus, measuring the pattern and scope of white-collar crime was essential to scrutinize offences were committed by (a) individual, (b) individual who was a representative of other person that involved 1 person or more, or (c) individual who was a representative of established association, corporate organization, partnership business or family business or not. This consideration was to classify the offences. It was obvious that persons in powerful positions were less likely to be proceeded with the case than the powerless group.

Besides, strength of evidence in each case had to be regarded that could be divided into: 1) strong evidence, 2) unstable evidence; and 3) weak evidence.

Punishment severity in terms of allegations and penalties was also studied. It was obvious that the correlation between types of allegation and punishment severity was high. Both laws had different punishment severity without setting up the outcome deriving from definitions set out in such bills. Normally, measuring punishment severity based on the 11-score scaling was adapted to review literature regarding punishment in order to reflect changes of punishment. After considering the punishment, it was found that punishment under the Securities Act was broader than judgments under the Criminal Code. Although both laws set up the different period of imprisonment, over a half of offenders (57%) sentenced under the Criminal Code were imprisoned less than 1 year, which was the maximum period under the Securities Act. The interesting issue is how powerful positions influence the Court's sentence on a hypothesis that bias is in the compromising mean.

In conclusion, the concept about enforcement under the Structural Theory on white-collar crime and punishment replaces Sutherland's concept on socio-economic status with the social-class relation concept. Sutherland might support this new concept since roles of power was more directly focused. Analyzing the violation of securities law by relying on social class could indicate why and how each matter became the case. The employees were positioned in the powerful position by which they could utilize organization resources to commit white-collar crime. The organizational crime also covers the broadest scope (if measuring the number of victims and political-geographical distribution). The information revealed that it was little likely that most employees were punished by the Criminal Code, but it was more likely that they were punished by the securities law, which was less shameful, set up less punishment and had the clearest form. After the case of Watergate case, the securities law has been more enforced for broad and established offences committed by managers and employers. It is explicit that employers have been more prepared to receive the outcome of prosecution through the Securities Act instead of criminal law.

After the case of Watergate case, attention paid to the violation of securities law gave the immediate effect to the management class that was punished pursuant to the criminal law. It is deemed that they are scapegoats for "social

movement to white-collar crime” since specific powerful positions were employees who occupy the new capitalist economics. Employees stand in the position of power allowing them to isolate themselves from criminal events and to conceal their involvement with crime, which is called by Sutherland as building the ambiguity to responsibility” coming along with the position of power in a corporate organization.

Another research published in Harnard Business Review indicated that the detachment and non-involvement were not only found commonly, but they have been growing. It was found that the percentage of executives giving fake information to the employees increased in double from the previous research. Frequently, employees did not want to know how the outcome was achieved as long as they got the desired outcome. This tendency indicated the rising risk that the managers would be more punished by the criminal punishment than employees.

There are two factors supporting such idea and easing punishment against employees. The first factor is that employees’ complicated role in committing offences could prevent them from criminal proceedings. Frequently, the inquisitors described difficulties of explaining to the judges about securities offences and judges’ hesitation to have sentence in criminal cases. “The biggest problem is to make the Court believe which offence that offender commits because the Court has not understood securities frauds. So few local judges have known securities laws whereas many judges select simple ways and give defendants the benefit of doubt” The second factor is the proportion of criminal cases involving employees. In a criminal case, it needs many expenses to close it. In practice, the prosecutors had to always rely on the Securities Act. An inquisitor said that “A major shareholder in Company A was involved in a wise but dishonest plan occurred in Holland and Netherlands at Antilles and Bahamian isles and other similar places. The inquisitor had to spend a huge amount of money to find out evidence. But, when he went to the Office of Attorney General, no criminal allegation was done. You know that it’s economic matter, which means taking witnesses around the country and the world to be evidence; so it is unwilling to carry out the criminal prosecution against employees. Finally, 3 ways were proposed: 1) different types of problem on selecting the sample group to be

examined, 2) effect of Watergate case to testing, and 3) historical pattern connecting broader social requirements with higher social status. Measuring social classes indicated the complicated linkage beyond social classes and Court's outcome. These led to changes and improvement in concepts most widely held at present and Sutherland's concept that has been widely accepted.

1.3 Regulating white-collar crime, law and policing

In general terms, white-collar crimes are associated with lower rates of prosecution and, for many offences, the use of private and administrative measures outside the formal processes of criminal justice. The involvement of agencies other than the police underlines these distinctions. "If the police deal with it, it is crime; if other agencies deal with it, it is not crime" (Levi, 1995: 181). The regulation, generally, is used to describe the structure of law, enforcement and sanctions (Cook, 1989). The main role of enforcement agencies is the maintenance of standards and public protection or it is called social regulation. But, there are laws with different and less severe nature, which reflect the influence of high-status and powerful offenders as seen in studies on social classes who are eased for enforcement whereas regulations between white-collar crime and other crimes are clearly distinctive (Hawkins 1990, Pearce and Tombs 1990, Snider 1990). Regulation has been subject to considerable research, theorizing and academic and political discussion. Studies in the sociology of law have examined the nature and development of regulatory law along with the activities of enforcers and the role of class and power to find out the most appropriate and effective means of preventing white-collar crime. This starts by placing regulation in its historical context before focusing on sanctions and punishment and ending it by efficiency and scope of sanctions reflecting business power over law.

1.4 Development of regulation

In the historical context, it involves tension between free markets based on laissez-faire principles; so legal intervention is resisted and liberal, welfare values under which legal intervention is justified as necessary for public protection. To advocates of free market principles, intervention is seen as unnecessary because market forces can themselves ensure high standards of production and protect the

public. But, in real practice, many regulations have been violated. In Britain, in the nineteenth century, workers working for long hours had poor conditions and low wages (Carson 1974), and food adulteration in Bradford caused 15 died (Paulus 1974). Mass production of consumer goods made it more difficult to sustain the principle of caveat emptor as manufacture became separated from selling and buyers could no longer judge the origins, quality or contents of goods (Borrie and Diamond 1981). Technological development in the twentieth century continued to pose risks to individual and public health, which was particularly marked in the chemicals, food and pharmaceutical industries and in transportation. Protective legislation was therefore justifiable, but its development has generally been promised on an assumed need to strike a balance between the interests of public protection and industrial or commercial development and profitability. These regulations, later, have been developed and applied in social regulations, but they are stricter as financial regulations under the principle of free market where frauds have existed and the border between frauds, cheating and common business is on the different structure.

However, during 1980s, there were strong imperatives to strengthen regulations that protected investors and to enhance the legitimacy of the financial market because the government wished to privatize industries that had been publicly owned and regulated and to encourage investment by new groups of small investors (Punch 1996, Levi 1999a). Privatization itself created the need for new regulatory arrangements (Slapper and Tombs 1999). Laws against fraud and corruption also seek to secure a balance between protection and need to maintain standards of commerce and interests of industries. Levi (1997a: 85) points out that laws against fraud are formulated not just to deal with fraud but to provide a regulatory framework within which commerce can function and the maintenance of standards in finance or commerce is a feature of much financial legislation (Clarke 1986). These laws are directed not only at offences but aim to maintain the highest standards of integrity and propriety in public life (Doig 1984: 344). It was seen in the conflict between laissez-faire and liberal value that affects taxation.

In the United Kingdom, there are many enforcement agencies; namely, Financial Services Authority (FSA) and the Crown Prosecution Service (CPS). These agencies focus on criminal prosecution while the main role of the Bank of England and Self-Regulation Organizations (SROs) is prudential or preventive and the Inland Revenue and Customs and Excise perceive their task as being the maximization of revenue (Levi 1995: 186). Development by broadly distinguishing the nature of white-collar crime regulations varies between different kinds of offences and difficulties are particularly acute where companies rather than individuals are involved. The rationale for the use of law forms the context in which the specific characteristics of law enforcement must be placed.

2. Problems of white-collar crime within Thailand, which could be divided into 2 parts:

2.1 Long period of prosecution

Prosecution, particularly in cases to be filed to the interrogation officers, must be considered by several enforcement agencies such as interrogation officer and attorney general before being sentenced by the court. Each step needs a period of time; so the entire prosecution process consumes much time. The transfer and rotation of responsible officers also obstruct the personnel development to enhance their expertise and experience, which is so essential, especially in cases relating to unfair acts on securities trading. The legal elements are quite complicated and they definitely need basic knowledge and understanding about capital market and intent of each law. The enforcement personnel must also adjust themselves to meet changes of related technologies.

2.2 Interpretation and punishment to offenders

Due to provisions on offences relating to unfair acts usually need the interpretation; so punishment to offenders has been difficult because of the following problems:

(1) Criminals have never shown up. Stock manipulation has been complained less than other crimes. In addition, rising share prices could satisfy

investors in speculative stock since they gain many profits. If the trading volume is not dropping, these investors do not recognize any concrete disadvantages. This case is different from financial institutions embezzling people's money. Thus, sometimes, general investors could not see that alleged offenders are criminals causing huge damages to the entire society.

(2) Witnesses do not want to be involved or they recant their statement. In many occasions, the Office of the SEC has asked cooperation from witnesses to give statement to the interrogation officer or to the Court, but it was rejected by different reasons; for example, they did not want to be involved in conflicts, alleged offenders were influential persons. In cases of witnesses' recantation, witnesses declared to the interrogation officer that alleged offenders ordered the stock trading for each other, but those witnesses, in contrast, declared to the Court that they have never seen such acts.

(3) Difficulties in proving relationship between offenders. This kind of offence is usually committed in concert. They connive in the commission of offence and is assigned to perform his work; some buy stocks while some sell stocks; some compile data and take care of his group's documents, etc. Compiling evidence to prove that such group connives or agrees together for the stock trading so that such evidence is acceptable like criminal cases is so tough because the characteristics of this offence are so technical and different from common crimes. It is difficult to find out documents showing the agreement of conspiracy. Most evidence gathered by the Office of the SEC, so, consists of circumstantial evidence that must be put together to show a reasonable ground that the alleged offenders connive or agree to commit that crime.

(4) Problems about understanding of involving persons. As mentioned earlier, this offence deals with the stock trading in the SET, proving the offenders' intent must rely on their acts or acts indicate the intent. Acts of alleged offenders, which are mainly considered, have been recorded in the SET's computer system showing the list of stock trading done by every alleged offender and investor. The SET officers must take into account all information about trading instructions and market circumstances while alleged offenders submit their instructions in order to analyze what an alleged offender's behavior is and why he acts like that. These details

would be compiled with other evidence to prove the alleged offender's motive. These matters are so technical; it is essential to involve officers who engage knowledge, expertise and experience about stock trading and securities laws. Although the Office of the SEC has operated for 10 years, officers involving in the prosecution process have been changing always; so it is difficult that persons not involving in these matters would have real understanding.

b. White-collar law enforcement

1. White-collar law enforcement in other countries

One of the most immediate features of white-collar law is the large number of different agencies involved. The regulation of fraud, for example, involves government departments responsible for taxation such as Customs and Excise and the Inland Revenue along with the Department of Trade and Industry (DTI), which is responsible for many other financial offences and for overseeing the work of SROs involved in different areas of City fraud. The Bank of England and the stock exchange also perform regulatory functions, together with the Securities and Investments Board (SIB) (Levi 1995, 1999a). The SFO was set up in 1988 to provide a unified body for the investigation and prosecution of serious fraud, and is responsible for frauds where amounts at risk exceed a minimum level that has ranged from £1m to £5m. It has a limited caseload of about 100 cases a year and other frauds are dealt with by the Fraud Investigation Group (FIG) of the Crown Prosecution Service (CPS) and by regional fraud squads (Levi 1995). Regulatory crimes are the responsibility of a variety of inspectorates. Consumer protection laws are largely the responsibility of local authority consumer protection or trading standards departments (Scott 1995); food hygiene and some pollution matters are the responsibility of environmental health officers (EHOs); safety in the workplace falls under the remit of the Health and Safety Executive (HSE) and some EHOs; and water and other pollution matters are dealt with by the Environment Agency.

White-collar law enforcement in other countries has been under the following guidelines:

1.1 Prosecution as a last resort

Principal among these common characteristics is the tendency of most agencies to see prosecution as a last resort. In its first four years, the SIB prosecuted only one case involving an unauthorized investment business, although it claimed to have detected 50 cases of fraud, which were passed on to the police or the SFO resulting in 22 convictions. Non-prosecution is, therefore, a feature of the regulation of fraud (Levi 1995) that is called the compliance strategies.

1.2 Compliance strategies

The lack of prosecutions is attributed to the use of what are described as compliance strategies, which are most often associated with social regulation but also, apply to financial regulatory bodies. These derive from the nature of regulatory law which, as seen above, produces a situation in which agencies' main role is seen to be the maintenance of high standards and compliance with regulations. Many pursue advisory and educative roles in which visits or inspections are used to offer expert advice as well as to detect violations. Enforcement officers and businesses are involved in continuing relationship (Hawkins 1984) in which persuasion is seen to be a better means of encouraging cooperation and compliance. When offences are detected, a typical approach is to persuade businesses to remedy the situation before resorting to informal and formal measures (Cranston 1979). These measures range from verbal advice, warnings and cautions to more formal written notices requiring improvements and formal cautions, in what has been characterized as a graded letter system (Richardson et al. 1982).

1.3 Out of court settlements

Compliance strategies are also related to the range of powers possessed by agencies, many of which are seen as more effective, and on occasion more Draconian, than prosecution. Some agencies have powers to grant or withdraw licenses necessary for a business to operate, and others can close a business, particularly where it poses a direct danger to public health or where previous warnings have been ignored. In some cases, these powers underlie negotiations, and a business may agree to a temporary closure while improvements are carried out. These

powers are considerable because they directly threaten the profitability or survival of a business, although they are often used sparingly. Other regulatory bodies have powers to disqualify company directors, and professional bodies can also strike off or otherwise disqualify members. Some agencies can additionally negotiate out of court financial settlements and impose financial penalties. The Inland Revenue, for example, can negotiate repayment along with fining tax evaders. In companies, individual offenders may be dismissed rather than prosecuted because companies may fear that publicity could damage their public reputation. Many offenders are therefore dealt with and sanctioned without resort to criminal proceedings.

1.4 Cost-effectiveness

Many of these strategies are based on considerations of cost-effectiveness. In addition to being seen as less appropriate, prosecution may be avoided on the grounds that it is costly and often risky. It has already been seen, for example, that the complex nature of offences makes them difficult and costly to investigate, detect and prosecute. Many offences are detectable only through inspections and investigations that involve time and resources. Defendants may also have sufficient resources to obtain expert legal and financial advice and to provide sophisticated defences (Mann 1985). Trials have gained the reputation of being risky after some high-profile acquittals, such as the failure of convict in the Maxwell pension's case. In the celebrated Blue Arrow case, defence costs were estimated at £30m, with the prosecution amounting to £2m, and the Maxwell prosecutions cost £25m (Levi 1995). In other, less serious regulatory cases, agencies may balance the time and costs of prosecution with the lower costs of persuasive strategies, especially where only a low fine may result from a prosecution (Cranston 1979, Hutter 1988, Croall 1992). In this issue, the Researcher viewed that it is a very important issue because Thailand has not yet established the index measuring the prosecution costs and who should bear for these costs. When receiving fines, they should be balanced with the state's expenses or not and is it worthwhile for each fine? These questions should be considered in the operation of enforcement agencies. For securities case, initial enforcement agencies such as the SET or SEC may not know or guess the actual expenses or estimate them. So, the task source could play a role in this matter.

In other countries, the jury will give advice. At present, the prosecution of securities cases has not involved this matter in the seriousness of case.

1.5 Who is prosecuted?

The low rates of prosecution inevitably raise questions about which offences and offenders are most likely to be prosecuted, particularly in relation to class bias. Regulatory enforcement was subject to considerable research in the 1970s and 1980s, in which the attitudes and day-to-day practices of enforcement agents were studied to explore the relationship between the law in action and law in books. Tension on prosecution and follow-up are difficult in practice; for example, in Thailand for Mr. Rakesh Saxena's fraud and he fled to Canada, etc. In this way, enforcement agents' decisions reflected judgments of blameworthiness with a disregard for warnings being interpreted as blameworthy and recalcitrant offenders more readily typified as criminal (Carson 1971; Cranston 1979; Richardson et al. 1982; Hawkins 1984; Hutter 1988). Although prosecution and persuasion are often portrayed as alternative policies, in practice they are often combined and persuasion is backed up by the ultimate threat of prosecution. Braithwaite (1984) characterized enforcers as walking softly while carrying a big stick and Hawkins (1983) described day-to-day enforcement as a process of bargaining and bluffing.

1.6 Issues in regulatory enforcement

The nature and practice of regulatory enforcement have been subject to extensive public and academic debate. The effectiveness of regulatory enforcement has been questioned and the low rate of prosecution said to be insufficiently deterrent, although to advocates of free market principles the same rates of prosecution can be seen as excessive and there is the nature of distinction between white-collar and other crimes along with the rationales for regulatory enforcement (Hawkins 1990; Pearce and Tombs 1990). These different views are linked to alternative approaches to the reform of regulation. Criticism of ineffectiveness has been leveled at both financial and social regulation, although Slapper and Tombs (1999) argue that financial regulation attracts stronger public reaction. The DTI was severely criticized for the length of time it took to take action in cases including that

of the fraudster Peter Clowes, and the SFO has been caricatured as the Serious Farce Office following high-profile acquittals although at the same time it has also been criticized for being too aggressive. In particular, cases in the public interest have not been prosecuted due to the difficulties of evidence and have been occurring like the case the Office of the SEC sued Mr. Song Vacharasriroj in a charge of manipulation of Bangkok Bank of Commerce (BBC) and, finally, the Supreme Court dismissed the case and released the defendant.

The failure to prosecute companies for corporate manslaughter following mass deaths and injuries has led to considerable public and academic criticism (Slapper 1999). It can also be argued that treating one group of offenders differently undermines the claim of the law to be fair and impartial, especially as these offenders tend to be drawn from higher-status groups. It can nonetheless be argued that higher-status offenders are structurally advantaged. The outcome of compliance strategies is that white-collar offenders, who are more often of middle-class status, are less likely to be prosecuted than conventional offenders and it is also the case that some, often more respectable or large businesses, are less likely to be targeted for surveillance or prosecution. The use of negotiated settlements can also be seen as advantageous, because, irrespective of their effectiveness, they result in fewer prosecutions and may lead to a situation in which wealthy offenders can buy themselves out of public prosecution, which carries a greater stigma. Some offenders may also be able to exert political pressure in relation to investigation and prosecution, as has been the case where the investigation of serious frauds has been subject to political intervention (Levi 1999a). The solutions are that everyone should be treated fairly without concerning the efficiency of prosecution and it shows the moral value or not. Thus, in the sociology, the question is that what the impact is for the ideology of equality before talking about law.

Offences are seen to be result of incompetence or lack of expertise rather than criminal or deliberate intent and as incidental rather than central to the operations of the business. But, white-collar crime relates to capitalism and the profit motive. To such critics, regulation must be located in the political and economic

structure of capitalism (Sinder 1990; Slapper and Tombs 1999). This could be seen in a detailed and extensive critique of the compliance school. In particular, they challenge the contention that businesses are not amoral calculators. Although individual managers and corporations claim to be socially responsible, they nonetheless have a legal responsibility to act in the interests of shareholders and are continually under pressure from shareholders and market and competitive considerations to maximize profits at all costs. This pressure necessarily pushes managers to develop an amoral calculative attitude to economic activity. Such special interest lobbying occurred in the United Kingdom in the build-up to the Financial Services Act during the 1980s, where conflicts emerged between the interests of finance and industrial capital (Levi 1987b). In respect of financial regulation, which may be subject to more stringent controls, government may also need to protect legitimacy of financial institutions. As seen above, apparently together controls were imposed in relation to financial services during a period associated with free market values which was also associated with the government's priorities of opening up financial markets to a wider range of investors.

1.7 Criminalization, regulation and self-regulation

White-collar crimes do present particular difficulties for law and enforcement and that some regulatory options can be as effective as, if not more effective than, criminal prosecutions and few would advocate prosecuting all detected offences. There is also some agreement that, ultimately, organizational offences are best prevented in organizations by, for example, creating cultures of compliance in which compliance is seen as major goal and rewarded. However, there remain important differences as to what constitutes the most effective mixture of strategies. To the compliance school, cooperative methods of regulation are seen as more effective, whereas Marxist scholars such as Pearce and Tombs advocate punitive policing strategies. Yet other approaches attempt to combine the strengths of self-regulation and tougher criminal measures. Particularly influential has been the approach taken by Braithwaite, who, along with collaborators, has advocated a combination of persuasive and self-regulatory approaches along with stronger sanctions that he characterizes as an enforcement pyramid (Braithwaite and Fisse

1987; Fisse and Braithwaite 1993). At the base of the pyramid, to be used for a large proportion of offences, lie advice, informal warnings and cautions. At the next level lie civil and monetary penalties, followed by voluntary disciplinary measures and/or remedial investigations to be undertaken within companies. These latter are described as accountability agreements, distinguished from the next stage, accountability orders, in which similar investigations are imposed by courts (Fisse and Braithwaite 1993).

In support of this model, it is argued that full law enforcement is not realistic for either conventional or white-collar crime and that it is also not a particularly effective strategy. Self-regulation has several advantages, not least of which is placing the costs of enforcement on corporations themselves. In addition, company investigators or private police have more expertise and more knowledge about internal procedures and can make more frequent inspections than external inspectorates. Those best places to identify and take actions about violations are those who are closest to them in the organization – thus whistle blowing should be encouraged. Finally, there is a speedier escalation to tougher sanctions, and take issue with the strong reliance on self-regulatory arrangements. External regulators, they argue, are necessary precisely because self-regulation is ineffective in practice and compliance can too easily become cynical and symbolic. In addition, they contend that arguments advocating self-regulation can readily be incorporated into arguments for deregulation and decreasing the resources of enforcement agencies (Snider 1990). Eventually, arguments for self-regulation in a hostile economic and political climate are likely to be expropriated by dominant economic and political forces, and used in ways that differ markedly from the intentions of those who had originally espoused them. Thus, such arguments are often represented as arguments for deregulations, as has been the experience in both the USA and the UK in recent years (Pearce and Tombs, 1997: 97).

In conclusion, the regulation of white-collar crime therefore involves complex issues. There are debates and analyses surrounding regulation and cooperative or compliance models, which have dominated the research of white-collar law enforcement, and which tend to focus on the contrast between policing crime and

regulating business. As with other areas, however, these contrasts should not be overstated. Increasingly, the policing of conventional crime involves a wide range of agencies and what some see as a mixed economy of social control, involving private policing, the increasing use of surveillance and more sophisticated methods of detecting fraud and corruption. As white-collar crime becomes more transactional and global in nature, so too has its regulation, as it also the case with conventional crime. As Nelken (1997b) points out, globalization, although often exaggerated, may also affect definitions of crimes, offenders and victims, with growing attention being given to international war crimes tribunals or sex tourists who victimize children abroad. The close links between some forms of white-collar crime and organized crime are also significant for law enforcement. The rationales supporting current regulatory practices can be seen to rest on the ideological distinction between white-collar crimes and other crimes. Pearce and Tombs (1998) also describe the distinction between traditional and regulatory offenders as containing both real and ideological aspects. Nelken (1994b) points out that the compliance system described above is not found in all jurisdictions. In Italy, for example, white-collar crimes are policed in a more similar way to conventional ones. Compliance strategies are therefore related to cultural values about the significance of different forms of crime. Most writers accept that, ultimately, self-regulation is likely to be more effective than external regulation. But, for this to work, it must also be backed up by realistic deterrents in the form of prosecution and sanctions. Laws can be strengthened and the criminal law could be better adapted to suite the corporate form.

1.8 Sentence and punishment

The sentencing of white-collar offenders is an important part of regulation because the prospect of meaningful sanctions is crucial for deterrence and punishment and also reflects moral condemnation of activities. Although sentences for white-collar offenders attract less public attention than those for conventional criminals, they do attract criticism, where, for example, serious fraudsters receive short prison sentences or companies blamed for deaths or injuries are given a relatively small fine. They are often described as paltry and criticisms reflect concerns that they undermine the deterrent power of the law and are unfair considering the

harm that has been done. Sentencing raises similar issues to those encountered in relation to law and its enforcement. Its assumed lack of severity is often cited as one of the major features of white-collar crime and is popularly and academically thought to result from the high class of offenders. As is the case with prosecution, it is not easy to validate such claims and sentencing is also related to the characteristics of offences. It has been seen that the diffusion of responsibility and ambiguous criminal status characteristic of so many offences reduces the apparent blameworthiness of offenders and this inevitably affects sentencing. Moreover, as with other aspects of white-collar crime, there are differences between offences – those whose criminal status is less ambiguous do, on the whole, warrants a wider range of sentences than others. The sentencing of organizations presents particular problems because many forms of punishment, devised for individual offenders, are inappropriate – organizations cannot, for example, be sent to prison. A major issue therefore is the extent to which white-collar offenders can or should be sentenced in the same way as others.

In 1998, in England and Wales, 4,100 out of a total of 19,600 individuals sentenced for fraud and forgery were given immediate custodial sentences and about 3,000 received absolute or conditional discharges, fines, probation orders and community service orders (Sisson et al. 1999). Average lengths of sentence for fraud and forgery were 16 months, compared with 23.6 months for all indictable offences. Since 1993, only 5 persons were sentenced of over 5 years' imprisonment and 59 received sentences for over 3 years' imprisonment.

The lower use and shorter lengths of imprisonment imposed on fraudsters whose offences involve large sums of money can be interpreted as lenient. Although a sentence of 3 years in prison is considerable, it can be seen as low where, as in cases of tax fraud, the total sums involve £1m. Some defendants were imprisoned for 1 year along with £2m or £3m, and they were stripped of their knighthood. Those sent to prison went to open prisons and received parole. There was also considerable press reaction after the release, after serving less than the 10-year sentence originally imposed, of Peter Clowes, who defrauded £16m from elderly

investors. One former investor was reported as commenting that “I want him to come out penniless and facing a struggle, but I’m sure that won’t be the case” (Herald 23 February 1996: 4). Fines given to companies are often derided as slaps on the wrist and said to amount to a license to break the law because they bear little relation to the gains of offending (Box 1983; Braithwaite 1984; Cranston 1984). What’s £10,000 to this billion pound company...just peanuts to the likes of them (Herald 6 May 1998: 9).

1.9 Understanding sentencing

Any exploration of what factors affect sentencing must take into account the complexities of sentencing decisions. Sentences are informed by a combination of deterrent, retributive or other rationales for sentences that are applied in different circumstances (Ashworth 1997; Davies et al 1998); so few cases ever reach the sentencing stage and so few details are available about offences of offenders. Even more problems are encountered when considering the potential effect of class and status. This is not routinely recorded and it was seen that white-collar offenders are not all from high-status groups (Levi (1999a: 159)). There are too few members of the socioeconomic elite convicted to draw any conclusions about the leniency or severity of their treatment compared with others. In a major research in the USA, in which judges dealing with individual offenders were interviewed, three core legal norms of harm, seriousness and blame emerged as crucial factors influencing decisions. Judges also took into account previous convictions and the effects of prosecution on defendants (Wheeler et al. 1988). What would, in a full trial, be complex legal arguments become part of what has been described as an adversarial sentencing process in which, while pleading guilty, defendants deny blame in mitigation (Mann 1985; Wheeler et al. 1988). This gives offenders the opportunity, in court, to strategically offer accounts, similar to the techniques of neutralization that can be described as strategy of defence and mitigation (Croall 1988), which have been frequently used by defendants. The reliability of strategy come from the inefficiency of prosecution given to them since such prosecution has never occurred.

1.10 Seriousness of offences

The seriousness of offences is indicated by the level of harm done and the costs involved. One judge in the US research commented, for example, that the most distinctive thing about white-collar crime is the lack of violence (Wheeler et al. 1998: 63). In financial offences, this may be offset by the large amounts of money involved in serious frauds. In England and Wales, for example, guidelines suggest a sliding scale of sentences according to the sums of money involved (Levi 1989a). The nature of victimization is also important, with organizational victims being considered as less victimized (Wheeler et al. 1988) and relatively defenseless victims being perceived with more seriousness (Levi 1989a). One problem with regulatory prosecutions is that the regulation broken rather than the outcome is the subject of prosecution.

1.11 Characteristics of offenders

The apparent blameworthiness of offenders is related to evidence of intent, deliberateness and the degree of trust that has been violated. In offences involving mens rea, degree of deliberateness and dishonesty are crucial – Wheeler et al. (1988: 94) found, for example, that judges' perceptions of culpability were affected by evidence of scheming, planning and calculation.

1.12 Class, status and sentencing

As is the case with prosecution, it is difficult to estimate the independent effect of class and status, for so long held to be a major factor in sentencing. It is assumed that the ability of higher-status offenders and large corporations to employ expert legal advice assists them in relation to prosecution and sentencing decisions. This affects how successfully defendants can use the strategies or defence outlined above. Process is punishment do reduce sentences, some are advantaged over those who cannot produce similar arguments (Croall 1992). Defendants who can reasonably claim that they have much to lose by the notoriety of conviction tend to be of higher-status whereas lower-status defendants have less to lose. In addition, some white-collar offenders, particularly those of higher status, are better able to conceal incriminating information and use strategic arguments. They

may also be able to buy themselves out of prison by being able to afford heavy fines and negotiate out of court settlements. Some offences are more likely to be seen as criminal, however, and sentences reflect the distinction between pro-capitalist and anti-capitalist activities, with fraudsters receiving a wider range of sentences.

1.13 White-collar crime and punishment

Sentencing outcomes are strongly related to the perceptions of white-collar offences and offenders, which also reflect the law and prosecution. They also reflect a hypothesis that only a restricted range of theories of punishment and sentencing options are appropriate for white-collar offenders. The emphasis is on the effectiveness of sanctions, and punishments justified on the basis that offenders can be applied to white-collar offenders, including organizations.

However, limits to deterrence, and a major problem with severe penalties, such as extremely high fines or closing businesses, is often described as the deterrence trap in which the effects of heavy sentences spill over on to innocent parties. Shareholders may lose income, consumers may face higher prices and workers' employment is threatened.

The moral dimensions of the law are expressed in retributive principles under which offenders are punished on the basis that they have done wrong and deserve punishment, and such principles are also related to proportionality-sentences should reflect the harm that has been done. Tougher sentences can be justified on the grounds that they should better reflect the harm done and should be in proportion to the offender's circumstances, even large fines for companies can be perceived as disproportionate to their resources, and the amounts of money and breaches of trust involved in serious frauds are not reflected in the length of prison sentences when compared with other offenders. Just deserts policies have several limitations, however, in relation to both conventional and white-collar offenders (Braithwaite 1982; Braithwaite and Pettit 1990). As such policies rely on notions of guilt, blame and seriousness which are so often denied by white-collar offenders, they do not necessarily lead to heavier sentences. In addition, prosecuting greater number

of white-collar offenders would be prohibitively costly (Braithwaite and Pettit 1990). Just deserts models also raise the problem of who defines the seriousness of offences and the pervasive ideological view that white-collar offences are less serious would lead to lower sentences (Hudson 1987). A popular principle underlying sentencing is incapacitation, in which sentences aim to render offenders unable to commit further crimes. Capital punishment is the most extreme way of doing this, and other incapacitate sanctions include disqualifying dangerous drivers or using lengthy prison sentences. These kinds of policies have not been widely applied to white-collar offenders, who are not included among the dangerous or persistent offenders at which these policies are generally directed. Some sanctions against white-collar offenders are nonetheless primarily incapacitate, such as disqualifications, withdrawing licenses or ordering a business to cease trading. Many people argue that these could be used more extensively as part of sentences. Feeling shame and examples of policies include wider publicity for offences and settlements involving victims that underline the harm done and enhance feelings of shame. Shaming, however, should not involve degrading offenders, which could lead to the development of organized cultures of resistance, and should seek to be reiterative. They should aim to underline the moral aspects of law.

The sentencing alternatives to white-collar crimes include:

1.13.1 Monetary penalties: They could be better related to the resources of a company, and, in some jurisdictions, equity fines are directly related to a company's turnover and profits. There are, nonetheless, problems with relying on financial penalties. To make them sufficiently deterrent, for example, astronomically high fines would be necessary because, assuming that companies are rational calculators, the size of fines would have to take into account the low chance of detection and prosecution (Etzioni 1993; Slapper and Tombs 1999). This could be politically unacceptable. In the USA, fines based on such calculations were suggested by the Sentencing Commission but had to be withdrawn following strong objections by business groups (Etzioni 1993). Extremely high fines could also exacerbate differences between larger and smaller companies because large corporations can more easily afford to pay (Croall 1992; Pearce and Tombs 1998). Moreover, fines for

companies cannot be backed up with the threat of prison, as they are for individual offenders (Wells 1993).

1.13.2 Community sentences for white-collar offenders:

More use could be made of rehabilitative and other sentences have led to the introduction, in some jurisdictions, of probation and community service orders that have been adapted for corporate offenders. Objections that employing a new body of company probation officers would be prohibitively costly can be met by requirements that costs are borne by companies. Courts could also require companies to employ staff who are specifically responsible for monitoring compliance (Slapper and Tombs 1999). Probation orders could also be particularly suitable for small businesses, many of which could not afford larger fines. In the USA, corporate probation is accompanied by other sentences and, in some cases, companies have been required to send executives to work on community programmes (Wells 1993; Punch 1996). Although community service has not been widely used for either individual white-collar or corporate offenders, it would be appropriate for offenders whose talents and resources could be better used by serving the community than sending them to prison. The undoubted financial or managerial skills of individual offenders could be useful to community groups (Levi 1989a). The interesting case is Michael Milkin, of the notorious junk bonds, could have been better employed by following his own suggestion of working with banks to find creative solutions to third world debt. For corporate offenders, innovative ideas have included requiring polluting companies to fund leisure amenities, requiring executives in car companies who have produced unsafe cars to do voluntary work (Box 1983; Croall 1992; Etzioni 1993; Slapper and Tombs 1999). These options reflect a variety of punishment rationales. Nevertheless, the practicality of implementing such orders could be questioned and they may have high administrative costs.

1.13.3 Shaming strategies:

White-collar offenders are amenable to shaming because they have a strong investment in respectability and there is some evidence that companies and individuals do worry about the effect of publicity (Benson 1985; Hutter 1988) and that companies do feel that their reputation has been damaged (Fisse and Braithwaite 1983). Many offences, particularly regulatory ones, are not widely reported, and the use of publicity orders or corporate

atonement policies where companies are required to pay for advertisements correcting misleading ones have been suggested (Fisse and Braithwaite 1993). Other shaming strategies include adaptations of those used for young offenders, such as conferences and meetings with victims.

1.13.4 Incapacitation: Wells (1993) looks at corporate dissolution, disqualifying companies from government contracts and banning products – like heavy fines, however, these can have consequences for workers, consumers and shareholders. Nevertheless, many people argue that incapacitate strategies are necessary and justifiable for public protection if all other strategies fail. Although companies cannot be sent to prison, more prosecutions of individual directors could lead to greater use of imprisonment whereas senior executives are removed and companies nationalized for a period of time as an ultimate sanction. Other incapacitate strategies include increasing the powers of both enforcers and courts in respect of licensing and disqualification, which could also enhance the power of regulators (Pearce and Tombs 1990, 1998). Despite the limitations of many of these strategies, they can be used in combination and Braithwaite's notion of a pyramid suggests that they can be arranged in increasing severity. The introduction of new alternatives and the strengthening of others could also add to the available options for the courts.

The issues raised by sentencing and punishment are similar to those raised by regulations as a whole. Although it is often assumed that the lenient sentencing are also strongly related to the nature of offences themselves, and, in particular, to the perception that they are less serious than other crimes. This is particularly the case with regulatory and organizational offences whose problematic status as crimes, and the difficulties of viewing companies as offenders, has severely limited sentencing options. Sentences such as corporate probation or corporate community service orders underline the moral disapproval of activities and in themselves challenging the construction of white-collar crime as not really criminal (Pearce and Tombs 1998). Discussion about regulating white-collar crime also raises wider issues concerning the role of the criminal law as a means of regulating harmful activities. Although it is often argued that white-collar crime raises problems that justify a different range of measures, it is now recognized that the criminal law and

criminal justice processes are severely limited in their ability to reduce the volume of conventional crime. The criminological project associated with traditional criminology, which aimed to develop measures to reduce crime and stressed reductionist sentencing principles such as rehabilitation or deterrence, has now largely been abandoned. New penology has developed that is less concerned with the moral justifications for punishment and use of language and techniques associated with risk management and actuarialism with a view to managing and preventing crime rather than reducing it (Feeley and Simon 1996) on the basis of re-offending and a populist punitive ness is advised (Bottoms 1995). A process of bifurcation has also been identified in which diversionary programs for some less serious offenders are seen as appropriate.

Nevertheless, the use of regulatory rather than criminal procedures for white-collar crime remains premised on the ideological hypothesis that white-collar crimes are different from, and less serious than, others and offenders receive a variety of punishment. The civil penalty by fines as studied by Torsak Buranaruangroj and his team on 2006 is one important measure. Subjecting offenders to a wider range of sentences and to more punitive policing (Pearce and Tombs 1990, 1998) becomes less problematic if this hypothesis is challenged. This returns to the moral and symbolic role of the criminal law and campaign against white-collar crime within the Stock Exchange of Thailand.

2. White-collar law enforcement in Thailand

According to enforcement of the Securities and Exchange Act, B.E. 2535 in the section of unfair securities trading practices, alleged offenders have not been punished efficiently due to the following reasons:

2.1 Inappropriateness of penalties

Penalties as set forth in the Act are inappropriate for troubles or damages. Section 138, 239, 240, 241 and 243 of the Act prescribes the imprisonment not exceeding 2 years or a fine not exceeding the double amount of profit to be received by that damaged person due to such violation. However, such fine shall not be less than 500,000 Baht or both. In practice, the criminal punishment is still lower than that of robbery; so these securities penalties should be higher.

2.2 Prosecution and enforcement problems, which include:

(1) Proof of offence

Due to complexity of white-collar cases, documents kept by alleged offenders, offences committed by high skills and techniques, offenders' financial, political and local influence; so the measures of offence proof should be easier than present ones.

(2) Complexity of case

Since each complicated case contains tons of documents, people and money, it needs much time of researching.

(3) Witnesses' non-involvement or recantation

A partial portion of witnesses stays in the same industry or they may be employees of alleged offenders; the alleged offenders may be major customers; or they have high financial or political influence on intervene those witnesses.

(4) Faceless criminals

In share manipulation, sometimes, it satisfies investors who do not foresee concrete disadvantages; so they do not think that those offenders commit offences or are criminals causing huge damages.

(5) Prosecution relies on evidence, which may lead to an accusation of double standard.

Securities trading depend on satisfaction. In case of insufficient evidence while the public or mass media expect the prosecution outcome, no actions against those offenders may lead to an accusation of double standard.

(6) Difficulties of proving the relationship of offenders

In case the offence relating to securities trading is committed by a group of persons, it must be planned in advance, cut out any possible evidence. In case of relatives or friends, proving the joint conspiracy is quite difficult because such offence is so similar with normal trading. Proving this case must rely on circumstantial evidence.

(7) Testimony in court

From the experience of SEC officers, answering a series of questions and use of leading tricky questions done by defendants' lawyer make witnesses communicate wrongly and benefit the defendants.

(8) Use of circumstantial evidence

Some evidence is recorded by computer; so it is difficult understood, there is no connection of evidence or loss of evidence.

(9) Long length of prosecution

A long length of prosecution may cause taking of evidence or information to be incorrect. Sometimes, there are plenty of financial information and trading instructions; thus, taking of evidence needs a long period or the process has been sent to many agencies while each agency takes time to research it. As a result, the officers must explain the same matter repeatedly for each agency.

2.3 Impact of prosecution to trading conditions

If any alleged offender is a major investor, the prosecution requires big carefulness and discretion for appropriateness since it may give impact to the trading conditions of the whole market. This may be protested by mass media or political influents that can be the supporting line of the process (Prasarn Triratvorakul, 1995: 54-64).

2.4 Problems about enforcement organizations and criminal justice procedure

From enforcement to prosecute white-collar crimes in the SET, it was found that the prosecution process to punish offenders failed absolutely, for example, in case of Racha Capital Co., Ltd.; meanwhile, the whole society thought that the existing evidence was sufficient but the alleged offenders had special knowledge and skill in planning such offence. In addition, in the event that the Supreme Court dismissed the case of Mr. Song Vacharasriroj and his team consisting of 12 persons (Supreme Court Ruling 1766/2539) (Veerapong Boonyopas, 2003). The problem origin is that the government could not present sufficient evidence to prove the defendants' offence. The solution is to rely on multi-agency task force officers and

consulting companies of officers responsible for the case (Pisit Maharassamee, 2002: 89-90). The reasons that interrogation officers could not present evidence of proving defendants' offence in several white-collar crimes are:

- Interrogation officers lack academic and technical knowledge and skills in their interrogations.
- Complexity of investigation process (Somchart Sawangnet, 1996:6-13).

2.5 Problems about cooperation of related agencies

The Stock Exchange of Thailand, the Office of the Securities and Exchange Commission, Royal Thai Police and the Office of Attorney General have been working independently without good cooperation, confidence and coordination because they have irrelevant knowledge and understanding, or these authorities have no knowledge about related matters or have no universal knowledge while non-authorities gain more knowledge. As a result, their working is not smooth, consistent or they cannot share success together. The solution is to train personnel in each agency to learn with each other and feel more familiar. These personnel should utilize the computer system for data collection regarding the background of cases, alleged offenders and others. This data should be linked between related agencies and kept confidential in the online system to be accessed to it by a secret code.

2.6 Problems of controlling and converting properties forfeited from offences

During investigations and inspections, the alleged offenders may be aware of them and transfer some assets to other persons or places; so it is difficult to monitor those assets, particularly, if transferred to other countries. As a result, the execution of judgments is not effective. The solution is to apply the money laundering measures promptly (Veerapong Boonyopas, 2006: 74-78).

The Researcher viewed that, in criminology, the justice and social administration and prevention are better than suppression and solution since the former can reduce some losses and make the society peaceful, which is the core objective of criminology. Studying factors affecting the white-collar crime within the

Stock Exchange of Thailand in order to learn characteristics of offences through various views according to the Toward Integrated Theory of White-collar Crime proposed by James William Coleman in order to place criminal policies, to solve problems and to improve enforcement methods and punishment to be relevant to actual situations. The results will be the standards and value of justice procedure. In addition, the justice procedure administration will be based on correct technical information that can develop patterns and new process of problem solutions finally.

2.3 Impact by white-collar crime

Studies on impact of white-collar crime allow us to understand victimization and approach to victims we have not seen (Walklate 1999). According to surveys of nature and structure, we could see some victimization methods. Some offences cause severe impact immediately affecting victims and their families like other crimes. White-collar crime affects the quality of life in a community and surrounding areas (Croall 1998a, 1998b). The impact may be the national or global level to the organization or the institution. Although the impact may be indirect, individuals are also affected. For example, an offence to the government may give an indirect effect to tax payers who have to pay more or lose some government services.

In other countries, the impact of white-collar crime can be divided into 4 levels:

2.3.1 Individual victimization

Some offences cause considerable financial loss, injury and death and affect victims' families and have an additional emotional and psychological impact. Financial frauds, for example, can have extremely severe effects, particularly where trust has been violated. As Levi (1999b: 7) illustrates, not only does fraud lead to broken dreams, it also closes off opportunities which, once passed, are irrecoverable. For older people, vulnerable anyway to loss of confidence in themselves, frauds can destroy happiness permanently, just as readily as any other crime such as mugging or a more serious burglary. Indeed, because victims know that they have supplied funds

or goods voluntarily and because the loss of their financial cushion makes meaningless all their lifelong saving and sacrifice. Individual fraud victims was a sense of betrayal and abuse of power (Levi 1999b) and the experience of fraud has been compared to that of rape in terms of the feeling that trust has been violated (Levi and Pithouse 1992). Survivors and those involved in rescues may also experience psychological traumas such as survivor guilt or post-traumatic stress disorder (Wells 1995). Many other offences cause physical harm and threaten aspects of personal and family safety and economic security.

2.3.2 Communities and the quality of life

Other offences, although they have a less direct effect on individuals, affect the quality of life in communities. Some devastate the environment, the economic infrastructure or the leisure amenities of communities (Wells 1995). The effects of economic white-collar crimes may also be felt in local communities and global frauds have local consequences. In Scotland, the Western Isles Council lost about £24m in the BCCI affair, which led to higher council taxes and reductions in budgets for road building, schools, and care of elderly people, provoking protests in Stornoway (Herald 1996; Croall 1999b).

2.3.3 Institutional and organizational victimization

Institutions, rather than individuals, are the main victims of some economic offences (Levi 1995; Friedrichs 1996). They are, for example, major victims of embezzlement, employee theft and many other financial frauds. Organizations and employers are particularly vulnerable to the abuse of expert knowledge on the part of employees where they may not possess such knowledge themselves. Managers have been found to be concerned about computer crime because so many of their employees have more expertise than they have (Croall 1992). In the Barings bank case, the specialized nature of the financial transactions involved may have contributed to the ease with which Nick Leeson seemed to be able to avoid supervisions. The structure of organizations may make them vulnerable, a vulnerability exacerbated by the diffusion of responsibility that also makes offences easier to commit (Friedrichs 1996).

2.3.4 National and global impact

Offences against the government are also impersonal, although their impact can be considerable and they also have an indirect impact on individuals through the reduced resources available for public expenditure. Moreover, as is the case with local authorities, evidence of corruption reduces the level of trust (Ruggiero 1994). The effects of financial scandals may also have national significance, particularly where the legitimacy of financial institutions is concerned. In the UK, revelations of impropriety in the financial sphere during the 1980s and 1990s were feared as they might discourage smaller investors from investing in the newly privatized industries (Slapper and Tombs 1999). This created a new class of victims who posed a political risk.

Many forms of white-collar crime are global or transnational. These include the euro frauds, which involve enormous losses to the EU budget, and food and waste disposal frauds, which threaten public health and environment. Levi (1999b) points to the impact on institutions and countries of frauds committed against developing countries, which can inhibit economic and social development through the massive theft of development funds by leaders (Levi 1999b). The effect of some white-collar crimes may be experienced globally and nationally in addition to being diffused to individuals. Whether looked at from an individual or collective perspective, white-collar crime has a considerable impact, which is also related to other social equality.

In Thailand, white-collar crimes could be divided into 4 levels as well.

1. Impact to national economy

White-collar crime within the Stock Exchange of Thailand has caused more damages than other crimes, both tangible and intangible damages. The damage cost is enormous under a lot of injured persons; economic system becomes loose and the country bears foreign debts. Such cases in Thailand are Mae Chamoy's share case, BBC case, share manipulation case, Baht currency attack case, etc.

2. Impact to investment

Thailand's investment system loses reliability in foreign investors' views. Customers lack confidence in securities companies. These impacts will be spreading and affecting the country as a whole.

3. Impact to national trust and reputation

Thailand's image in foreigners' views will be dropping whether the real reasons are because the reasons are mentioned by the International Monetary Fund or they are based on the normal and abnormal world financial system. These situations reflect financial inexperience of personnel and related agencies, which makes Thailand and Thai people lose prestige and reputation.

4. Impact to business operation

Thailand loses its business prospects, commerce, investment, or tourism that generates core revenues for the country (Veerapong Boonyopas, 2006: 29-30).

2.4 Case studies of white-collar crime

a. Case study of white-collar crime within the Stock Exchange of Thailand

To benefit this research, 3 case studies in other countries were presented here, including AIG Public Company Limited, Enron Public Company Limited and WorldCom Public Company Limited.

1. American International Groups (AIG)

AIG is a largest insurance company in the United States, especially in terms of life insurance and property. There are around 7,000 insurance companies in the United States covering revenues from collection of premiums over USD 1 trillion per year. This company includes 86,000 employees working in 130 countries around the world. Except the insurance business, the Company also acts as investment consultant in the stock exchange, capital market and derivative market, which is not different

from other securities companies. The Company establishes its subsidiary named AIG Global Investment Group (AIGGIG) to manage the investment sum at USD 500,000 million. AIG's net income as of 31 December 2004 totaled USD 81,000 million or 4.19 USD per share (triple of Thailand's fiscal budget). AIG is an insurance company with revenues on top four of the world (2003) and it is a company with revenues on top ten of the world (2004) (Forbes 500 in 2004). Mr. Maurice R. "Hank" Greenberg is the Company's CEO at age of 38. He has built up AIG until it engages good reputation and also gains the world's biggest life insurance and health market. Mr. Greenberg is a businessman taking a dominant role in implementing the borderless policy since he is a key man of the Council on Foreign Relations. He played an important role in placing foreign policies of the United States. He is so close to President George Bush. He spent his own money amounting to USD 200,000 to support Bush's second presidential election campaign. Mr. Greenberg could approach every minister in Bush's administration. Any issues he proposed would become the USA's policies such as terrorism insurance, which made AIG earn enormous premiums from this policy.

In 2005, AIG was accused by the SEC of creative accounting, which made the Company have excessive income for USD 1.7 billion. As a result, Mr. Maurice or Hank Greenberg, President and CEO, was forced by the Company's executive board to resign. In 2003, AIG was investigated by the SEC in case of building the insurance plan allowing Bright Point Co., Ltd. to change the USD 12-million loss in its financial statement, which turned Bright Point to gain 61% profits. This deceived profit lured general people to buy the company's shares and to suffer losses later. AIG agreed to pay for USD 10 million to stop the investigation and another USD 450,000 as the penalty in charge of creative accounting.

AIG and General Insurance, a subsidiary of Berkshire Hathaway of Warren Buffett, the second richest man of the world (second to Bill Gates – founder of Microsoft), were also prosecuted in charge of fake insurance agreement to boost AIG's income. AIG's management confessed to the SEC that AIG's balance sheets ranked in Grade 3A for consecutive 14 years were results of its creative accounting.

This is an interesting issue for further studying frauds by way of creative accounting in Thailand.

The fraud of Berkshire Hathaway was the retroactive selling of insurance products to damages already occurred by guaranteeing damages according to the sum insured so that its corporate customers could record such sum insured as revenues to deceive Berkshire Hathaway's shareholders and general people who wanted to invest in companies with high income or growth. The premiums were also recorded as the company's expenses to receive the tax reduction. In this case, the insurance company could gain the premiums without absorbing any risk of insurance claims. Based on the insurance principle established by law, this is not a real insurance because potential risks are not transferred to the insurance company, but it still maintains the risk of occurring damage; so this deems a fraud and creative accounting.

There are many other insurance frauds, including:

1. Retroactive reinsurance coverage that is favorite but it is possible to violate laws; for example, Loss Portfolio Transfers (LPTs) by which the prosecuted person agrees to pay for damage costs as well as insurance purchase fee or potential risk purchase for the insurance company according to the estimated net present value while the insurance company accepts such risk and negotiates with the claimant to pay the least claim. If the negotiation is successful, the insurance company will gain a big amount of profits and accept risks to damages from LPTs. This method is favorable among physicians claimed for damages by patients against their wrong treatment or patients' diseases are not improved after operations or their physical conditions are up to expectations.

2. Bribery for pitches or it is called marketing service agreements or commission payments over legal permission such as contingency fee, double commission received from the insurance company and client. This method contradicts to both business ethics and law.

3. Secret sales of employees' life insurance to their employer or it is called "dead peasant"; as a result, the employer will receive death claims based on the sum insured in case of employees' death.

4. Loan Shark, which, sometimes, may be charged at 23% or duplicate premium calculation until this is the organizational culture extended to associated companies around the world, which takes advantages on customers (Kamol Kamoltrakul, 2005: 17-31).

2. Enron Public Company Limited

Enron Public Company Limited is the largest energy trading company established for 18 years only. It is the seventh biggest company in the United States and the sixteen biggest one of the world (data as of 2000). It owned electricity generating plants, gas pipelines, glass fiber, etc. This company is the first one creating innovations in the world energy and telecommunication markets by trading the water power and bandwidth communication in the stock market or hedge market. The company hired 20,600 employees in 40 countries around the world. Its head office was located at Houston, Texas, the United States. The company had creative accounting to lure analysts, informed of false information to government authorities and deceived the world by its good image. On 8 November 2001, the SEC reported that:

1. Enron requested for revising its financial statements ended 31 December 1997 up financial statements ended 31 December 2000 as well as quarterly financial statements ended 31 March and 30 June 2001. This meant the accounting period for 4 years and 2 quarters totaling USD 569 million. As a result, Enron's profits were lower at 16% of recorded amount. Apart from this announcement, Enron also advised the investors not to use financial statements for the period of 1997-2000 verified by Arthur Anderson.

2. Enron's intentions of accounting revision were: (1) Enron's previous announcement on the equity reduction in part of company owner for USD 1.2 billion, (2) financial statements of another 3 subsidiaries had to be consolidated with Enron's operation results pursuant to the generally accepted accounting principles, and (3) accounting improvements as advised by Enron's auditor in the previous year and new accounting grouping have not been recorded because it was estimated that they were not significant in transaction periods.

3. Enron's executive board appointed a special commission to investigate or review the material essence shown in Form 8-K. This special commission might have other different or additional information.

Charges and Prosecution to Enron by the USA SEC

According to investigations about offences by many commissions, the SEC, who hosted this event, started investigating and charging Enron's executives and other conspirators in many spheres including financial institutions doing transactions with Enron. Finally, a giant auditing company, Arthur Anderson, must give up its business. The investigation started at the end of 2001 up to 8 February 2005. The SEC has prosecuted or charged Enron for more than 90 cases.

The SEC's exercise of administrative authority to Enron's executives

The SEC filed charges against Enron's executives for violations of USA securities law, false financial statements given to the credit rating company in connection with Enron's business and financial status. The SEC made compromise for the following civil cases causing some damages from Enron's creative accounting (but criminal cases could not be compromised):

1. Timothy A. DeSpain committed offences while he was in the position of Assistant Treasurer of Enron from 1999 to 2001 when Enron collapsed although he committed such offences as conforming to instructions to inform of counterfeit information about cash flows whereas Enron, in fact, lacked huge cash flows, to build up a complicated transaction known as Nathanni Project that was an advanced payment whereas Enron did not report its sale amounting to USD 500 million as its assets but recording it as the operating cash flow (excessive record), and binding Enron to the advanced payment about USD 5 million. DeSpain was prohibited to act as director or executive in any listed company everlastingly.

2. Raymond M. Bowen, Jr. committed the same offence and was prohibited to act as director or executive in any listed company for 5 years.

3. Mark E. Koenig, former Executive Vice President and Director of the Investment Relation Department of Enron, agreed to pay for USD 1.49 million as the damage cost. He also agreed to give cooperation for ongoing investigations. Koenig was prohibited to act as director or executive in any listed company.

4. Kenneth D. Rice, former CEO of Enron Broadband Services, agreed to pay the partial damage cost at USD 14.7 million and to give cooperation for ongoing investigations.

5. Kevin P. Hannon, former COO of Enron Broadband Services, agreed to pay the partial damage cost at USD 3.2 million and to give cooperation for ongoing investigations.

6. Kenneth L. Lay, former company board and CEO of Enron, was charged for the violation of securities law by creative accounting and false documents. He joined hands with several executives such as Skilling, Causey and others to make counterfeit evidence. He had to pay for the damage cost over USD 90 million and was prohibited to act as director or executive in any listed company everlastingly.

Alleged offenders

1. Kenneth L. Lay – Apart from creative accounting, he built up counterfeit events, declaring fake information for public misunderstanding for Enron's stock price rising before selling shares he held back to Enron (USA law permits a company to buy back shares from shareholders) while he was aware of Enron's terrible status. His share selling amounted to USD 70 million, aimed to pay back the advanced money he withdrawn from Enron without security. In addition, he could sell shares he held in the amount of USD 20 million to the capital market.

2. Paula H. Rieker violated the securities law while he was the director of Investor Relation Department. He was fined for USD 499,333 and had to give cooperation for investigations.

3. Canadian Imperial Bank of Commerce (CIBC) and another 3 executives comprising Daniel Ferguson, Mark Wolf and Ian Schottlaender who joined hands in counterfeiting Enron's accounting from June 1998 to October 2001. On such period, Enron recorded its loan amounting to USD 1 billion, which increased its cash flows to nearly USD 2 billion. In addition, its debts amounting to USD 2.6 billion were not shown in the financial statements. These offenders have received some compensation for creating counterfeit transactions around USD 10 million per year. Finally, CIBC had to pay for damage costs amounting to USD 80 million.

4. Daniel L. Gordon, former Global Energy Market Group of Merrill Lynch, gave cooperation to Enron's creative accounting for USD 50 million by building 'back-to-back' or "delta-neutral" transaction. Merrill Lynch received the transaction fee at USD 17 million at the end of 1999.

Damages from Enron's transactions include:

1. Damages in Braveheart Project

In case of Braveheart, executives of Enron Broadband Services, Inc. (EBS) committed frauds causing the damage at USD 154.93 million. The offenders were former top management of EBS.

2. Damages from nCube Project

The investment was a fake one without any actual investment. Howard and Braveheart's team decided not to establish a joint venture company with Blockbuster because EBS feared to lose its control of VDO business. Finally, Howard directed his team to have the joint venture registration with nCube, a small company owning the VDO technologies; meanwhile, selling products to EBS. Howard believed that this was a good idea since nCube should do everything Enron wanted from this joint venture. From internal discussions of EBS, Howard stressed that nCube allowed Enron to manage this joint venture business. He was also happier because nCube did not try to be involved in Enron's business strategy.

3. Damages from an investment project of Canadian Imperial Bank of Commerce (CIBC)

After Enron established a joint venture company with nCube and Thunderbird, Enron, later, sold some shares to Hawaii 125-0 in the amount of USD 11 million: USD 53 million sold in Quarter 4 of 2000 and another USD 58 million sold in Quarter 2 of 2001. The amount of USD 111 million paid by Hawaii 125-0 should be shown in the accounting as the receivable rather than debt because the capital at 3% held by Canadian Imperial Bank of Commerce (CIBC) had no risk.

Enron disclosed its risk management activities in terms of commerce and non-commerce that Enron's assets under risk management accounted for USD 1,088 million and USD 300 million as of 31 December 2000 and 1999 respectively. But, Enron disclosed its financial statements indicating changes of its market prices as other income (total revenues of Enron as of 31 December 2000 totaled USD 7.2 billion). Such report made much confusion to the market about what was the proportion of revenues from value appraisal to total revenues. For figures shown in the financial statements, Enron indicated that "revenues in the amount of USD 763 and 395 million were revenues from recognizing risk-managed activities". This meant that no cash flew into Enron in the accounting year of 2000 and 1999 respectively (Kiattisak Jirathiennart, 2005: 147-180).

4. WorldCom Public Company Limited

The collapse of WorldCom has caused great damages, that is, WorldCom's market value in 1999 reached USD 125 billion and its share price reached the maximum at USD 64/share in 1999. The Company's market price unbelievably dropped to USD 2.7 billion before it filed for protection in the bankruptcy for business rehabilitation on 21 July 2002. As a result, all shareholders and creditors suffered great damages, but WorldCom's top management swept much money from shareholders' tears and money. Those top executives did everything on their personal profit. Although they have received enormous compensations from the Company, those compensations could not stop their greed.

On 24 July 2002, 3 days after filing for a bankrupt, WorldCom's share dropped to USD 0.83/share and USD 0.21/share on 26 July 2002 when the Stock Exchange halted the trading of WorldCom shares.

The asset values on the date of filing for bankruptcy totaled USD 107 billion with the debts amounting to USD 41 billion. Among those debts, they were debts to B/E or long-term loans at USD 24 billion. CEO and CFO jointly had creative accounting to deceive everyone in the total of USD 3.8 billion.

Damages of WorldCom

- Market price in 1999 = USD 125 billion
- Market price ended July 2002 = USD 2.7 billion
- Maximum share price = USD 64 in 1999 to USD 0.21 on 26 July 2002 from USD 0.83 on 24 July 2002
- Creative accounting for USD 3.8 billion
- Asset value as of the date of bankruptcy filing = USD 107 billion and debts at USD 41 billion (B/E = USD 24 billion)

The share prices of WorldCom has been continuously dropping due to doubts of analysts and investors that WorldCom had to go into the same process of Enron or filing for business protection in the bankruptcy case.

Catastrophe spreading all over the country

The failure of corporate government in the United States triggered the catastrophe to American people and society. To say more, the value of US Stock Exchange in 1999 was nearly USD 16 trillion or equivalent to Baht 640 trillion, which is equal to Thailand's budget for 533 years. But, wealth of American people and foreigners investing in the US Stock Exchange got lost by actions of less than 100 dishonest executives who made many listed corporate companies in the United States collapse from Year 2001-2002 starting from the bankruptcy of Enron in 2001. This catastrophe broke the US bankruptcy statistics until wealth of US Stock Exchange was dropping to USD 13 trillion. However, in the following year, WorldCom again broke Enron's statistics by filing the bankruptcy under the US and the world highest asset values. This event made the US Stock Exchange drop to USD 11 trillion, which is lower than the market value in 1998 and the lowest in the past 5 years.

Shareholders of WorldCom also lost their wealth amounting to USD 200 billion if compared with previous wealth.

Creative accounting by informing of false expenses grounds the case of WorldCom. It recorded expenses lower than actual amount for USD 7.97 billion in 7

quarters starting from Quarter 3 of the 2000 accounting year up to Quarter 1 of 2002 as illustrated below.

Expenses lower than actual amount submitted by WorldCom to the SEC during 2000-2002			
Reports submitted to the SEC	USD Billion		
	Reported Expenses	Actual Expenses	Difference
10-Q Quarter 3 of Year 2000	3.87	4.70	-0.83
10-K – Year 2000	15.46	16.70	-1.24
10-Q Quarter 1 of Year 2001	4.11	4.88	-0.77
10-Q Quarter 2 of Year 2001	3.73	4.29	-0.56
10-Q Quarter 3 of Year 2001	3.75	4.49	-0.74
10-K – Year 2001	14.74	17.75	-3.02
10-Q Quarter 1 of Year 2002	3.48	4.30	-0.82
Total of all 7 quarters	49.13	57.10	-7.97

The creative accounting under actual expenses made WorldCom could deceive important parties, including analysts, institutional investors and retail investors as well as the SEC that the Company's status was still strong as told by its executives. Such counterfeit operating results showed excessive profits at least USD 2,620.37 million because the previous reports showed profits in 7 quarters at USD 2,243.70 million instead of accumulated losses for 7 quarters at USD 376.67 million as summarized in the table below.

False financial statements submitted by WorldCom to the SEC in Quarter 3 of Year 2000 – Quarter 1 of 2002				
Reports submitted to the SEC	USD Billion			
	Reported Expenses	Revenues before income tax	Actual Expenses	Actual Profit (Loss)
10-Q Quarter 3 of Year 2000	3.87	1.74	4.70	908.00
10-K – Year 2000	15.46	7.57	16.70	6.33
10-Q Quarter 1 of Year 2001	4.11	988.00	4.88	217.00
10-Q Quarter 2 of Year 2001	3.73	159.00	4.29	-401.00
10-Q Quarter 3 of Year 2001	3.75	845.00	4.49	102.00
10-K – Year 2001	14.74	2.39	17.75	-622.00
10-Q Quarter 1 of Year 2002	3.48	240.00	4.30	-578.00
Total of all 7 quarters	49.13	2,243.70	57.10	-376.67

According to the file of the SEC's prosecution for WorldCom, it could be summarized as follows:

- During the slight economic growth in 2001, revenues and profits of WorldCom were lower; so the Company experienced difficulties in maintaining its operating results to be relevant to analysts' expectation.

- Year 2001 is the first year when WorldCom had creative accounting to make its fake profits close to the forecast of Wall Street analysts and those fake profits also helped keep up the company's share price. A main cost of WorldCom's operation expenses was the rental line numbers or "line costs". In the normal business, WorldCom had to pay for line costs to the third parties who were telecommunication network owners and allowed WorldCom to use their telecom networks to provide services to its customers under the obligation or generally accepted accounting principles (GAAP). These costs should be recorded as expenses, not assets or capitalization. But, WorldCom recorded them as assets (deposits for use of networks) since the first quarter of 2001 as directed by WorldCom's executives so that it gained many profits as per analysts' expectation. By this method, WorldCom

recorded its expenses lower than actual expenses significantly; consequently, its profits notified to the public were excessive, which deceived or defraud general investors.

- The results of false accounting records have been shown in the Company's reports submitted to the SEC in Form 10-K and Form 10-Q since 31 December 2001 up to Quarter 1 ended 31 March 2002.

- Line costs for 2001 financial statements totaled USD 14.74 billion only; so WorldCom earned profits before deduction of expenses and dividend around USD 2.39 billion. In fact, actual expenses of "line costs" should be USD 17.79 billion, which would result to a loss at USD 662 million.

- In the financial statements for the first quarter of 2002 submitted to the SEC, WorldCom borne 'line costs' at USD 3.48 billion with the profit at USD 240 million instead of 'line costs' at USD 4.28 billion, which would lead to a loss at USD 577 million, not profit reported to the SEC.

- WorldCom disclosed in Form 10-K of Year 2000 and Form 10-Q of Quarter 1 of 2002 that such reports could mislead persons who used them for decision-making. Those reports did not mention about its account recording method that was different from previous accounting periods. Such records made WorldCom's revenues or profits increase significantly.

- Such action violated several provisions of securities law.

The Court's sentences to the case that the SEC claimed damages against WorldCom were summarized below.

- "The Court views that the SEC has reviewed related issues carefully to punish the Defendant to pay for civil damages as assessed by the level of damages caused by complicated dishonesty. The punishment is to prevent future offences...The Court rules that the Plaintiff's complaint is fair and reasonable; so the Court judges that the Defendant pays for damages at 75 times of fines previously paid by the Company."

- WorldCom was bound to liable for civil damages totaling USD 2,250 billion. The final judgment ruled that WorldCom had to pay for damage costs for USD 500 million in cash and another USD 250 million in common shares, which

would be placed in a fund to later be allocated to injured persons (Fair Funds for Investors) according to provisions set forth in the Sarbanes – Oxley Act of 2002.

The compensation by banks, the Board of Directors and auditors of WorldCom for damages as per the Court's sentence totaled USD 6.1 billion as summarized below.

Damage costs to be compensated by the bankrupt company to shareholders

Judge Denise Cote ruled that the banks and persons involving in the fraud of WorldCom had to pay for damage costs in the amount of USD 6.1 billion (22 September 2005).

- Citigroup's compensation amounting to USD 2.6 billion
- JP Morgan's compensation amounting to USD 2.0 billion
- Deutsche Bank AG's compensation amounting to USD 325 million
- Arthur Anderson's compensation amounting to USD 65 million
- Previous Board of Directors' compensation amounting to USD 55 million
- Ebbers, former CEO, compensated for USD 45 million

Source: (Kiattisak Jirathiennart, 2005: 181-198).

b. Case study of white-collar crime within the Stock Exchange of Thailand

Since the establishment of the Stock Exchange of Thailand and the Office of the Securities and Exchange Commission, several important cases have occurred; for example, collapse of trusts in 1979 especially Racha Capital Co., Ltd., prosecution of Bangkok Bank of Commerce (BBC)'s share manipulation against Mr. Song Vacharasriroj that was finally dismissed by the Supreme Court and the financial crisis in 1997 in which it was later found that executives of several financial institutions defrauded and caused huge damages, regulating the capital market especially enforcement by regulatory agencies have not yet so efficient due to many factors, hindrance and problems although several studies have been conducted. Therefore, agencies in the justice procedure and organizations in the capital market should

arrange training courses or seminars to find out improvements, to develop enforcement process and to realize problems and suggestions leading to the improvement and development of enforcement measures in the future.

However, over the years, prosecution or enforcement of capital market laws by means of court's sentence for punishing defendants was successful for few cases. One of them was the share purchase of Siam City Bank Public Company Limited in the manner of misleading general investors and mutually and continuously selling and buying such shares. The Court of First Instance had sentence on 7 July 2003 by ordering the 1-year imprisonment to Defendant 1 and Defendant 2 and a fine at Baht 4,000,000 for each. The suspension of the infliction of punishment for imprisonment was in the period of 2 years for each. The prohibition to exercise certain occupations for 5 years was lifted and the Court also dismissed the charge against Defendant 3 – 6.

The above event led to seeking for causes and factors making enforcement successful or fail, and to consider the whole operation of the capital market, both domestic and international. However, there is a remark that enforcement measures are only a part of capital market regulating. The index of successful regulating in Thailand's financial market, particularly capital market, not only involves financial market stability, confidence, investor protection, fair and healthy competition and operations to attain the economic goals, the general nature of stock market must be concerned by considering the orderly trading, liquidity and trading fairness.

Hence, enforcement measures must also be based on the aforesaid principles. In terms of law, rules and regulations or laws, enforcement methods by various measures such as criminal, civil or administrative measures depending on penalties and prescription given to offenders, appropriateness and efficacy of agencies relating to enforcement in order to attain objectives of regulating the capital market as intended in the enactment of the Securities and Exchange Act, B.E. 2535, and to enhance concrete results, protect investors, financial market, capital market and the public that are important factors for the development of national economics. According to the statistics of prosecution for unfair stock trading and management of juristic persons under the Securities and Exchange Act from Year 1992 to Year 2004, it was found that:

- In 1992, evidences were compiled and submitted to related agencies to proceed prosecution for 1 case. The Supreme Court had the final judgment to dismiss the case.

- In 2006, there were 4 cases: The Attorney General issued the non-prosecution order for 2 cases, 1 case is on taking of evidence in the Court of First Instance, and the Court had final judgment for imprisonment to the defendant and suspension of the execution of punishment for 1 case.

- In 1998, there were 2 cases: The Attorney General issued the non-prosecution order for 1 case, and the Attorney General issued the prosecution order for another case that is on the process of chasing offenders.

- 1999, there were 4 cases: one case is on the consideration of the Attorney General, the Attorney General issued the non-prosecution order for 1 case, and the Court of First Instance ordered the punishment to defendants in 2 cases (cases are on the consideration of the Appeal Court).

- 2000, there were 3 cases: one case is on the consideration of the Attorney General, the Attorney General issued the non-prosecution order for 1 case, and 1 case is on taking of evidence in the Court of First Instance.

- 2001, there were 3 cases: one case is on the consideration of the Investigation Officer, one case is on the consideration of the Attorney General, and one case is on taking of evidence in the Court of First Instance.

- 2002, there was only one case to which the Attorney General issued the non-prosecution order.

- 2003, there were 3 cases: the Attorney General issued the non-prosecution order for 2 cases, and one case is on taking of evidence in the Court of First Instance.

- 2004, there were 3 cases: two cases are on the consideration of the Investigation Officer, and the Attorney General issued the non-prosecution order for one case.

(Source: The Office of the Securities and Exchange Commission, 17 August 2005)

The prosecution for white-collar crime within the Stock Exchange of Thailand consists of the following 3 measures:

1. Criminal proceedings
2. Civil proceedings
3. Administrative enforcement power

1. Criminal proceedings

1.1 Offence relating to unfair stock trading

1.1.1 Mutual sale and purchase of shares of Bangkok Bank of Commerce Public Company Limited (BBC)

The Supreme Court's ruling 1766/2539

In this case, the Plaintiff sued and adduced that all 12 Defendants mutually purchased shares of Bangkok Bank of Commerce Plc. (BBC) through 6 securities and finance companies and securities companies in the total of 119,599,700 shares or it accounted for 43% of total market trading. The share prices totaled Baht 2,771,597,075 or 40.42% of total market volume. This mutual purchase has been done for several days in big lots at different prices in order to boost the share prices. Sometimes, the Defendants purchased those shares when the share prices were likely to be dropping so that the share prices were maintained. As a result, the trading volume and share prices are irregular. These purchases were mutually agreed and misled general people that the shares held by 12 Defendants have been highly traded in high prices, and lured general investors to buy their shares. About 7,000 investors were deceived to purchase BBC shares or it accounted for 57% of market trading volume, etc. For the offence of 12 Defendants, the Plaintiff judged that it violated Section 243, 246, 247, 296 and 298 of the Securities and Exchange Act, B.E. 2535 as well as Section 83 and 91 of the Criminal Code.

The Court of First Instance dismissed the charge and the Appeal Court confirmed the judgment.

The Supreme Court confirmed the judgment to dismiss all 12 Defendants by presenting certain important reasons, particularly in case of share manipulation that:

First, in case of securities purchase by conniving at the commission of the offence or agreeing with other persons in order to mislead general people to understand that, at any time, that security has been highly traded or security prices have been changing or unchanged that are not relevant to normal market condition as stipulated in Section 243(1), the Court views that, the fact admits that all 12 Defendants actually purchased BBC shares based on the actual prices daily traded in the SET. The purchases of BBC shares by each Defendant, therefore, were common purchases based on share prices traded in the SET, not purchases by concealing the purchase amount or share prices to mislead other persons. Thus, actions of 12 Defendants should not be an offence as prescribed in Section 243(1).

Second, in case of continual stock trading resulting to uncommon market trading and such action aiming to lure other people to purchase or sell those securities, except ..., etc. according to Section 243(2), the Court views that such purchase of BBC shares by witnesses for prosecution was done under self-decision or discussions between BBC share purchasers after expectations that share prices of any security would be likely to be higher or to gain profits, which is a normal situation of general people buying shares in the SET. This is not to buy BBC shares as motivated by purchases of BBC shares of 12 Defendants. For other witnesses of prosecution, they did not testify that their purchases of BBC shares were motivated by purchases of BBC shares by 12 Defendants or such witnesses did not confirm that those 12 Defendants have purchased BBC shares to stimulate other general people to buy BBC shares; therefore, it is not admitted that all 12 Defendants purchased BBC shares to lure other general people to buy BBC shares that would lead to an offence in accordance with Section 243(2).

1.1.2 Mutual sale and purchase of shares of Siam City Bank Public Company Limited (SCIB)

Decided Case No. 2008/2546 of the Criminal Court

In this case, the Plaintiff sued and adduced to realize the fact that, on 17-25 June 1992, all 6 Defendants mutually sold and purchased securities of Siam City Bank Public Company Limited (SCIB) by recognizing and agreeing to lure general

people that SCIB shares during the period mentioned above had the trading volume and prices irregularly higher than the normal market condition. This mutual purchase has been done for several days in big lots at different prices in order to boost the share prices. Sometimes, the Defendants purchased those shares when the share prices were likely to be dropping so that the share prices were maintained. As a result, the trading volume and share prices are irregular. All 6 Defendants have continuously and secretly purchased the total of 5,618,000 shares, 1,285,000 shares and 3,877,500 shares or at 66.91%, 6.78% and 18.58% of total buying or selling volume of such shares, which allured many people to buy them. Later, these 6 defendants gradually sold out shares to take profits. It deems an offence according to Section 243, 244 and 296 of the Securities and Exchange Act, B.E. 2535 as well as Section 83 of the Criminal Code, etc.

The Court takes into account the following issues:

First issue: in case of securities purchase by conniving at the commission of the offence or agreeing with other persons in order to mislead general people as stipulated in Section 243(1), the Court views that the second Defendant actually purchased and sold SCIB shares, which were traded in the SET pursuant to the trading prices at that time without learning the sellers or purchasers; so their purchases were done without conniving with sellers or their selling were done without conniving with purchasers like alluring the share volume or prices to mislead general people. The first Defendant sold his shares on 22 June 1992 by the direct method. Although he knew who purchased his shares, they were sold at a market price traded at that time. There is no evidence that the first Defendant connived or agreed with the purchaser liking alluring other people regarding share price or volume. Therefore, the action of all 6 Defendants did not violate Section 243(1).

Second issue: in case of offence relating to continual purchases or selling of securities to allure general people to purchase or sell those securities in accordance with Section 243(2).

- The first issue to be considered is whether the sale and purchase of SCIB shares during that period were done under normal market condition or not.

Because the volume and prices of SCIB shares traded during the aforesaid period have been higher for times without facts supporting such changes, it is a reasonable ground that such sale and purchase are not done under normal market condition.

- The next issue to be considered is that the abnormal sale and purchase of SCIB shares was constructed by the second Defendant or not and they were done in the continual manner or not. The Court views that the second Defendant's trading instructions to purchase SCIB shares resulted to general investors' decisions on purchasing SCIB shares. Many general investors who were retail investors had a great amount of SCIB share purchase and sale on that day without other fact supporting a higher price of SCIB; so it is believed that it results from the sale and purchase of SCIB shares in the past 2 days as well as many trading instructions by the second Defendant on that day. Thus, it is admitted the sale and purchase of SCIB shares during the aforesaid period are not done under the common market condition, but resulted by the second Defendant's sale and purchase because he submitted several trading instructions for consecutive 3 days.

- Another issue to be considered is that the second Defendant committed such offence to lure general investors to trade SCIB shares or not. The Court viewed that the second Defendant's sale and purchase of SCIB shares are to boost SCIB share prices higher to take profits rather than speculative purchase to be sold when the share prices become higher according to the market cycle. Such trading instructions made the computer monitor as viewed by general investors for decisions on share sale and purchase change more frequently, which allured them to understand that there were many investors interesting in buying SCIB shares. In addition, the sale and purchase of SCIB shares, on such period, have been instructed by the second Defendant in other persons' accounts in order to conceal that the entire instructions were actually done by the second Defendant.

After considering purchases of SCIB shares by the second Defendant during the aforesaid period in the manner of creating higher prices, submitting trading instructions in form of minor instructions and submitting trading instructions in other persons' accounts, it is admitted that the second Defendant's actions were specifically done to lure general people to sell and purchase SCIB shares. When it is apparent that

the second Defendant's actions were not done honestly to protect his duly benefit, it shall be deemed that such actions constitute characteristics of offence as prescribed in Section 243(2) whether general investors were lured by the second Defendant to trade SCIB shares or not. Hence, although the Plaintiff does not take certain general investors to testify in the Court, it could be confirmed that the sale and purchase of SCIB shares during the aforesaid period were done by the second Defendant's persuasion; so the evidence adduced by the Plaintiff could punish the second Defendant according to Section 243(2).

Third issue: Did Defendant 1 and Defendant 3-6 mutually commit an offence with Defendant 2? The Court views that the evidence shows that Defendant 1 mutually committed the offence with Defendant 2 but not Defendant 3-6; thus, the Court sentences that Defendant 1 and Defendant 2 committed the offence in accordance with Section 243(2) and Section 296 of the Securities and Exchange Act, B.E. 2535 and Section 83 of the Criminal Code. Defendant 1 and 2 must be imprisoned for a period of 1 year and fined in the amount of Baht 4,000,000 per each. But, because both have never been imprisoned and Defendant 1 and 2 committed such offence in a short period with few profits whereas the SCIB share prices dropped slightly after they stopped such trading. Several months after that event, SCIB share prices have been gradually higher; so it is not explicit that actions of Defendant 1 and 2 caused severe damages to general investors. Therefore, it is reasonable to allow Defendant 1 and 2 to reform themselves. The imprisonment punishment, so, will be suspended for 2 years, etc. As the Plaintiff prohibits Defendant 1 to have certain occupations associated with securities dealers for a period of 5 years upon the date of passing over the punishment in accordance with Section 50 of the Criminal Code, since the Court suspends the imprisonment for Defendant 1, the prohibition of certain occupations as requested by the Plaintiff cannot be done. This request and other charges will be lifted. The charges to Defendant 3-6 are dismissed as well.

1.1.3 The case of mutual sale and purchase of shares of First City Investment Finance Company Limited (FCI) in 1993 in the dissimulative nature to mislead general people and continual sale and purchase of such shares that are

offences pursuant to Section 243(1) (2) of the Securities and Exchange Act, B.E. 2535.

1.1.4 The case of mutual sale and purchase of shares of Rattana Real Estate Company Limited (RR) in 1993 in the dissimulative nature to mislead general people and continual sale and purchase of such shares that are offences pursuant to Section 243(1) (2) of the Securities and Exchange Act, B.E. 2535.

For both cases, the interrogation officers had opinion that the prosecution order should be issued, but the Attorney General had opinion that the prosecution order should not be issued under the similar reason that the sale and purchase was not in the dissimulative nature. The Director General of Royal Thai Police finally approved the Attorney General's non-prosecution order in 1997.

1.1.5 The case of selling shares of International Public Company Limited (ONPA) based on insider trading

In 2000, the offenders and another 3 persons were alleged for the sale of ONPA shares based on insider trading by using the inside information not yet disclosed to the public, etc. which deems an offence pursuant to Section 241 of the Securities and Exchange Act, B.E. 2535, etc.

In this case, the interrogation officers had opinion that the prosecution order should be issued, but the Attorney General had opinion that the prosecution order should not be issued. The Director General of Royal Thai Police finally approved the Attorney General's non-prosecution order in 2001.

Because the Attorney General viewed that, for the charge for selling of shares based on insider trading, the alleged offenders sold their shares not by learning certain facts about setting aside the reserve for reducing product value and using such fact to take profit from outsiders, but they sold those shares because the Company lacked liquidity and their selling could persuade foreigners to join investment. Their selling was based on securities regulation and done openly; so all actions of alleged offenders were not the offence pursuant to the allegation.

1.1.6 The case of purchasing shares of Lanna Lignite Public Company Limited (LANNA) based on insider trading

In 2004, the alleged offender was accused of selling shares of Lanna Lignite Public Company Limited based on insider trading, which deems an offence pursuant to Section 241 of the Securities and Exchange Act, B.E. 2535.

For this case, the interrogation officers had opinion that the prosecution order should be issued, but the Attorney General had opinion that the prosecution order should not be issued because the alleged offender was not a person under Section 241 (1)-(4); so he did not have the characteristics relevant to this Section. The Director General of Royal Thai Police finally approved the Attorney General's non-prosecution order.

1.1.7 The case of mutual purchase of shares of TPI Polene Public Company Limited (TPIPL)

In 2005, Defendant 1 and Defendant 2 were accused of mutually and continuously selling and purchasing TPIPL shares until the sale and purchase of TPIPL shares was not under the common market condition. Such action misled general people to sell and purchase TPIPL shares, which is an offence pursuant to Section 243 (2) of the Securities and Exchange Act, B.E. 2535.

For this case, the interrogation officers had opinion that the prosecution order should be issued, but the Attorney General had opinion that the prosecution order should not be issued because although both alleged offenders have continuously purchased a lot of TPIPL shares, which resulted to TPIPL abnormal stock trading in the market, such action could not attract any general investors to sell and purchase TPIPL.

1.1.8 The case of mutual sale and purchase of shares of Thai Coating Industrial Public Company Limited (TCOAT)

In 1994, the Defendant was accused of joining with his team to purchase and sell shares of Thai Coating Industrial Public Company Limited (TCOAT) in the dissimulative nature to mislead general people and continual sale and purchase of

such shares, which resulted to the abnormal stock trading in the market. Such actions are offences pursuant to Section 243(1) (2), 244 and 296 of the Securities and Exchange Act, B.E. 2535 and Section 83 of the Criminal Code.

The Attorney General issued the prosecution order and the South Bangkok Criminal Court had sentence it to be the **Decided Case No. 2649/2548** on 24 June 2005.

The behavior of selling and purchasing shares by Defendant and his group is the securities trading in the SET by conniving or agreeing with his team to dissemble general people that such shares have been highly traded on a period until share prices became higher that is not under normal market condition. In addition, persons receiving some profits from such sale and purchase are the same ones or Defendant and his team. Their trading has been done continuously, which resulted to abnormal sale and purchase of securities, to lure general people to sell or purchase TCOAT shares. It is apparent that the Defendant's action is not done honestly to protect his duly profit while the net profit the Defendant and his team gained totaled Baht 13,979,039.75 as per their offence. Therefore, the action done by the Defendant and his team deems an offence as prescribed in Section 243(1) (2), 244, 296 of the Securities and Exchange Act, B.E. 2535 and Section 83 of the Criminal Code. The Defendant shall be imprisoned for 2 years and fined in double of the profit he took or Baht 27,958,079.50 in total, etc.

1.2 Offences relating to frauds in the management of juristic persons

Earlier, there were few cases relating to executives' frauds, but, after the financial crisis in 1997, there were plenty of such cases in listed companies. The important allegations include:

1.2.1 Allegation of dishonesty to the Company against President of Thai Modern Plastic Industry Public Company Limited and his group

In 1998, President of Thai Modern Plastic Industry Public Company Limited (MODERN) and his group (Alleged Offender 2-5 as company directors and

Alleged Offender 6 as financial officer and the Company's major shareholder ranked No. 16) were alleged that they mutually acted or allowed to have acts to seek for undue benefit causing damages to that juristic person or they acted or allowed to have acts in relation to false accounting, incomplete and inaccurate accounting to deceive shareholders, etc., which deem offences as prescribed in Section 307, 308, 311, 312 and 313 of the Securities and Exchange Act, B.E. 2535.

The interrogation officers had opinion that the prosecution order should be issued, but the Attorney General had opinion that the prosecution order should not be issued. Finally, the Director General of Royal Thai Police agreed with the Attorney General's opinion.

1.2.2 The allegation of dishonesty to the Company against directors responsible for TAC's operation

In 2003, Defendant 1 and Defendant 2, directors responsible for TAC's operation, were alleged that they mutually sought for undue benefits by making the Land Purchase Agreement intentionally executed to take cheques to make instruments for buying INLIFE shares for themselves. This act made TAC get damages, which deems an offence as prescribed in Section 307, 308, 311 and 313 of the Securities and Exchange Act, B.E. 2535.

The Attorney General had opinion that the prosecution order should not be issued because Defendant 1 and Defendant 2 were authorized by TAC to make the Land Purchase Agreement while Defendant 3 was the receiver of deposit and operating fee from TAC pursuant to the Land Purchase Agreement in the amount of Baht 153,325, 250. Although Defendant 3 took such sum to pay for INLIFE shares he purchased, it is his duly right. But, when Defendant 3 failed to comply with the Agreement, he returned such deposit and operating fee as set forth in that Agreement and he was also compensated in the amount of Baht 7,250,250 as specified therein. Therefore, it is apparent that TAC did not get damaged as per the allegation. The Land Purchase Agreement as well as withdrawal of deposit and operating fee were legally made and based on the resolution of the company meeting for TAC's benefit,

not personal benefit. In addition, TAC did not get any damage; so acts of Defendant 1 and Defendant 2 should not be the offence as alleged.

1.2.3 The case that an executive of Seamico Securities Public Company Limited had dishonest management, neglected to maintain the Company's benefit, and sought for undue benefits from the Company.

The Office of the Securities and Exchange Commission alleged former President of Seamico Securities Public Company Limited for seeking for undue benefits in the event that the Company passed a resolution for an investment in shares of a listed company priced not more than Baht 20 per share, which was so higher than its market price at that time. Later, this former President assigned former Department Director of the Company to buy shares of that listed company through other persons' accounts in the total of 172,400 shares at 5.30 – 8.50 Baht per share, but this lot of shares was further sold to the Company at 19.75 Baht per share, not at the market price as traded in the SET.

For this case, the Attorney General issued the prosecution order.

The South Bangkok Criminal Court had sentence to this case to be the **Decided Case No. 4932/2547** on 15 December 2004 that Defendant 1, who acted as the Company's director, had a duty of sustaining the Company's benefit, but, he conversely took securities purchased in advance to sell to the Company in which he acted as director. It is deemed that he fails to honestly perform his directorship as prescribed by law; so he had offence as director who bears responsibility for the operation of juristic person whose securities are listed on the SET because he acts for undue benefit for himself. For Defendant 2, he gave help to Defendant 1 to commit such offence. Thus, the Court judges that Defendant 1 should be imprisoned (former President) for a period of 5 years according to Section 85 of the Public Limited Company Act, B.E. 2535 and Section 311, 313 of the Securities and Exchange Act, B.E. 2535. Defendant 2 (former Department of the Company) should be imprisoned in a period of 5 years as well according to Section 85 of the Public Limited Company Act, B.E. 2535 and Section 315 of the Securities and Exchange Act, B.E. 2535 (SEC news No. 98/2547 dated 15 December 2006).

1.2.4 The fraud of executives of Thai Cane Paper Public Company Limited (TCP)

The Office of the Securities and Exchange Commission alleged 3 former executives of Thai Cane Paper Public Company Limited for jointly counterfeiting the minutes of meeting to be enclosed for opening a bank account on behalf of TCP so that these former executives would be authorized to withdraw some money. Later, these 2 executives withdrawn some loans granted by a financial institution to TCP before depositing them to such bank account and transferring them to accounts of three alleged offenders and other persons. This act was not learnt by other TCP directors. The Company's accounting was also inaccurate and false, which caused some damages to assets and benefits of TCP and to TCP's shareholders.

For this case, the Attorney General issued the prosecution order.

The Thonburi Criminal Court considers and judges that all 3 Defendants jointly and dishonestly embezzled a sum of Baht 365 million for their personal benefit or the third party's benefit. This acts caused damages to TCP. In addition, these executives did not record the bank account opening, and borrowing and receiving loans from the financial institution in TCP's accounting; thus, acts of 3 Defendants deem offences as prescribed in Section 307, 308, 311, 312 and 313 of the Securities and Exchange Act, B.E. 2535 and Section 216 of the Public Limited Company Act, B.E. 2535. Finally, the Court had sentence that all 3 Defendants should be imprisoned for a period of 20 years for each. However, since the imprisonment for each count is less than 3 years and such punishment is reasonably relieved, so the imprisonment to all 3 Defendants is suspended for 5 years.

2. Civil proceedings

Current applicable laws give power to the Office of the Securities and Exchange Commission to carry on civil proceedings with offenders relating to unfair trading practices in case of securities trading based on insider trading only. According to Section 242 of the Securities and Exchange Act, B.E. 2535, the Office shall have the right to call on such person who violates Section 241 (trading in such a way as to take advantage of other persons by using information material to changes in the prices

of securities which has not yet been disclosed to the public) to deliver the benefit which he has gained from such trading of securities within the period specified by the Office. However, the examples of civil proceedings under this Section have not been found.

In part of civil proceedings carried out by the private sector, any shareholders or investors getting damages retain rights pursuant to the principle of civil laws in terms of violation in taking legal action against any person causing them to suffer damages. Moreover, the Public Limited Company Act, B.E. 2535 gives rights to shareholders to file lawsuits against directors of any company wrongly doing duties in order to request for claims for the company (derivatives suit) in case that the company ignores the prosecution against such directors. This request is not done for direct benefit of each injured person.

Although current applicable laws do not restrict each individual to carry out civil proceedings to protect personal benefit, maintaining a lot of injured persons' right may be more efficient for retaining criteria and fairness in the investment market. Thus, individual rights should be promoted by enacting laws for class-action prosecution and amending some provisions of the Public Limited Company Act, B.E. 2535 regarding prosecution to be done by shareholders.

3. Administrative enforcement power

Except criminal and civil proceedings, the Office of the SEC may exercise administrative enforcement power in order to respond to situations in time, either prohibition measures for any acts violating laws, suspension or revocation of securities licenses, recording violators in the black list, etc.

Earlier, the Office of the SEC has exercised the administrative enforcement power under the scope of this research as listed below.

In 2004, the Office of the SEC instructed 13 listed companies to amend their financial statements. In addition, the SEC joined hands with The Institute of Certified

Accountants and Auditors of Thailand (ICAAT) to set up the guideline of interpreting the principle of accounting standards to enhance consistent understanding between auditors and listed companies.

It is apparent that prosecution measures could enhance certain extent of results, particularly in terms of administrative power, but the implementation and legal procedure supporting such administrative measures have not been active in case of conflicts. Thus, suitable supporting legal procedure and measures should be further examined (Thailand Criminal Law Institute, Researcher et al., 2006: 5-19).

2.5 Related theories

After studying related main theories and others according to the guideline of John Braithwaite, Australian criminologist, it was found that the research on white-collar crime before Sutherland's time that made Sutherland's work outstanding is belonged to Willem Bonger, a Holland Marxist, for his work titled *Criminality and Economic Conditions* written in 1916. He is the first one merging the theory on street crime and white-collar crime originated by poverty and ignorance to the ruling class. Later, Sutherland dug it up in 1939 to awake the world community, especially the Watergate scandalous case relating to bribery by foreigners in America and the World in the middle of 1970s. This is the first time students knew the term "white-collar crime", which greatly interested the public and the governments. It's the first time American people put much money to conduct on this matter at the end of 1970s. The national club of scholars in association with white-collar crime was established as well. The Researcher views that there are many corruption cases in Thailand and one of recognized cases is CTX case relating to frauds, in 2005, of buying explosive detection baggage scanning devices (Alongkorn Pollabutr et al., 2007: 18-23), which is similar to the case of Watergate and occurs at the United States as well.

Fourteen main theories relating to this research were presented below.

2.5.1 The Classical School Theory

In 1764, an Italian philosopher, Cesare Beccaria (Cesare Bonesana Marchese, de Beccaria, 1738-1794) proposed an important philosophy that free will determined human behavior. He believed that “humans are reasonable and seek for their best material benefits. They decide to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages from such acts before making decision to do or omit to do such behavior.” He also believed that if humans were prevented to break laws, penalties had to be severe, accurate and prompt to make humans believe and foresee deficits from their wrongdoing. Finally, humans would omit their wrongdoing.

Beccaria’s philosophy associated with criminology and justice procedure is as follows:

1. On the Contractual Society and the Need for Punishments –

Beccaria viewed that law was a condition of independent humans who formed the society by losing their partial freedom to enhance the national sovereignty and fair administrators. People in the society had to lose their partial freedom to enhance social peace and safety as well.

2. On the Function of Legislatures –

Only parliament should have enactment power since it represented people in the society. Penalties were stated in laws to prevent judges to exercise unlimited power. Law had to mention penalties for each offence. Each illegal action had to be specified in laws and each law should be clear and simple.

3. On the Function of Judges –

The court’s function is not to interpret the legislation since the court is not the parliament member. The court’s function is to mention perfect reasons of enforcement. Without obligations, the sentences may be unstable, and, finally, judges will be a tool of ruling class aiming to retain its ruling power.

4. On the seriousness of crimes–

A tool measuring crimes in the society is the danger affected by crimes, not intent of committing crimes. Thus, when crimes make the society in trouble, those criminals must be prosecuted whether in which position they are or which social class they stay. Pardon must be abandoned as well.

5. On punishments – Objectives of punishment are not torture or cancellation of existing crimes, but to prevent future crimes and prevent other persons to commit those existing crimes.

6. On proportionate punishments – The society needs the prevention of crime committing and damages. To protect general people to have wrongful acts, severe punishments must be more proportionate than crime motives.

7. On the severity of punishments – The severity of punishments must be over advantages or benefits got from crime commitment. But, the appropriate punishments should not be the torture or brutal punishments. Life imprisonment is more severe than execution.

8. On the promptness of punishments – Prompt punishments and close to the time of offence are the most appropriate and useful because they make laws effective.

9. On the certainty of punishments – If offenders are arrested and punished, others will fear and dare not to commit offences.

10. On preventing crimes – Preventing crimes is better than punishments and is a main objective of legislation. Law must be clear, simple and not benefit any group in the society.

The philosophy of this theory is that the justice procedure with severe, prompt and accurate punishments to offenders would most efficiently prevent and suppress crimes. Humans control their own behavior from free will by using knowledge and reasons to analyze advantages and disadvantages before doing any act. Thus, law must be placed to control such rationality and knowledge of humans, and criminal behavior. This concept has been favorable up to now, and it is finally developed to be Deterrence Theories and Economic Theories (Master & Roberton, 1990; Akers, 1994).

2.5.2 The Positive School

Cesare Lombroso (1835-1909), Jew-Italian doctor and scientist, initiated the implementation of scientific principle to examine causes of criminal behavior. He believed that, “crimes are originated by person’s physical abnormalities.”

Environment is more influential than biological factors causing individuals have criminal behavior. Those environmental factors include geography, rain, festivals, criminal law, banking, tax, structure of government, structure and principle of religion, etc.

This School has a basic concept that criminal behavior is derived from factors beyond humans' control. This School pays attention to conducting the scientific research and studying criminals directly under 2 hypotheses of criminal behavior: 1) human behavior comes from pressure or factors beyond humans' control; and 2) factors stimulating criminal behavior are different from factors stimulating compliance with law. There are 3 viewpoints factors stimulating criminal behavior: 1) biological viewpoint, 2) psychological viewpoint, and 3) external environment.

2.5.3 Neo-Marxist Theory or Radical Criminology Theory

Although Carle Marx, founder of Marxist, has never mentioned about criminal behavior. Because it is the research on economic history, crime is under the influence of Marxist's historical theory by explaining reasons of changes and predicting future events by connecting economic history with historical, political and social changes. Marxist views that the social structure should be changed from capitalism to socialism because, in capitalism, the strongest one is the survivor (Survival of the Fittest) or The Fittest Gobble up the Less Fit. A large portion of properties is belonged to a small group of people. More and more people become employees rather than creating their own work. Machines replace humans more and more. Marx focuses on laws and justice procedure rather than causes of crimes. Criminal behavior is derived from the response to victimization of capitalism. The first criminologist implemented Carl Marx's theory is Willem Bonger (1876-1940), a Norwegian, in his book entitled, "Criminality and Economic Conditions". He assumes that the capitalistic organization of society determines crimes. Ownership of the means of production by private companies, and expectation in profits shows egoistic tendencies; these make individuals have greedy and selfishness, no social responsibility, or capitalism stimulates the climate of committing crimes. All social classes are affected by capitalism similarly or equally. But, laws are set up by

Bourgeois and some kinds of crime such as prostitution, youth offences and narcotics come from certain economic conditions under capitalism. Bonger divided crimes into 4 types: 1) economic crime deriving from individuals' needs to be rich or wealthy, 2) sexual crime deriving from being condition of low-class people rooting the sexual concept like animals in their children's thinking, 3) political crime deriving from labor class who protest ruling class, and 4) vengeful crime deriving from economic conditions stimulating or motivating persons to have commercial competition at all time.

Bonger's concepts are summarized below.

1. Capitalism stimulates or persuades the people to be greedy and selfish and to do everything to acquire what they want.
2. Law and justice procedure specify selfishness and greed of labor class as crimes but, meanwhile, they stimulate and promote selfishness of ruling class.
3. Organizations in capitalism determine crimes (by way of legislation).
4. Socialism could reduce crimes since it promotes general people's living as a whole; so everyone engages equality and needs not seek for many properties.

After Bonger's explanation about causes of criminal behavior based on Marxist Theory in 1916, no studies on this matter have been done until 1970 by Neo-Marxist or Radical Criminologists.

An important Neo-Marxist criminologist is Richard Quinney (1977; 1980). When Bonger first presented his theory to the public, it was not so much accepted because Bonger believed that the economic factor was a single variable for the cause of crimes while socialism was not accepted in America (Gillin, 1945). Until 1970, Neo-Marxist Theory became popular and accepted by western scholars. This theory presents that capitalism originates crimes and crimes are outcome of taking advantage and maltreat to the working class under the capitalist system. The working class commits crimes for survival (Crimes and Accommodation) such as stealing, prostitution. The organized crime is the crimes of rebellion or political crimes to wipe out the capitalist system.

Quinney thinks that crime is inevitable and it responds to materialism of capitalist system. The working-class crime is committed for survival or it protests capitalism (crimes of resistance). Quinney states that ruling-class crimes come from capitalism as well and committed to protect personal benefits. These crimes could be divided into 4 types:

1. Corporate Crimes committed to monopolize the economic system such as hoarding, conspiring price rising.
2. Crimes of Control committed by officers in the justice procedure.
3. Crimes of Government committed by permanent government officers and political government officers.
4. Organized Crimes committed by the ruling class to retain social influence, sexism and racism and to prevent the labor class to influence above the ruling class.

Quinney views that the capitalist economy is the main cause of crimes. When a society applies this system completely, the state will increase the intensity or severity of controlling the excessive labor through justice agencies, and prosecute such excessive labor to balance the economic system or labor market. The solution is the change the ruling system to be socialism (Pornchai Khunttee et al., 2000: 169, 173-174, 178).

2.5.4 Social Control Theory

Reiss (1951), founder of this theory, states that individuals comply with laws since social controlling mechanism prevent them to commit crimes. Whenever this controlling mechanism disappears or becomes weaker, crimes would occur. This theory is based on a hypothesis that motivation of crimes is the personal nature. Individuals would commit crimes if there is no controlling mechanism.

Social Control Theory aims to study social relationship obstructing or protesting criminal behavior rather than factors or influence of state mechanism stopping individuals to commit crimes. This theory explains about criminal behavior and informal social sanction while the Classical School explains that law compliance and altruism are important elements leading to social peace, influencing laws and

justice procedure to decisions on not having illegal acts, or controlling individuals' behavior by the state agencies or formal social sanction.

2.5.5 General Theories of Crime of Gottfredson and Hirschi (1990)

The General Theories of Crime emphasized by Michael Gottfredson & Travis Hirschi is the Self-Control Theory (Pornchai Khuntee et al., 2000: 134) to mention about general relationship. This theory assumes that great responsibility to forms of life may lead to crimes; therefore, practices to work and success should be perceived (Nelken 1997a). Moreover, controlling should be neutral, but white-collar crime is complicated and active at all time according to social patterns; so it is difficult to measure it. Various theories also contain some limitations for white-collar crime or street crime; for example, studying individuals' demands from hijackers and traders in the Wall Street. Whether crime is seen as an alternative or not, each type of crime committed by each group of persons depends on opportunities given by social circumstances and cultures that are different. Besides, how does the alternative we consider and personal interest change this different condition? (Slapper and Tombs 1999). The Self-Control Theory may deviate our interest from the social structure and economic factors in which crimes may be committed (Croall, 1998c). One explicit example is the case of rotten apples in the barrel comparing white-collar crime committed by individuals as parasite (Sutherland, 1949: 257-8) as we see in the corruption of police and politicians (Doig, 1984). The combination of practice policy and organizational culture should be inserted in the research as well.

The Self-Control Theory is a new criminological theory developed by Gottfredson & Hirschi from the Social Bonding Theory of Herschi. The Self-Control Theory explains individuals' differences relating to personal characteristics that may stop or control themselves to commit all types of crime, in every condition and circumstance. He proposes that high self-control persons always tend to involve in crimes lowly (Gottfredson & Hirschi, 1990: 89) while low self-control persons highly tend to involve in crimes. Hence, self-control is a tool to stop or prevent individuals to have criminal behavior. The circumstances or environment are just motives of such criminal behavior. Thus, circumstances or environment exists before criminal behavior is shown out.

The hypothesis of this theory is that low self-control originates criminal behavior; thus, the nature or tendency of malfeasance and low self-control is the same thing (Akers 1994). The basic hypothesis may be summarized below:

1. Humans are likely to have criminal behavior.
2. Criminal behavior occurs since it is not prevented.
3. Crime prevention depends on efficient social control mechanism.
4. Social control mechanism may be divided into 2 types: internal control and external control.

2.5.6 Matza's Delinquency and Drift Theory

In 1957, Graham Sykes and David Matza proposed a criminological theory on a hypothesis that 'criminal behavior is originated from use of techniques and neutralization to be an excuse of malfeasance while "offenders do not reject social value or regulations but use techniques to make themselves feel that they do not violate any law or are not evils (Sykes & Matza, 1957). Sykes and Matza proposed that "neutralization technique" is one behavior allowing individuals to agree with violations of law instead of compliance with law. This theory was influenced by main hypotheses of Sutherland's Differential Associations Theory and Akers' Social Learning Theory. But, most scholars think that this theory should be put in the Social Control Theory (Akers, 1994).

Sykes and Matza argue the secondary culture theory stating that criminal behavior is originated from the group's value and belief or gang in which youths are members (Cohen, 1955; Miller, 1988, Cloward & Ohlin, 1960). Both propose that most crimes are bound to laws, but such binding may be much or little. These criminals commit crimes when they have already developed reasons or excuses of such offences. These excuses make criminals feel that although criminal behavior is not correct but acceptable. Those reasons or technique of neutralization include:

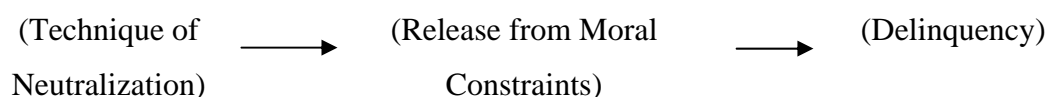
1. Rejection of responsibility (I do not intent to commit the offence.)
2. Rejection of damages (I do not harm anyone/ damage anyone.)
3. Rejection of victimization (Persons or victims cause that event.)

4. Condemnation of other persons (everyone looks down on me or mistreats me.)

5. Throwing responsibility to other persons (I do not commit that offence for myself, but for others or organization.), etc. (Sykes & Matza, 1957).

Later, in 1964, Matza improved “neutralization techniques” to be the important principle of a new theory named “Drift Theory of Delinquency” with an emphasis on forcing and differences. Matza views that criminals have physical and mental characteristics like general people. Normally, they comply with laws, not commit offences all the time. In contrast, general theories, at that time, viewed that criminals were different from others, and such differences stimulated or pushed them to take illegal actions.

Matza proposed a new idea about crime, which contained drift and similarity instead of pushing and differences. The important factor of this theory is drift. Matza believed that the drift would occur in the social structure where the controlling mechanism was weaker and let persons have freedom to commit crimes in order to respond to motivation or motives. This theory focuses on studying the environment weakening the social controlling mechanism. Although some kinds of white-collar crime are pushed or stimulated by some forces beyond controlling, there are most criminals with such drift under this theory. The reasons of criminal behavior under Matza’s Delinquency and Drift Theory could be illustrated below.



This theory is based on a hypothesis that most criminals believe in laws but they do not accept criminal behavior. Whenever those criminals apply “technique of neutralization” to any situation, they will commit crimes since they have autonomy to select their behavior (Matza, 1964). This hypothesis was tested and found that accepting the technique of neutralization was directly associated with criminal behavior. Persons accepting the technique of neutralization will have less shame or

guilt to illegal acts, and they were likely to commit more crimes than general people (Agnew, 1994). It was found that the technique of neutralization would make persons with following characteristics be likely to commit crimes:

1. Persons who believe that they are in situations where the technique of neutralization could be applied;
2. Persons who believe in social rules;
3. Persons who are in situations supporting the wrongdoing; and
4. Persons who have strong demand or wish to commit crimes. This demand comes from their friends who are criminals as well (Pornchai Khuntee et al., 2000: 126-128).

2.5.7 Sutherland's Differential Associations Theory

Edwin Sutherland (883 – 1950) is one of the most recognized criminologists in the 20th century (Akers, 1994). He completed the doctorate degree from the University of Chicago, USA. His academic work includes the Differential Associations Theory; Professional Theft; and White-collar Crime.

Sutherland views criminal behavior as behavior to be learnt by everyone if he has opportunities. The Learning Theory consists of main 9 principles for persons involving in criminal behavior:

1. Criminal behavior is derived from learning.
2. Learning in associating with other persons is based on communication process.
3. Learning occurs in a group of familiar persons.
4. Learning process includes: 1) techniques of committing offences; 2) specific direction of motives, motivation, rationalization, and attitude toward malfeasance.
5. Specific direction of motive and motivation is learnt to judge whether it is agreed with non-violation or violation of law or not.
6. Persons will become offenders because they agree with violations of law over non-violations of law.
7. Associations with persons may be different in terms of frequency, duration, emphasis and intensity of criminal behavior and anti-criminal behavior.

8. Associations with patterns of criminal behavior, and anti-criminal behavior relate to working mechanism like general learning.

9. Criminal behavior is an expression of need or motivation and general value, e.g. happiness, financial stability, job, struggle for social status, disappointment, etc.

Sutherland proposed that criminal behavior was “not directly originated by genes or social circumstances, but by learning of criminal behavior from close persons by means of communications, either oral or manner”. Persons would become offenders because they agree with violations of law over non-violations of law. So, such persons had to pass the decision-making process to agree with law-breaking behavior over legal behavior. What made persons agree with law-breaking behavior were culture and value, which cover motive, motivation, rationalization and attitude toward committing crimes (Sutherland, 1947). These factors depend on: 1) frequency or personal experience and frequency of criminal behavior; 2) duration or period that persons experience criminal behavior; 3) priority or learning criminal behavior during the childhood puts great influence on those persons; 4) intensity or reputation or prestige or criminal behavior origin or respect to persons transferring or modeling that criminal behavior (Sutherland, 1947). He viewed that intensity was an important factor making persons to agree with criminal behavior (Orcutt, 1983: 154).

This theory focuses on learning of behavior, and attitude comes from associations with close persons, especially friends or familiar persons who are criminals (Sutherland & Cressey, 1978). Learning consists of 2 main elements: 1) content of what is learnt), e.g. special techniques of crime committing, appropriate motivation, stimulation, rationalized explanation, attitude and persuading other persons to agree with violations of law; and 2) process by which the learning takes place. From associating with close persons, individuals may enter into or pass the learning process as well. The variable to be focused is “the association with friends who are criminals” (Sutherland & Cressey, 1978) because the attachment with friends creates the environment suitable for learning and supports for behavior and agreement with such behavior. Individuals learn both criminal behavior and belief from social environment closely living with other persons (Sutherland & Cressey, 1978).

Furthermore, Sutherland proposed another 2 main factors, which made this theory confront restrictions in explaining about crimes (Matsueda, 1988): 1) opportunity of offence, that is, although individuals agree with criminal behavior, if they do not have opportunities of offence, they will not commit crime. Each individual sees the opportunity of crime differently depending on each person's ability. Thus, persons to commit crime do not only have learning, but they must have expertise in committing crime; and 2) other alternative behavior apart from criminal behavior that is up to learning process. For example, some stock investors may learn how to manipulate stocks because they learn that it is only one means to generate revenues for their families; so they decide to commit crimes in the Stock Exchange of Thailand. Meanwhile, other people may know how to manipulate stocks, but they decide not to commit crimes in the SET since they have other legal choices.

2.5.8 Rational Choice Theory

Gary Becker (Becker, 1968) and Robert Crouch (Crouch, 1979) placed two basic hypotheses: (1) individuals have freedom to commit crimes; and (2) illegal behavior depends on individuals' satisfaction and best benefit. Such satisfaction or benefit is not limited in form of property, but it includes psychological benefit and satisfaction as well. This theory proposes its principle that individuals always calculate the outcome after committing crimes, either possibility of arrest and other legal alternatives (Sullivan, 1973). In studying crimes, it should view that crime consists of 2 qualifications: qualification of crime and qualification of criminals (Cornish & Clarke, 1986).

2.5.9 Routine Activity Theory

This theory comes from the philosophy of the Deterrence Theory and Delinquency Theory in the Classical School Theory. Loren Cohen and Marcus Felson (Cohen & Felson, 1979) define the Routine Activity as the individual's activity or act regularly done such as going to work so no one watches out home. This activity includes the characteristics of persons who may be victimized such as women, young children, aged people, etc.

The important principle of this theory is that crime is derived from 3 elements; namely, a criminal's crime committing, suitable victim, and lack of ability in protecting property or physical body. This theory is based on a hypothesis that crime is originated by the victim's routine habit. This theory is similar to the Deterrence Theory for the issue that an individual will commit crime when he diagnoses or analyzes advantages and disadvantages before committing it by calculating factors or variables relating to the victim and victim's self-defence or property.

2.5.10 Economic Theory

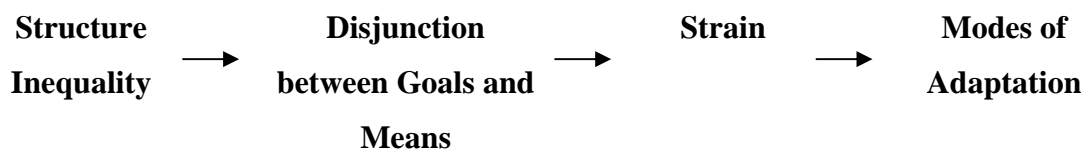
This theory is influenced by the philosophy of the Classical School Theory but it views that crime is originated by economics and the Utilitarian Philosophy like the Deterrence Theory. But, the Economic Theory relies on the economic interest in explaining about criminal behavior. This theory believes that an individual has reasonable decision-making process to commit crime. This principle is human's nature that wants the most gain and the least loss. Hence, if he thinks that he will not get any gains from crime, he will not commit it. This principle is different from the Deterrence Theory that mainly relies on legislations. The Economic Theory also believes that a criminal is a thinker with advanced planning. This theory, later, is split into 2 theories: Rational Choice Theory, and Routine Activity Theory. They contradict to general theories that most criminological theories believe that criminals hardly set up planning or concern about economic advantages and disadvantages before committing crime.

2.5.11 Strain Theory of Robert Merton

This theory comes from studies on social structure and it views that social factors originate criminal behavior. Emile Durkeim, French sociologist, found a definition about a social condition where there were no laws or regulations of controlling individuals' behavior in the society that it was called Anomie. It was accepted as the model of creative thinking to concern that criminal problems came from social factors (Akers, 1994). Durkeim has the same systematic viewpoint to Quate, a philosopher, who believed that understanding social phenomena should be

based on studying the whole society, not any part of the society. Thus, the macro structure or the entire social condition should be mainly studied. Later, Robert Merton (Merton, 1938; 1957) developed Durkheim's concept and he mentioned that culture of a society would determine goals or demands of people in the society to be acquired (culture goals). Goals of each society would be different up to each culture.

Merton's theory used the social structure to explain about why low-class people of a society engaged higher rate of crimes than middle-class or high-class people. This higher rate comes from existence or distribution of opportunities to form the financial status based on cultural methods. The middle-class and high-class people obtain more opportunities than low-class people, but the latter are stressed more than other social classes; so they have to respond to this cultural strain. Merton proposed 5 ways of responding such strain: (1) conformity, (2) innovation, (3) ritualism, (4) retreatism and (5) rebellion. Causes of criminal behavior pursuant to Merton's Strain Theory are illustrated below.



Responses or adaptation may be expressed by:

(1) Conformity by selecting methods accepted by the society whether social goals will be attained or not such as paying attention to studying and honestly doing occupations. This adaptation is most found in a normal society.

(2) Changes by accepting social goals in terms of wealth creation. If an individual cannot achieve it by general acceptable ways, he will find out other methods to form his economic status without concerning they break laws or morals or tradition or not. For example, businessmen use frauds and deceit to gain more profits, etc.

(3) Adherence to new cultures. This group of persons will leave old cultural goals, but, at the same time, they want to be safe from breaking social rules. Most of these persons are lower middle class people. They do not have great success in complying with social methods, but they do not have much expectation. They fear to lose what they have due to their breaking of law (Merton, 1938: 204).

(4) Giving up or retreating. These persons do not accept or retreat from acceptable goals or methods, and step away from pressure or social demand. These persons include ones with physical disorder, unorthodox, vagrants, vagabonds, prostitutes, alcoholic persons and addicts, etc. (Merton, 1938: 207).

(5) Practice. This group feels disappointed with social goals; so they change them, which may be political goals, by way of practice or peaceful way. This group does not accept goals and methods to attain goals of the society they have lived.

2.5.12 Maslow's Hierarchy of Needs

Abraham H. Maslow, an American psychologist and Chairman of American Psychology Association in 1967 – 1968, is the founder of this theory under 4 basic hypotheses.

1. Every human has similar receipt of motivation occurring in the body through social interaction.
2. Certain motivations have basic necessities and are more important than other motivations.
3. Motivations with more basic necessities must be responded to get the least satisfaction.

The Motivation Theory has several principles depending on different viewpoints to organic conditions. Apart from Maslow's Hierarchy of Needs, the Researcher also studied other motivation theories for at least 7 theories: 1) homeostasis and drive theory with a focus on the principle of balancing internal environment; 2) Theory of needs and drives, which explains about some drives stimulating physical needs or some tissues motivate organics to express behavior to respond to such need; 3) Incentive Theory with a focus on external stimulus as behavior stimulant, and some incentives can be stimulated by interaction of objects that are stimulus in the environment; 4) Instinct theory, that is, native instinct stimulates organics to express any behavior such as escaping, driving out, enthusiasm, fight or self-blaming, self-presenting, plant reproduction, forming a group for searches, construction, etc.; 5) Theory of Unconscious Motivation, that is, human behavior is determined by 2 basic power or life instincts and death instincts that are powerful and unconscious motivation; 6) Cognitive Theory with a focus on

understanding or perception before creating and making decision based on past experience; and 7) Spiritual Theory with a focus on powerful motivation or Karma and outcome of Karma is an important motivation for human behavior, etc.

However, the Researcher selected Maslow's Hierarchy of Needs that is relevant to this research or the business life goals, which is one theory most efficiently reflecting certain factors leading to committing white-collar crime within the Stock Exchange of Thailand.

In addition, Abraham H. Maslow explained about the Motivation Theory that:

1. Unity of body parts is an important basis of the Motivation Theory.
2. Drives resulted by hunger (or other psychological drives) are not accepted as the center or model for the Motivation Theory. Physical drives are not classified as humans' motivation.
3. This theory emphasizes on the ultimate goal or fundamental goal, not partial and unstable goal. This theory directs to results rather than methods. It focuses on unconscious motivation rather than conscious motivation.
4. Cultures seem various but have the same target. Thus, wishes from specific consciousness and based on cultures are not the foundation of the Motivation Theory like targets deriving from unconscious mind.
5. Behavior as resulted by any motivation, either beginning behavior or advanced behavior, is a channel of expressing fundamental needs. Normally, any act needs more than one motivation.
6. Life may be stimulated or stimulant.
7. Human needs are hierarchies of prepotency, that is, human needs rely on satisfaction in exiting need in lower level. Human is an animal with needs. Without needs or drives, he will feel isolated. Each drive is associated with satisfaction or dissatisfaction of other drives.
8. Various drives help us create theories and appropriate reasons. Drives must be classified to handle the problem about levels of motivation, which consists of specific motivation and general motivation.

9. In classifying motivation, goals should be regarded more than drives or stimulated behavior.

10. The Motivation Theory must focus on humans not animals.

11. Situations stimulating life to take actions must be regarded, but situations cannot explain the entire behavior. Situations must be interpreted by life. The Situation Theory cannot replace the Motivation Theory.

12. We must regard the possibility of response that it occurs alone or it occurs along with emotion.

13. The Motivation Theory is not the Behavior Theory. Motivation is a factor of behavior only. Although behavior is derived from motivation, it also comes from physical factors, culture and situation.

This theory is developed from the pattern of James and Dewey, concepts of Max Wertheimer, Kurt Goldstein, and Gestalt psychology as well as theories of Sigmund Freud and Alfred Adler. This combination may be called “General Dynamics”, which divides human needs into 5 levels, which may be applied to white-collar crime:

1. Physical Survive e.g. needs for four necessities for maintaining the living, relaxation and sleeping, physical warmth and health as well as sexual need, etc.

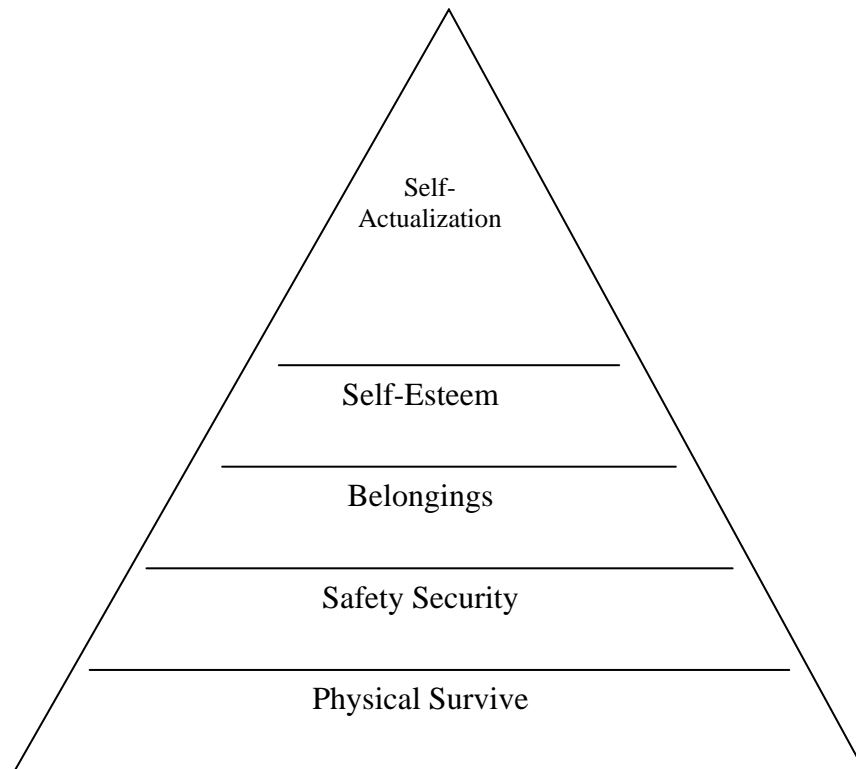
2. Safety Security – When needs in Level 2 are responded, humans need other things to release their fear and anxiety, e.g. safety and security, assistance, property, protection for peace and calmness, secure job, life plan after retirement or life insurance policy and insurance, etc.

3. Belonging e.g. affection, attachment, favor, sexual instinct, membership, grouping, marriage, participation in social activities, group or club membership, etc.

4. Self-Esteem, e.g. respect, trust, assessment, belief, pride, being respected by others, reputation in the society, self-confidence, autonomy, self-reliance.

5. Self-Actualization, e.g. creativity, challenge, advanced knowledge, innovation, religious belief, and truth seeking, fairness and beauty value. This kind of

needs will continue. If they are responded, more power will occur. It is a need to be a perfect man as much as possible. Only 2-8% of people on earth can be like this; namely, Abraham Lincoln, Gandhi, Albert Einstein, etc.



Abraham H. Maslow stated that, “Right management of humans’ working life, of way of living can improve them, improve the world, and, in this aspect, it is the Utopia or revolution technique.” Maslow pioneered concepts about hierarchy of needs, and self-actualization. He is a specialist in behavior, creation of human drives and relationship between human behavior and working situation by converting a science of thought system into the art of management as mentioned in his books entitled “Eupsychian Management” and “Maslow on Management”. His important principles include: 1) self-actualization, e.g. freedom to turn ideas to be results, decision-making and freedom to do mistakes; and 2) synergy that is useful for individuals and everyone. Individuals’ success should not be a result of others’ loss. Organizational goals should be adjusted to be in the same line of personal goals (written by Abraham H. Maslow and translated by Lt. Colonel Anan Chinbutr, 2006: 18-19).

2.5.13 Toward an integrated theory of white-collar crime of James William Coleman, 1987

This theory is based on a hypothesis that criminal behavior is derived from the conjunction of appropriate motivation, structure of opportunity, and culture of competition. Viewpoints about white-collar crime are based on the following issues:

1. Motivation
2. Structure of opportunity
3. Culture of competition

This theory has been influenced by several theories with additional viewpoints and better understanding about causes and behavior of criminals (Pearson & Weiner, 1985) to enhance the level of explanation and causal structures by expanding propositions. Theories combined to form this theory include: 1) Motivation Theory of interactionist that is a research on sociology and psychology; 2) Labeling Theory that is a research on psychology; 3) Neutralization Theory that is research on psychology and social structure; 4) Bonger's Marxist Theory, particularly culture of competition that studies both social structure and laws on cultural environment; 5) Classical School Theory that is a research on structure of opportunity and enforcement; and 6) Sutherland's Differential Associations Theory with an emphasis on learning criminal behavior from close persons.

Most theories relating to white-collar crime focus on either socio-psychological drives stimulating persons to law breaking or structural drives by explaining causes of influence and spreading of such violations. This theory studies white-collar crime within 2 dimensions: socio-psychological cause (motivation) and structural cause (opportunity) by studying culture and structure of industrial society, motivation and opportunity. The details are as follows:

1. Motivation – This is an internal condition of person motivated by stimulus to act to attain certain objectives with accurate direction and continuity and without past experience. This concept mainly focuses on offenders, which is derived from the interaction concept of labeling theorists. These offenders look at persons surrounding them and find that general people expect or think that they will commit

crimes certainly; so they have accumulated this thinking and developed the neutralization technique when committing crimes (similar to excuses in offending but it is the motivation). Because motivation is so complicated, motivation problems are divided into 4 related parts: 1) personality factor affecting original stimulus to white-collar crime; 2) general cultural factor and “culture of competition”, but motivation to reward of criminal behavior is not sufficient motivation because the society still shows strong ethics to block criminal behavior; 3) neutralization factor; and 4) complicated organization in determining personal motivation.

1.1 Personality Factor – According to Sutherland’s research, personal abnormality does not take part in the formation of white-collar crime. In fact, white-collar criminals have normal mind. According to studies on personality or background of white-collar offenders, there is one relevant issue that white-collar offenders have normal mind; they have no daydream, wrong belief, mental pressure, etc. but white-collar offenders are ‘ecocentric’ and ‘reckless’. From interviews with convicted offenders, they are realistic, though relatively uncompromising, individual, and independent rather than stubborn. They also have a certain rigidity of character expressed openly in stubbornness, independence and lack of compromise. Egocentricity and an unconscious feeling of omnipotence shone through their character structure. They have ambition, drive, desire to mix with people of higher social position than their own, and to give their children an expensive private education, and they are willing to take financial risks in the process.

1.2 Cultural Factor – This factor is influenced by Bonger’s Marxist Theory that culture builds up needs in individuals, and capitalism is a success and materialism. White-collar criminals break the law because it is the easiest way for them to make a lot of money. This is similar to the Classical School Theory that people violate the law because they believe that it will bring them more pleasure and less pain than the other courses of action available to them. Many white-collar offenders are driven by the fear that they will lose what they already have rather than the desire for more. Such offenders stated that “...reasonably happy with the place they have achieved through conventional means if only they could keep that place. But, the fate of organizational success and failure, or the changing nature of the

economy in their line of work, may put them at least temporarily under great financial pressure, where they risk losing the lifestyle that they have achieved...” Financial self-interest is only part of a larger motivational complex. Along with the desire for great wealth goes the desire to prove oneself by “winning” the competitive struggles that play such a prominent role. The definition of wealth and success as central goals of individual activity is part of what may be termed the culture of competition. The culture of competition defines the competitive struggle for personal gain as a positive, rather than a negative or selfish, activity. Competition is seen not only to build the character and endurance of the competitors, but also to produce the maximum economic value for society as a whole. The competitive economic struggles typical of industrial capitalism are seen by and large as a fair battle in which the most capable and the hardest-working individuals emerge victorious. It implies that the poor deserve having lower positions since they are incapable and lazy. Winners should be praised for their abilities that motivate them to be successful. Praising for rich and successful people while condemning poor people lead to a feeling of insecurity and fear of failure in the culture of competition. This concept confirms the belief by Sutherlands’ Differential Associations Theory that “Hypothesis of different formation is that criminal behavior is learnt in the formation with persons who define such behavior favorably, and in unfavorably isolating persons who prefer such behavior. Then, one person in an appropriate situation would be involved in criminal behavior if the weight of favorable definition is over the weight of unfavorable definition.” Criminal behavior is learnt like other behavior, both techniques of criminals and motivation to criminal behavior.

From great differences between the hunting & food-gathering society and the industrial society associated with environment and economic system constructed by the society, it is explicit that, in the hunting & food-gathering society, sharing and benefit exchange were done. For example, Kung Bushman in Kalahari Desert shared their food equally after daily hunting whether they went out for food gathering, hunting or sleeping. The group of Semai at the middle of Malaya, if anyone hunted a big animal, the hunter could not request for more meat than other members. Meat was cut equally and the hunter did not receive any appreciation from other

members. As Dentan stated that, “appreciation is so rude because it indicates that people calculate the amount of rewards already. People do not expect that donation is such a kindness.” This society is different from the market sharing closely bound to profits and losses. The profits of a commercial partner usually come from expenses of another partner. The production for market economy, so, substitutes the production for consumption immediately. Competition and personal profits substitute cooperative feeling in sharing with each other. In addition, using money as an intermediate provokes the material standard and non-human being. To measure profit and loss in the industrial society, the spirit of competition and personal wealth are stimulated. Finally, secure growth of individualism and tendency that members in the industrial culture seeing that they are independent players will direct to personal needs rather than social needs.

1.3 Neutralization Factor – ethics and law are standard and symbol of protesting offenders and labeling them, especially businessmen, politicians and respectable professionals, which are the large portion of white-collar crime. The conflict between the culture of competition and many widely accepted ethical standards is carefully papered over in public. That unethical behavior is ultimately rewarded with failure and disgrace. Of course, the fact that bending the rules of the game provides an important competitive advantage is much too obvious to ignore and other ways must be found to resolve this contradiction. Most people are attracted by other ideas. “Techniques of neutralization” is a device that enables individuals to violate important normative standards. Such techniques take many forms to justify their actions on the grounds that “everyone does it.” Techniques of neutralization are not just ex post facto rationalizations – they are available to the potential deviant before their offence actually occurs and form part of the motivation for the original act. Techniques of neutralization include:

1. The law itself is unnecessary or unjust.
2. Criminal behavior is necessary to survive business or oneself.
3. Everyone else is doing it.
4. Culture accepts such offences.
5. They deserve the money.

1.4 Complicated organization determines individuals' motivation patterns

Although the same process of motivation and rationalization occurs in both individual and organizational crime, the structural demands of formal organizations create unique pressures. In particular, modern organizations are machines for controlling human behavior. In order to survive, a large corporate must directly control the behavior of thousands of employees and indirectly influence the activities of much larger groups on the outside. The most powerful techniques are the threat of dismissal, the fear of losing an important assignment or being passed up for the next promotion. Dedication to the company and conformity to the wishes of ones' superiors are seen as essential to success. Regular promotions are an expected part of the climb up the corporate ladder, and overly scrupulous managers are likely to find the promotions they expected going to those who have been more cooperative.

Organizational control involves much more than simply handing out sufficient rewards and punishments to ensure employee obedience. A large corporation harbors a unique social world all its own, and the subculture embodied in the organization shapes its members' behavior. In addition, one factor making the control of corporate managers simpler is to isolate them from the outside world.

2. Structure of Opportunity – No matter how strong an individual's motivation, by itself it can never provide a complete explanation of criminal behavior. If there is no opportunity, there is no crime. But, all opportunities are not equal, and the actors' evaluation of the potential dangers and rewards of each opportunity plays a major role in determining their behavior. It is the distribution of attractive criminal opportunities that is most crucial to our understanding of the problem of white-collar crime. This research, so, summarizes the way the opportunities for white-collar crime are distributed among different industries, different types of organizations and occupations, and between genders.

2.1 Industries – Both the distribution of opportunities and relative attractiveness vary significantly from one industry to another. Competitive markets in which many different firms struggle to keep afloat are the most likely to have high

crime rates because the combatants will use every possible means to survive and prosper. Or, it would seem that industries with many small, highly competitive firms would be characterized by a high rate of crimes. In talking about ‘crime facilitative’ rather than ‘crime coercive’ systems, in the securities industry, there are many conditions that made criminal activities easier but did not actually force individuals to participate. The Needleman found that the legal doctrines limiting the financial risk in handling stolen securities, the strong financial incentives to keep up market flow, and the traditions of trust and professional solidarity in the industry all combine to facilitate securities theft. Convictions for insider trading and fraud that swept Wall Street in the last decade suggest an extremely high rate of other criminal activities among those involved in financial markets as well.

2.2 Corporate Group – Similar corporate groups realizing actions with each other and engaging the organizational hierarchy have power above medium organizations and dying organizations. Top corporations will attract the conspiracy for commercial monopolization, reduce involving companies and reduce the chance of being inspected.

2.3 Changes of regulations – These changes play an important role in determining the structure of opportunity in industries. The stricter legal control in an industry, the more possible it attracts white-collar crime. The most important thing is to determine rules and regulations of that industry or types of product manufactured by that industry. For any industry producing harmful goods, rules must be stricter than other industries.

2.4 Organization – The goals an organization pursues are certain to have a major impact on both the type and amount of its criminal activities. Firms with declining profitability are more likely than others to break the law. Firms in depressed industries as well as poorly performing firms in all industries tend to violate the law to a greater degree.

2.5 Financial arrangements determining payments – Professional working on a fee-for-service basis have numerous opportunities to persuade clients to consent to profitable but unnecessary procedures while those working on salary have little to gain from such activities.

2.6 Occupational subcultures – Occupational subcultures serve as part of a network of communication that transmits information about opportunities, techniques and motivations that reduces the visibility of professional misconduct.

2.7 Gender – In general, men commit far more crimes than women. Only 18.4% of the persons arrested in the United States in 1990 were female, women made up 41.2% of those arrested for embezzlement and 44.2% of those arrested for fraud. In addition, 98% of those charged with antitrust and Securities and Exchange Commission violations were male. The crimes of those women were also less sophisticated than men's, of shorter duration, and less likely to be carried out with others. Men and women tend to use different rationalizations to justify their white-collar crimes. Dorothy Zietz found that the female embezzlers she studied were far more likely to justify their offences in terms of the needs of their spouse or children than the male embezzlers. However, the different rationalizations preferred by males and females appear to provide effective justifications for white-collar crime.

3. The Culture of Competition

Culture is defined as ways of life. Culture has been also defined by several authors as listed below.

Edward B. Tylor defined that culture showed the syndicated nature comprising knowledge, belief, art, ethics, law, tradition, abilities and habits acquired by humans as members of a society.

Kroeber (A.L. Kroeber) and Clyde Kluc Khon defined culture as a system of belief, value and society behind human behavior.

Phraya Anumanrajthon defined culture as what humans have changed, improved or created to prosperity in humans' way of life. It could be transferred as a whole or imitated; so culture was a common product humans have learnt from previous generations in form of tradition. Culture, so, was human opinions or acts in the same nature and expressed in form of language, belief, rule and tradition.

Supatra Suparb defined culture as everything covering thinking patterns and acts showing humans' lifestyle in a group or a society. Humans have created practice rules and regulations, placed good order as well as belief system, value, knowledge and technologies for controlling and utilizing the nature.

Ekkavit Na Talang stated that culture was humans' accumulated experience always transferred and changed up to factors. Culture was an integration of everything created by humans. Because humans had relationship with nature, supernatural matters and humans; so, culture was variable and endless and changing unlimitedly.

From various definitions, the Researcher concluded that culture was ways of life of people in a society built up through interactions or transferred from context to any goal or objective of a group of the society until such ways of life became the common thinking pattern and acts of most people in the society that might provoke both prosperity or decline in the society.

The culture of competition means the ways of life or business operations in the society built up through interactions or transferred from the context of thought and belief for fighting, competing, grabbing any benefit to attain the goal or objective of obtaining the highest profit or material wealth in a society until such ways of life become the common thinking pattern and acts of most people in the society that might provoke both prosperity or decline in that society.

The culture of competition for white-collar crime has been interestingly presented as listed below.

1. The culture of short-cut wealth by way of national speculation via stocks-real estate as supported by the government policy, financial institutions and the public.

2. The culture of extravagant spending as seen in the increasing consumption of commodities by the government sector and private sector. The evidence is shown in figures of credit card spending and fiscal budget, etc.

3. The culture of trendy fashion as seen in the excessive investment in the real estate sector or many financial institutions take out offshore loans to grant non-performance loans in the country such as financial liberalization policy by establishing BIBF, etc.

4. The culture of daydream as seen in borrowing short-term foreign loans for the long-term investment or believing that the basket of Thai currency is so strong that no risks are guaranteed or that Thailand would not have any financial crisis but its economy would be growing to be a Asian tiger or NICS or that banks and capital companies in Thailand would not be bankrupt since the Bank of Thailand always boosted their liquidity and issued financial warranty.

5. The culture of “To blow one’s own horn” as seen in the disobedience to warnings of financial experts or warning signs such as Mr. Michael Camdessus, the Managing Director of International Monetary Fund (IMF) in 1997 until the financial crisis occurred finally.

6. The culture of patronage system as seen in the patronage between political parties, financial institutions and business entrepreneurs such as loans granted to politicians by Bangkok Bank of Commerce (BBC).

7. The culture of ignorance as seen in the ignorance without strict control and careful examination of the Bank of Thailand or setting up the provisioning on NPLs or proportion of credit granting, etc.

8. The culture of monetary favor as seen in the state’s policy setting for wealth, business speculation, low rates of fee for real estate transfer (0.5% of transfer amount) causing problems about financial institutions, corruption, copyright infringement, etc.

9. The culture of credulousness as seen in believing in rumors about baht devaluation, bankruptcy of financial institutions, revision of currency basket, reduction of long-term credit rating by the credit rating company, or bankruptcy of 5 small commercial banks in Thailand, etc.

10. The culture of not accepting truth as seen in the case that the Bank of Thailand denied the analytical report of Credit Lyonnais Securities Asia that Thai economic growth would be in deficit in 1997 or not accepting IMF’s warning

that if Thai currency was bound to US dollar, too strong baht would result to harsh attacks and, finally, Thai baht was floated on 2 July 1997.

However, the culture of competition under this theory uses Bonger's Marxist Theory to explain about culture supporting or creating needs in persons. The theory views that capitalism makes people to have thought or culture of competition in terms of success orientation and materialism as objectives of business life. This concept makes the environment full of competition and be surrounded by subcultures such as negligence of laws or government regulations or doing everything for personal benefit without concerns about social interest.

Capitalism is also based on personal freedom in economic activities and personal ownership or 'doing much, gaining much'. There is also the influential thought and belief that a corporation does everything for its shareholders' best profit. This system praises clever people who know how to earn for living, are diligent to create security for themselves without concerns about correctness while the society accepts those characteristics or objects to certain inappropriateness, which leads to the formation of white-collar crime eventually such as the culture of bribery in the government of Mr. Thaksin Shinawatra that is the government of businessmen, etc. Furthermore, this system encourages severe competition, either in business or working. These characters embody in the business until they are part of culture. Under these circumstances, people fear the failure; so they seek for profits, wealth and materials, which lead to motivation or motives of committing white-collar crime finally.

2.5.14 Deterrence Theory

This theory is originated from the Classical School Theory under a hypothesis on efficacy of legal punishments that "severity, rapidity and accuracy of punishments are the heart of crime prevention" (Zimring & Hawkins, 1973). It is also believed that humans are ethical animals and regard the results before any behavior. Thus, we can prevent people to commit offences if laws are efficient and suitable; for instance, severe penalties, prompt punishment and high possible arrests.

This theory is useful in criminology and roots the legislation and philosophy of criminal justice administration of many countries around the world including Thailand.

2.6 Related researches and literature, both in Thailand and other countries

2.6.1 Foreign research and literature

Edwin H. Sutherland (1939) found that white-collar offences ridiculed conventional theories of crime which blamed such factors as poverty, broken homes and Freudian fixations for illegal behavior because white-collar crime was far from poverty and criminals have happy family and mental security.

Hirschi and Gottfredson (1987) studied causes of white-collar crime to find out whether criminal actions were consistent or not and in what extent. Most sociological theories were consistent to general ideas that criminal actions consisted of different behavior. An explanation about any behavior would mean other behaviors such as influence of friends, social attachment, general causes, e.g. low self-esteem, standard of subcultures, abnormalities of persons and society, low social attachment, were partial determinants of deviant or criminal behavior. Specific influence to deviant forms was not only insignificant, but there was no such influence. Only one factor was the main cause of all deviant behavior. There was no specific form of deviation. General theories on crime have been designed to consider the distribution of criminal behavior and white-collar crime was the same to street crime.

James William Coleman (1995) studied Toward an Integrated Theory of White-collar Crime and found that factors originating white-collar crime were resulted by the conjunction of motivation and appropriate opportunity. He believed that motivation of white-collar crime was derived from the capitalist structure of individuals and the culture of competition of capitalism. He found that no single

motivation theory was sufficient to explain all causes of white-collar crime. This could be seen in different opportunities given to persons in powerful positions.

Travis Hirschi and Michael Gottfredson (1995) found that crimes as well as deviant behavior were resulted by offenders' lack of self-control. The white-collar crime contained an obstacle for theorists who thought that crimes were suitable for lower-class offenders; but this thought could not get along with white-collar crime. Therefore, they studied similar white-collar offences, which mainly resulted from abnormalities of self-control.

Donald R. Cressey (1994) studied possibility of theories that explain corporate crime. Holding institutional entities responsible for lawbreaking not only aroused theorists' interest, but also posed controversial issues for policy-makers. Someone believed that individuals alone should bear the responsibility for criminal actions; that blaming corporations deflects the moral obloquy from a person to an inanimate, unfeeling object. Among the arguments for maintaining corporate criminal liability are these:

1. A corporate body is distinctive from the sum of those persons who make up the organization, and it is more reasonable to pursue the collectivity rather than persons who separately fall short of satisfactorily representing the culpable entity;
2. Punishing individuals rather than the corporate body is not an effective strategy since for employees the risks associated with potential criminal liability will generally be less compelling than those related to failure to meet organizational demands;
3. The shame and moral disgrace associated with criminal conviction will have a stronger deterrent impact on a corporation than on individual malefactors within it;
4. It is much easier for prosecutors to establish corporate criminal guilt than it is to discover and to prosecute guilty individuals;
5. Since the corporation almost invariably possesses much greater assets than the individuals who work for it, the opportunity for satisfactory redress of the

harm inflicted will be enhanced if the corporate resources can be attacked instead of those of employees.

But, those who disagree with these premises that there is no such thing as a corporation that is different from the sum of its constituent human elements. Nor do they believe that corporations are more deterrable than humans and they maintain that by focusing on corporations as defendants prosecutors take the easier path and neglect the route that is most just and more effective.

Elizabeth Szoskyi n.d. explained about share purchases based on insider trading by a fast-food restaurant owner who was charged that he told information to his children about his company's decreasing stock prices. This case gave many details about white-collar crime but they were not initially considered by regulating agencies who failed to take one criminal offender to receive the criminal punishment.

Charles MacKay (1841) studied the Extraordinary Popular Delusion and the Madness of Crowds. He found that the madness of crowds has occurred several times in many eras and no countries could control such madness; namely, Tulip Craze of prudent Hollanders, Mississippi Bubble of sensitive French people, and South Sea Bubble of strong British people. The level of education and high prestige could not immunize this virus. Either kings, princes, merchants or professors all have fell in this madness. Baseless hope of humans is an absolute unreasonable hope and human's disappointment lacks reasonable basis as well. No matter humans do, they always push themselves out of the scope of reality.

Burnard Baruch (1829) found that people's victimization of madness reflected the oddity of mass psychology as seen repeatedly in human history. Hence, it reflected the qualifications deeply embodies in human nature. It was the same power encouraging birds to have migrations, or the phenomenon of conger eel grouping, or grasshoppers' attacks to corn farms. These movements had power and grace in cycles like the continual thinking that shares would be up or down. But one fact to be remembered was that, either the past or future seemed dark, the world would turn from worse to better every time.

Brown and Harlow (1988) studied the effect of highest speed to share prices, and relationship between the significance of news and changes of share price. They found that changes of highest share prices would be followed by the opposite changes. The more severe share prices changed the more opposite changes would follow. In conclusion, the highest movement of share prices would be followed by the opposite direction. The panic in the systematic nature was likely to be more severe and estimated when stimulated negatively. In the long term, the share prices would return to the previous condition although it was significant for negative news only. The effect would last for 1 month only; thus, the effect from bad news certainly existed in the SET.

John Nysbert n.d. found that the Asia Pacific now has the economic prosperity. What comes along with the collapse of communism and revolutions of telecommunication system will shape the order of new world. The current information age will be followed by the biology age, which leads to the development of nuclear science. While the world is expanding, it is also smaller. Racism is expanding while the world is becoming the universal world age. While world people are facing the globalization, English language is the second language of world populations, but, in the meantime, people in each country have more protection for their native languages. Some have opinions about Thailand's economics that it is unreasonable that Thailand will no longer have the economic growth although this country must do what is done now, that is, relaxing rules and regulations and promoting the free trade.

Benson, M.L. (1985) studied the status of economic crime and found that criminals had abilities in recalling their social, economic and political status in a short term (Labeling Theory).

The Bureau of National Affair (1976) found that, among 307 cases of economic crime, only 138 case or 45% were convicted and only 74% of them were sentenced to imprisonment.

Clinard and Yeager (1980) found that economic criminals who were convicted and imprisoned, generally, were sent to the prisons with low security control or to the minimum security prison.

Wheeler, Weiburd, Bode and Waring (1988) had a comparative research on characteristics of economic criminals and street criminals. They found that economic ones attained higher education and more secure working profile. In addition, economic criminals were white while street criminals were black. Finally, the researchers concluded that economic criminals had characteristics different from street criminals.

2.6.2 Research and literature in Thailand

Torsak Buranaruangroj et al (2005) conducted a research on the Development of Alternative Enforcement Measures for Offenders relating to Unfair Trading Practice and Frauds in the Juristic Person Management. He found that the enforcement of securities laws and laws of the Stock Exchange of Thailand has not yet been efficient due to 2 reasons: 1) substantive law by virtue of the Securities and Exchange Act, B.E. 2535 in association with unfair trading practice was not explicit whereas the sentencing system for criminal cases obstructed the punishment of white-collar offenders; and 2) adjective law does not give sufficient authority to regulatory agencies to prosecute offenders such as interrogation, investigation, prosecution, civil proceedings and administrative power. Thus, both substantive law and adjective law should be improved to be more appropriate; in particular, regulatory agencies should have power of civil penalty as well.

Anand Panyarachun (1993) had a lecture on Effect of Rapid Economic Growth to Political Structure of Thailand that the business community gained some growth and viewed that they have been treated unfairly by political parties, which had slower development than the business sector because old political leaders did not trust the businessmen. But, in past 2 decades, the political campaigns required an enormous amount of money. Politics was a matter of money, embodied in a long history of the country and it was a social cancer affecting the economic and political system.

Bribery seemed common in the country. Thai industries not only rely on technical knowledge, but also connections and influence. A hindrance to the development of clean political system was a deep feeling that if one did anything for us, we would be indebted to him and do something in return. This could be seen in the vote-buying in the general election, especially in rural areas. The culture of money was the same; wealthy people were always respected no matter they got their money. The politicians have done unusual actions to seek for extra benefits. The political process, actually, contradicted to ethics, in particular, Thai politicians thought of their local interest rather than national interest. Besides, Thailand did not have the powerful Office Attorney General like Japan; so we had to solve problems step by step.

Henry Clasing, n.d. wrote “The Secrets of a Professional Futures Trader. He found that a god trader who got winning always was the investor obtaining constant profits in the long run. This kind of traders had 7 significant characteristics as listed below.

- 1) Not talking about his personal activities in the market;
- 2) Not being influenced by others’ opinions;
- 3) Not trying to have specific forecast;
- 4) Being happy with setting up reasonable profits;
- 5) Limiting the amount of losses;
- 6) Administering his investment cost carefully; and
- 7) Being secure, not being egocentric, focusing on main objectives.

Nikki Ross as cited in Pornchai Rattananontachaisook (2004) found that the world’s leading investors had different strategy for investment success in the stock exchange markets. For example,

Warren Buffett or The Super Combination Investor had the principle of spending that if you spent 1 USD today, you were spending the compound value in several years of that dollar. Buffett has purchased stocks wisely and applied the principle of compound interest in his investment. He had the principle of 3-step ladder to understand annual reports: 1) compiling related information; 2) analyzing such

information; and 3) deciding to invest. His principle of data analysis was to ask himself that if this business was understood easily; if the shareholders were reported openly and accurately; if that company sold brand-name and high quality products to be repeatedly consumed by consumers who had high loyalty; if that company got explicit advantages from business competition and it built up some obstruction to stop its competitors; if that company generated good profits and cash flows; if that company generated returns for shareholders' equity at least 15% per annum and gave good returns when compared with other investment; what were objectives of the company, what were its planning, risks, etc. Moreover, Buffett held investment rules based on 8 common senses: 1) having his own investment plan and disciplinary actions to follow such plan; 2) having flexibility to change or develop investment strategy in case of reasonable changes; 3) studying sale sums, profits and origins of these figures; 4) focusing on companies paying attention to investment activities, understanding products and services, position of company competition in industries, deficits, strength, prospect and hindrance when compared with other competitors; 5) learning executives of those companies as much as possible, 6) when finding interesting stocks, not being influenced and shaken by economic forecast and market direction; 7) sitting outside the stock market and holding cash if you could not find cheap stocks relevant to investment criteria; and 8) realizing which knowledge and understanding you had and had not before making investment in what you had knowledge and understanding.

Benjamin Graham or The Value Number Investor is the father of securities analysis and creates the principle of value investment. He is the great pioneer of securities analysis. He took ethics, logics and reasons to the world of investment. He purchased shares by looking at quality products on discount or share prices were unreasonably cheap if taking into account for the company's assets and profits. For the classical investment principle, although 100 years passed by, it is still favorable: 1) use of businessmen's guideline in investment; 2) margin of safety; and 3) preparedness for unreasonable fluctuating market.

Phillip Pitcher or The Investigative Growth Stock Investor looks like Sherlock Holm in the investment sphere because he has used the investigation skills including observation, wise questioning, and reasonable inference. The initial analysis started at his office before continuing searching for every aspect. He looked for growing companies operated by excellent executives for good products under strong advantages and potential of high margin. He sought for Grade-A stocks to be held in a long term. He said that such shares were those valuable for his purchases. He pioneered the investment in high-growth stocks that were acceptable among professional and retail investors.

John Spear and Meson Hawkins: Value Investment in the 21st Century. Spear used the computer software and online information to find out stocks of listed companies traded in low prices if compared with profits, sale sum, book value, independent cash flow, and profile of share prices. He also found out companies in which insiders bought some shares. The companies he chose should be likely to give the best returns; he studied their financial statements in the present year and previous years. He also called those companies' executives to question about their feeling and analysts' forecast about future profits, tendency of product selling, increases of product prices, increases of selling sum that would affect profits in income statements in next 5 years, companies' strategy, plans for spending accrued profits, whether insiders sold or purchased company shares recently or not, if yes, why, how about the company's returns per shareholders' equity, how competitors give effect to the company's operations, and whether the company planed to merge its business with other company or not.

Thomas Row Price or The Visionary Growth Investor was named by Forbes as the Philosopher of Baltimore or victory of good-vision person. He advised that the investors should forecast potential changes, changes of periods, declines of favorable investment and new opportunities coming along with changes. Too quick realization was better than too late realization. The strategy of success was to think like business owner. But we should realize that "change is the only one certainty to be faced by investors". Seeking for stocks giving excellent profits relied on our common sense.

We should buy shares of growing businesses administered by good-vision executives who understood significant economic and social tendencies. Besides, the executives should prepare for future events by wise investment in research and development. If any companies do not fall in your criteria, please sell them out. There are 3 profit-taking techniques: gross profit margin, pretax profit margin, and net profit margin.

John Templeton or The Spiritual Global Investor founded the Templeton Mutual Fund Organization in the United States. His nickname is Christopher Columbus of the investment world. He got success because of his careful thinking before buying shares, brave, forecast, opposite viewpoints and patience. Important mental principles involved gratitude so that you receive gratitude; assistance lonely people so that you would not feel lonely; your value relied on your words, enthusiasm could be communicable, praise was better than criticism; if you didn't know in which aspect you wanted to be successful, you would not meet any success. Templeton was outstanding for his investment in emerging countries, finding the new world, investment giving great profits like a surveyor. He placed 15 fundamental rules leading investment success: 1) realizing actual returns; 2) invest, not trade or speculate; 3) remain flexible; 4) buy low as the opposite-direction investment; 5) buy stocks and search for bargains among quality stocks; 6) value investing; 7) diversity; 8) do your homework; 9) aggressively monitor your investments; 10) do not panic, 11) learn from your mistakes, 12) meditation can help you; 13) be humble; 14) there's no free lunch; 14) have positive attitude toward investment. The influence to Templeton is the statement of Benjamin Franklin that "money generates subsequent money, which generates more." From this interest in compound interest, he advised investors that "Please learn about investment, study returns and risks and start your investment as quickly as possible to fully gain interest from the miracle of compound interest." You cannot tell the value of any corporation from studying only one country. Goods were in competition around the world. You should know the overview of industries around the world before assessing the potential of profit taking in the future. Templeton believed that progress started from questioning and curiousness. He dedicated his life to the concept he called "science of humility".

Hazel Croall (1992) found that white-collar crime was far explicit types of crime. It destroyed legal occupations controlled by law such working crime, organizational crime, etc. as widely seen in the world, especially in the United Kingdom. Croall specified the variety of this type of crime by emphasizing on crime victims and effect, finding out controls and prevention as well as balance between crimes, enactment and self-control, practice by regulatory officers, police and court, and relationship between social classes, areas of crime, power and roles of criminal law.

Edwin H. Sutherland (1995) stated white-collar offences by specifying certain concepts surrounding the hypothesis he constructed, and implementing or developing his theory to explain about criminal behavior. He compared the white-collar crime as theft in higher professions. He insisted that offences were partially the attempt in professional. There was no loss of prestige between co-workers because both types of crime had to be trained and coached to have skills and expertise. He believed that a significant difference between the professional theft and white-collar crime was the concept of violator. The professional theft accepted that he was the theft, but white-collar criminal thought that he was honest, not the theft. Sutherland viewed white-collar criminals as businessmen with honest men, not thefts. Sutherland viewed white-collar criminals who had the destruction power and most power in America. This power could be compared with the power of advertising techniques for electricity and lighting, and propaganda of Nazi.

Paul Tappan (1995) described that the concept about white-collar crime was not sufficient for legal standard, and it failed to underline necessary differences between civil law and criminal law. Only convicted individuals should be called “criminals”.

Herbert Edelhertz (1995) found that no prosecutors could accept that fraud done by the bank chairman was the white-collar crime while the same offence done by a bank teller with less salary was not. It was fair to guess that a big loophole in conducting researches on white-collar crime partially come from this hole. He

claimed for the responsibility for hindrance between scholars or researchers and practitioners and legislators.

Wheeler n.d. found that white-collar crime caused more operating costs, damages and killing more than conventional crimes. It eroded social morals, led to questions about correctness of law for persons assumed to give these opinions. It was used as an attempt to annoy social anxiety.

Robert F. Meier and James F. Short, Jr. n.d. found that there were different measurements between white-collar crime and street crime. It was hypothesized that white-collar crime broke the social structure, which possibly was the most important outcome of behavior and failure of mass media to white-collar crime. It was believed that the severe outcome reflected the formation between the business world controlling information and the elite forming white-collar crime and the opportunity that the television would get some pictures of businessman's secret bribery.

Donna Randall (1995) found that the pictures showing the sentence of white-collar offenders before the crowd made the television business be growing. In particular, in Sutherland's speech, he stated that white-collar news was published in financial news pages rather than the front page. It was obvious in the presentation of newspapers on white-collar news that it ignored the protest against antitrust for heavy equipments of General Electric or antitrust in the cartoon industry by comparing the news analyses and news reports in journals during 10 years and how each mass media treated business crime offenders and business law violators.

John Braithwaite (1995) found that the studies on white-collar crime put influence in the public policy of the countries where white-collar crimes occurred.

According to the analytical report of Russell Mokhiber and Robert Weissman (2004), it showed the criteria of rating defrauding companies in the world, including deceiving shareholders by accounting techniques, stock manipulation, social deterioration, accounting transparency, bribery, price speculation, destruction of

environment, production of food or drugs harming life and health, destruction and depriving rights of labor union, violation of human rights, assistance to dictating government, etc.

According to a seminar summary of Thailand Criminal Law Institution, the Office of Attorney General (2002), the prosecution for Thailand's capital market in past 10 years (Year 1992 – 2002) has not been so successful due to:

1. Lack of knowledge and understanding in related laws and rules among personnel in the justice procedure.
2. Lack of cooperation and coordination between personnel and related agencies in the country and other counties.
3. Lack of experience in presenting, compiling and hearing the evidence.
4. Intervention and factors affecting the justice procedure.
5. Roles, mission and structure of agencies in the justice procedure.

According to the research of Thailand Criminal Law Institution, the Office of Attorney General (2006), the failure in handling offences as specified in the Securities and Exchange Act was derived from 3 factors:

1. Each offence as prescribed by law was so long under too many unclear offence elements.
2. Difficulties of proving the evidence possessed by the defendant.
3. The state has no other alternatives to handle offenders, except filing complaints to the interrogation for prosecution.

Prasarn Trairatvorakul (2003) found that the enforcement confronted many problems because the environment of capital market has been changing at all time. Factors outside the country were also involved and they greatly influenced Thai capital market. In addition, new financial transactions have occurred continuously. All gave the effect to the update of rules and laws exercised for regulating work, caused hindrance to related enforcement. There were 2 main problems: long duration of prosecution process, and interpretation and punishing offenders. In particular, the stock manipulation cases have been informed less than other crimes. Increasing share

prices could satisfy speculators; so they did not foresee possible concrete disadvantages. This offence was different from deceiving the people's deposits in the bank, which caused the direct effect. Therefore, most people did not realize that alleged offenders in stock manipulation cases were criminals causing damages to the whole society. There was a problem that, in some cases, the witnesses did not want to be involved or recant their statements. It was difficult to prove the group relationship of offenders committing white-collar crime within group by witnessing and assigning tasks in the group. The offence characteristics were also so technical and different from street crime; so it was difficult to find out documents showing the crime commitment agreement. The last problem dealt with knowledge and understanding of related officers. It was difficult to prove the offence relating to the stock trading because such trading has been done on the computer system. So, all information about trading transactions and detailed situations during giving trading instructions had to be considered and analyzed to judge the alleged offender's behavior. The analyzed information would be further compiled with other evidence to prove the motive. This undertaking certainly relied on knowledge, understanding, experience and expertise in securities trading and securities laws. Because related officers, particularly government officers in the justice procedure, have been changed frequently; so it was difficult that officers not familiar with these matters would have accurate understanding.

Pattanapong Jantranontawong (2006) found that the prosecution for offences relating to securities confronted many problems and obstacles, starting from initial inspection. The advanced telecommunication technologies made the inspection difficult. There were also problems about complexity of offences, expertise of offenders, concealment and transfer of witness documents showing offences, shortage of personnel, especially interrogation officers to examine technically complicated cases since personnel with specific knowledge on this matter were not recruited at the first stage. After a period of practice when these officers engaged some expertise, they were usually transferred to other agencies. Importantly, offenders were usually involved with influential people. Thus, 2 problems should be resolved simultaneously: prevention by way of tax motives so that listed companies would operate their

business under corporate governance; and suppression by establishing independent agencies along with the Office of the SEC to directly investigate about cases relating to securities in order to solve the shortage of personnel and the intervention of influence to the investigation. For the court, offences relating to securities should be judged as critical cases, which destroyed the economics and trust of the country. So, offenders should be punished by severe measures and their imprisonment punishment should not be suspended.

Supoj Na Bangchang (2000) found that the enforcement for economic crimes in Thailand confronted many problems, especially personnel, budget, specific law, e.g. credit card, computer, illegally wire tapping, establishment of Economic and Resource Court, Information Research Center for Criminal Plans, and database on economic crimes in justice and witness protection agencies.

Siriwat Somkitsiri et al. (2003) found that, in white-collar cases, the interrogation officers were unable to arrest offenders and to re-enact each offender's last attempt since placing arrest leaked to that offender who could escape finally; meanwhile, clients lacked knowledge and budget.

CHAPTER 3

METHODOLOGY

This research was the quantitative statistic research by mean of factor analysis (Kerlinger, 1973: 659) conducted to learn factors affecting white-collar crime within the Stock Exchange of Thailand, and to test Toward an Integrated Theory of White-collar Crime of James William Coleman on the hypothesis that white-collar crime was derived from the conjunction of motivation, the structure of opportunity and the culture of competition in order to consider whether learnt factors were consistent with this hypothesis or not. The Researcher used the explanatory factor analysis to find out other participating factors by way of subjective measures (Akers, 1994), that is, collected opinions of populations in the sample group were measured or calculated to get the actual criminal statistics (Jensen, 1969) (Anderson et al., 1977) as generally done). After that, such data was put in the analysis process by using the survey factor analysis to communalize such data further.

3.1 Approaches

The research on white-collar crime was conducted to find out factors originating offences. It was essential to rely on the information from enforcement personnel, enforced persons and other people relating to such enforcement so that their opinions were useful for analyzing and synthesizing the data collected by the questionnaire. This research included the justification given by offenders after conviction or punishment as their neutralization or excuses and sustaining the image of themselves or their corporation. The questions in the questionnaire were revised to suit the business condition of the Thai society. The questions were also examined by qualified experts, and tested with top executives in targeted agencies until those questions were technically acceptable. Then, those acceptable questions were finally used to test the target populations, and the results were statistically tested by the Factor Analysis.

In this research, questionnaire respondents were separated for the convenience of data collection, not separated for any statistic analysis. The data was calculated pursuant to Yamane's calculation principle and subjective measures (Akers, 1994). This research was the survey research; so the data came from opinions of target populations who answered open-ended questions about factors affecting white-collar crime within the Stock Exchange of Thailand. The obtained data did not come from measuring or calculating actual criminal statistics. The questions of this research were also limited and based on the conceptual framework in the hypothesis of Toward an Integrated Theory of White-collar Crime of James William Coleman. This theory integrated several white-collar crime theories in order to examine criminal causes and behavior according to scientific and sociological concepts, and to combine research results into the same theory (Hempel, 1996). This theory, therefore, consists of 6 different white-collar theories: 1) Motivation Theory of interactionists; 2) Labeling Theory; 3) Neutralization Theory; 4) Marxist Theory; 5) Classical School Theory; and 6) Sutherland's Differential Associations Theory. As a result, the research covered concepts about psychology, social structure, law, culture and behavior associated with environment in order to test the hypothesis whether causes of white-collar crime were originated by the conjunction of motivation, structure of opportunity and culture of competition in the Stock Exchange of Thailand or not or whether there were any other factors by using another 12 theories, which all are accepted in the criminology and have direct hypotheses on caused of offences and white-collar crime. This comparison could make the theory of James William Coleman more reliable and acceptable via research questions in the total of 60 questions. This kind of research has been earlier done by several persons; namely, Jensen (1969), Linda Anderson et al. (1977) and Pornchai Khuntree et al. (2000: 23).

This research was based on the quantitative research to find out facts relating to factors affecting the white-collar crime within the Stock Exchange of Thailand based on the documentary research approach and field research approach. The opinions of target populations, e.g. enforcement personnel, enforced persons and other people relating to such enforcement such as securities companies, listed companies on the SET, the Office of the SEC, Royal Thai Police, Department of Special

Investigation, Anti Money Laundering Office (AMLO), Office of National Anti-Corruption Commission (NCCC), Office of Attorney General, Court, former offenders, lawyers, auditors, scholars, mass media and general people in connection with offences of white-collar crime within the Stock Exchange of Thailand as occurred in the Bangkok area. These opinions were responses to open-ended questions of this research.

3.2 Target populations and sampling

3.2.1 Target populations – They included persons associated with the white-collar enforcement in the Stock Exchange of Thailand for offences relating to securities in the Stock Exchange of Thailand as occurred in the Bangkok area, e.g. alleged offenders, government officers in the justice procedure, investors, officers and executives of the Office of the Securities and Exchange Commission, The Stock Exchange of Thailand, the Ministry of Finance, listed companies (476 companies), member companies (49 brokerage companies), politicians, auditors, scholars, lawyers, mass media and general people. To facilitate the data collection, the target populations were divided into 3 groups: 1) group of enforcers; 2) group of enforced persons; and 3) group of related people.

1. Group of enforcers

- 1.1 The Ministry of Finance
- 1.2 The Office of the Securities and Exchange Commission (The Office of the SEC)
- 1.3 The Stock Exchange of Thailand (SET)
- 1.4 Department of Special Investigation (DSI), Ministry of Justice
- 1.5 Anti Money Laundering Office (AMLO)
- 1.6 Office of National Anti-Corruption Commission (NCCC)
- 1.7 The Office of the Executive Director of Economic Cases and Resources, Office of Attorney General
- 1.8 The Judiciary of Thailand

2. Group of enforced persons

- 2.1 Thai and foreign investors
- 2.2 Listed companies on the SET (476 companies as of 31 December 2006)
- 2.3 Member companies (Brokers) (49 companies as of 14 February 2007)
- 2.4 Alleged offenders

3. Group of related people

- 3.1 Politicians
- 3.2 Scholars
- 3.3 Auditors
- 3.4 Mass media
- 3.5 Lawyers

3.2.2 Setting the size of sample group and sampling method

1. Quantitative research – By collecting data from target populations for their opinions given to open-ended questions about factors affecting white-collar crime within the Stock Exchange of Thailand. The sampling was based on the method of Taro Yamane. The Researcher determined target populations in 3 following groups:

1.1 Group of enforcers (5 examples for each)

- Legal Department of the Ministry of Finance 1
- The Office of the Securities and Exchange Commission 1
- The Stock Exchange of Thailand (SET) 1
- Department of Special Investigation, Ministry of Justice 1
- The Office of the Executive Director of Economic Cases and Resources, Office of Attorney General 1
- The Judiciary of Thailand 1
- Anti Money Laundering Office (AMLO) 1
- Office of National Anti-Corruption Commission (NCCC) 1

1.2 Group of enforced persons

- Member companies (brokers)	49 companies
- Listed companies on the SET	476 companies
- Thai and foreign investors	10 persons
- Alleged, fined or convicted offenders	5 persons

1.3 Group of related persons

- Politicians	5 persons
- Scholars	5 persons
- Auditors	5 persons
- Mass media	5 persons
- Lawyers	5 persons

2. Documentary research by studying textbooks, articles, interviews, documentary articles, histories and statistics from libraries, related agencies and organizations to enhance sufficient information supporting this quantitative research and answering the research questions. Documents regarding white-collar crime from the United Kingdom and the United States have been specifically studied for the comparative study. The questions were also consistent to concepts, conceptual framework and hypotheses of main theory and composite theories used in this research.

3. Sampling method for the quantitative research

In this research, the size of sample group was calculated as follows:

The sample group of Group 1 (enforcers) came from 8 offices and 5 persons for each; so the populations totaled 40 persons under the calculation formula of Taro Yamane:

$$n = \frac{n}{1 + N(e)^2}$$

n = Size of the sample group
 e = Variance of the sample group
 N = Size of target populations

Whereas

$$\begin{aligned}
 n &= \frac{40}{1 + (40 \times 0.0025)} \\
 &= \frac{40}{1.1} \\
 &= 36.36 \\
 &= 36 \text{ examples}
 \end{aligned}$$

(Thus, the examples in the Ministry of Finance, Anti Money Laundering Office, the Judiciary of Thailand, and the Office of the Attorney General were reduced to be 4 only, but the examples of other agencies remained unchanged.)

Group 2 (Group of enforced persons) consisted of both juristic person and natural person. The calculation based on the formula of Taro Yamane for the juristic persons was as follows:

1. Listed companies in the total of 476 companies.

Where as

$$\begin{aligned}
 N &= \frac{476}{1 + (476 \times 0.0025)} \\
 &= \frac{476}{2.19} \\
 &= 217.35 \text{ examples} \\
 &= 217 \text{ examples}
 \end{aligned}$$

2. Member companies (broker) for 49 companies

Where as

$$n = \frac{49}{1 + (49 \times 0.0025)}$$

$$\begin{aligned}
 &= \frac{49}{1.12} \\
 &= 43.75 \text{ examples} \\
 &= 44 \text{ examples}
 \end{aligned}$$

3. Natural persons – it deemed appropriate to select 5 representatives for each group, comprising 5 Thai investors, 5 foreign investors and 5 alleged offenders. After the calculation, the number of representatives was as follows:

The number of representatives was 5 per each group; so representatives for 3 groups totaled 15 persons.

Where as

$$\begin{aligned}
 n &= \frac{15}{1 + (15 \times 0.0025)} \\
 &= \frac{15}{1.03} \\
 &= 14.56 \text{ examples} \\
 &= 15 \text{ examples} \\
 \text{Grand total} &= 276 \text{ examples}
 \end{aligned}$$

Group 3 (related people) in 5 offices; 5 persons per each so the examples totaled 25 persons. The calculation based on the formula of Taro Yamane was as follows:

$$\begin{aligned}
 n &= \frac{25}{1 + (25 \times 0.0025)} \\
 &= \frac{25}{1.06} \\
 &= 23.58 \text{ samples} \\
 &= 24 \text{ samples}
 \end{aligned}$$

(Thus, the examples in the group of lawyers were reduced to be 4 only, but the examples of other groups remained unchanged.)

Finally, the sample group in this quantitative research included 336 subjects.

3.3 Data collection

The questionnaire that was revised, tested and approved by the thesis advisors was distributed by research assistants to target populations, alleged offenders and personnel in related agencies who have previously worked with the Researcher. The questionnaire was distributed to 336 subjects. Before the distribution of questionnaires, every research assistant was advised so that they had good understanding in objectives of this research as well as the criteria of sampling before starting the data collection.

However, the questionnaires might be answered completely or incompletely; so questionnaire sets were printed out more than the selected subjects. Total 600 questionnaire sets were prepared with the data collection period of 4 weeks from 1-30 May 2007. The data collection process went on efficiently. The Researcher also prepared a 1-week prior letter informing of research objectives and asking for good cooperation from related agencies. The data collection process was as follows:

1. Documentary research approach

- Examining background, concepts, theories and philosophies relating to white-collar crime to make understanding and set up the definition and other meanings. The conceptual framework of this research was based on Toward an Integrated Theory of White-collar Crime. The variables were selected from answers given by alleged offenders in other countries under related concepts, theories and related researches and theoretical underpinning.

2. Field research approach – The statistic data was analyzed by the quantitative approach by the Factor Analysis and documentary research approach. The factors affecting white-collar crime within the Stock Exchange of Thailand were examined, including demography, areas of the sample group, research tools, data collection, analysis, and data analysis statistics and testing hypotheses of main theory and composite theories.

3.4 Research tools and testing of tools

Tools for collecting data in this quantitative research included: 1) open-ended questionnaire as constructed pursuant to related theories and excuses of alleged offenders and convicted offenders in other countries, particularly the United Kingdom and the United States, which were revised to be relevant to this research and its research objectives; 2) inquiries and interviews qualified experts and scholars as well as officers in related agencies to find out the completeness and understanding in the questionnaire. In this research, the Researcher collected the data by using the open-ended questionnaire to ask opinions of personnel directly involved with the enforcement relating to white-collar offences in the Stock Exchange of Thailand. To facilitate the data collection, the target populations were divided into 3 groups: group of enforcers, group of enforced persons, and group of related people. The questionnaire did not question offenders directly or measure or calculate from the criminal statistics actually occurred. The questions were extracted from gathering answers or excuses of offenders in other countries, especially in the United Kingdom and the United States, in accordance with researchers conducted by Sutherland and James William Coleman who initiated studies on this matter, and set up the theoretical framework as the research guideline. The process of constructing tools and testing of tools in this research was as follows:

Stage 1: Selecting and setting up research questions from various questionnaires – Answers of offenders in other countries were studied, compiled and improved to be relevant to the Thai society. Finally, only 60 questions regarding factors affecting white-collar crime within the Stock Exchange of Thailand were selected. The level of opinions and other suggestions were open-ended. The opinions were divided into 5 levels: 5 = Most strongly agree, 4 = Strongly agree, 3 = Fairly agree, 2 = Disagree, 1 = Most strongly disagree, and 0 = No comment or that item has never occurred. Those questions were separated into 2 parts: Part 1 dealt with qualifications and status of questionnaire respondents, and Part 2 dealt with opinions towards those questions. The letter was also prepared to introduce the Researcher, ask for good cooperation to answer the questionnaire, and advise on how to answer

questions and on questionnaire. Every aforesaid step was consulted by the thesis advisor and other thesis committee (Please see Attachment).

Stage 2: **Testing research questions** – All 60 questions were technically tested by having scholars of Thammasat University, Chulalongkorn University, Ramkhamhaeng University and Mahidol University, as well as qualified experts in related agencies such as the Stock Exchange of Thailand (Mr. Singh Tangtasawas – Chairman of the SET), the Office of the Securities and Exchange Commission (Mr. Vasant Thienhom (Assistant Secretary-General), Department of Special Investigation (Mr. Surasak Triratananukul, Deputy Director-General of the Office of Executive Director on Special Cases) and the Judiciary of Thailand (Mr. Kriengchai Jungjaturapit who is Judge of the Supreme Court, Chairman of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions) check and answer these questions, question about question issues and outline. When the qualified experts accepted and approved that such questions could be understood and answered well, these questions were used in the next test.

Stage 3: **Testing the reliability of questions pursuant to the technical principle** : All 60 questions were tested with some representatives of target populations; 2 persons for each office or 40% of actual target populations. This testing was performed by the Researcher. After receiving all answers, they were tested by way of Alpha Factoring (H. Kaiser & J. Caffrey, 1965) by the Reliability Analysis – Scale (Alpha) to measure variables obtained from representatives of target populations. The Alpha from testing 60 questions equaled .9579 and the Standardized Item Alpha equaled to .9575. These figures were over the half amount; so it deemed that this questionnaire was reliable to be used in the research.

3.5 Conceptual framework

This research set up the research scope by connecting objectives of the research, setting up research questions, setting up the guideline of the research to

answer the research questions and criteria of measuring research results as illustrated in Table 3-1.

Table 3-1: Research methodology connecting objectives, questions and approaches

Objectives	Research Questions	Sources	Tools/ Approaches	Measurement Criteria
1. To examine factors affecting the white-collar crime within the Stock Exchange of Thailand if they were derived from motivation, structure of opportunity and culture of competition	<p>1. The SET issued too many and unfair laws, criteria, conditions and procedures as notified by the Office of the SEC.</p> <p>2. Enforcement of law was too strict.</p> <p>3. Investors or executives had abilities in exercising techniques of neutralization; for example, they excused that they did not harm anyone, did not do anything wrong or if their actions were illegal, they were not criminals, etc.</p> <p>4. Executives or business owners has acceptable justifications; for example, offences for survival or maintenance of company or factory status, or for preventing employees' unemployment.</p> <p>5. Executives' self-justification for any offence that it should not be illegal. For example, they had meeting to manipulate their share prices to resolve terrible situations in the Company; executives did not have any personal interest; and the Company did not deceive anyone, etc.</p>	<p>Documents from the library of the Stock Exchange of Thailand, research papers, theses, translated documents from foreign textbooks relating to securities, articles, interviews and research manuals</p>	<p>1. Documentary research approach</p> <p>2. Open-ended questions determined by related theories</p>	<p>5-scale opinions of target populations</p>

3.6 Data analysis

3.6.1 Analysis of factors

When receiving answers from the completed questionnaires, they were analyzed by SPSS program based on the Factor Analysis. Many variables were classified to find out the communality of those variables by way of Factor Loading. Finally, causes of white-collar crime within the Stock Exchange of Thailand were extracted and analyzed as per the following steps:

- 1) Considering the initial correlation between variables to wipe out variables with no correlation.
- 2) Checking the group suitability by using Kraiser-Olkin (KMO) and Bartlett's test of Sphericity if there was any significant statistics (Burns 1990).
- 3) After that, analyzing the Factor Descriptive to do the principal component analysis by determining that every component was independent from each other.
- 4) Selecting the orthogonal rotation by means of Varimax for 25 rounds, which was technically acceptable that it was suitable to find out the maximum value distributed in factors. After interpreting the factor meaning, the Eigenvalues or variance of factor variables would appear.
- 5) Obtained variables then passed the Factor Extraction to get factors affecting white-collar crime within the Stock Exchange of Thailand. The factors were tested by scree plot to find out the cutting point of factors and to see if there were any relevant conclusions.
- 6) Finally, the Factor Analysis was done by loading variables to identify components according to the acceptable criteria of weight; for example, the weight not less than 0.4 (Pimna 2003) should be a component that was the factor affecting white-collar crime within the Stock Exchange of Thailand.

Since, this research sought for opinions from various target populations, the background of questionnaire respondents were also analyzed by means of nominal scale to find out variables of demography as classified by gender, age, occupation, education, position, income and social status.

3.6.2 Data preparation for analysis

To place the data analysis in good order, certain initial agreements of this research were set up as well.

Stage 1: Document preparation

After obtaining reliable questions, 600 questionnaire sets were copied, enveloped and sent to the addresses of target populations. The Researcher also coordinated with related agencies to inform in advance of objectives of this research and to ask for their cooperation. All 60 questions were divided by factors based on the hypothesis of theories used in this research:

20 Questions about motivation (No. 1-20) – For example,

1. The Stock Exchange of Thailand has prescribed too many and unfair laws, criteria, conditions and procedure as determined by the Office of the Securities and Exchange Commission.

2. The enforcement of law is too strict.

3. Investors or executives have abilities in exercising techniques of neutralization; for example, they excused that they did not harm anyone, did not do anything wrong or if their actions were illegal, they were not criminals, etc.

4. Executives or business owners has acceptable justifications; for example, offences for survival or maintenance of company or factory status, or for preventing employees' unemployment.

5. Executives' self-justification for any offence that it should not be illegal. For example, they had meeting to manipulate their share prices to resolve terrible situations in the Company; executives did not have any personal interest; and the Company did not deceive anyone, etc.

20 Questions about the structure of opportunity (No. 21-40) – For example,

21. Securities law aims to protect the securities business, especially major investors but not retail investors.

22. Severity of punishment depends on power and influence of offenders; for example, street criminals are always punished more severe than white-collar criminals in the SET.

23. The maximum fine for committing any securities law charged to a big corporation is 300,000 Baht; this amount is so little if compared with its annual profits at several hundreds of million Baht.

24. Investors have a belief in the securities business that violations of law, criteria, conditions and procedure set up by the Office of the SEC are “normal life” of securities business.

25. There are plenty of white-collar victims in the SET but each gets few damages; they do not pay attention into their damages; and some does not even know that they are victimized, etc.

20 Questions about culture of competition (No. 41-60) – For example,

41. Economic competition in capitalism causes inequality and taking advantage.

42. Executives or business owners do not have competitiveness.

43. There are accumulations of excessive wealth, growth of exchange market or use of money as medium of exchange.

44. Wealth, progress or working security leading to higher salary, better social status are goals of workers without any regards about the acquisition methods.

45. There is a belief among investors and executives in securities companies that only capitalism can secure the companies and make them survive, etc.

Stage 2: Interpretation of opinion level

a) Setting up opinions into 5 levels or 1-5 (0 was also involved to assess the level of opinions)

b) Setting up the scale of assessing opinions into 5 levels:

5	=	Most strongly agree
4	=	Strongly agree
3	=	Fairly agree
2	=	Strongly disagree
1	=	Most strongly disagree
0	=	No comment or that item has never occurred

c) Interpretation of scale for the level of opinions into 5 ranges: 0.20, 0.40, 0.60, 0.80 and 1.00.

d) Formula for calculating the average weight to find out the communality of variables was as follows:

$$I = \sum n_1 X_1 / \sum n$$

e) Interpretation of scale for the level of opinions in 5 levels:

Opinion at Level 1: 0.01 – 0.20 score = least probability

Opinion at Level 2: 0.21 - 0.40 score = little probability

Opinion at Level 3: 0.41 - 0.60 score = fair probability

Opinion at Level 4: 0.61 - 0.80 score = much probability

Opinion at Level 5: 0.81 – 1.00 score = most probability

To check the quality of standard criteria from surveying opinions in this research, only opinions from Level 3 and up or the mean at 0.4 were selected.

3.7 Research duration and plan

The research lasted 8 months from August 2007 to March 2008 as shown in Table 3-2.

Table 3-2: 8-month research duration and plan from 1 August 2007–1 March 2008

No.	Research Plan	Duration							
		Aug 50	Sep 50	Oct 50	Nov 50	Dec 50	Jan 51	Feb 51	Mar 51
1.	Examining related theories and researches		→						
2.	Constructing research tools		↔						
3.	Collecting the data			↔					
4.	Analyzing the data				↔				
5.	Preparing the report					↔	↔	↔	↔

CHAPTER 4

DATA ANALYSIS

The research on “Factors Affecting White-collar Crime within the Stock Exchange of Thailand” was conducted to survey opinions of people associated with enforcement of securities law in the Stock Exchange of Thailand towards white-collar offences in the Stock Exchange of Thailand as well as offences settled by rules and regulations of the Stock Exchange of Thailand, and criminal offences as set forth in the Securities and Exchange Act, B.E. 2535. The target populations involved government officers in the justice procedure, Thai and foreign investors, officers and executives of the Office of the Securities and Exchange Commission, The Stock Exchange of Thailand, The Ministry of Finance, listed companies, member companies (broker), politicians, scholars, auditors, lawyers and mass media in the total of 336 subjects. The results of data analysis would be separated into 2 parts: 1) analysis of personal data; and 2) analysis of factors affecting white-collar crime within the Stock Exchange of Thailand as tabulated below.

4.1 Analysis for personal data

According to the quantitative data collected from 336 subjects, the results showed that most members in the sample group were male or at 66.1% while 33.9% were female. About 46.7% were at ages of 46-55 while 26.5% were at ages of 36-45. About 60.1% of the sample group attained the master degree while 34.5% attained the bachelor degree. About 74.7% were married and 21.4% were single. About 95.5% were Buddhist while only 3.6% were Christianity. The occupations of the sample group could be separated into 3 groups: (1) group of enforcers, which accounted for 10.7%; (2) group of enforced persons, which accounted for 82.1%; and (3) group of related scholars, which accounted for 7.2% as illustrated in Table 4-1.

Table 4-1: Number and percentage classified by personal data

Personal Data	Number (n = 336)	Percentage (100.00)
Gender		
Male	222	66.1
Female	114	33.9
Age		
Younger than 25 years old	1	0.3
25 - 35 years	42	12.5
36 - 45 years	89	26.5
46 - 55 years	157	46.7
56 - 60 years	34	10.1
61 years up	13	3.9
Level of Education		
Lower than bachelor degree	2	0.6
Bachelor degree	116	34.5
Master degree	202	60.1
Doctorate degree	16	4.8
Status		
Single	72	21.4
Married	251	74.7
Divorced/separate	13	3.9
Religion		
Buddhist	321	95.5
Christ	12	3.6
Islam	3	0.9
Occupations of the sample group		
1. Enforcers	36	10.7
The Ministry of Finance	4	1.2
The Office of the Securities and Exchange Commission (The Office of the SEC)	5	1.5

Personal Data	Number (n = 336)	Percentage (100.00)
The Stock Exchange of Thailand (SET)	5	1.5
Department of Special Investigation (DSI), Ministry of Justice	5	1.5
Anti Money Laundering Office (AMLO)	5	1.5
Office of National Anti-Corruption Commission (NCCC)	4	1.2
The Office of the Executive Director of Economic Cases and Resources, Office of Attorney General	4	1.2
The Judiciary of Thailand	4	1.2
2. Enforced persons	276	82.1
Member companies to the SET	44	13.1
Listed companies	217	64.6
Investors		
Thai	5	1.5
Foreign	5	1.5
Alleged offenders	5	1.5
3. Related people	24	7.2
Politicians	5	1.5
Scholars	5	1.5
Auditors	5	1.5
Mass Media	5	1.5
Lawyers	4	1.2

For the offence records of questionnaire respondents, most of them (91.1%) have never alleged for any offence while 8.9% used to be alleged for offences as illustrated in Table 4-2.

Among alleged offenders, about 60% of them received one allegation and only 40% received more than one allegation as illustrated in Table 4-3.

Among alleged offenders, about 93.3% were punished by fines while 3.3% were punished by imprisonment and 3.3% were punished by both fine and imprisonment as illustrated in Table 4-4.

Table 4-2: Number and percentage of offence records

Offence Records	Number	Percentage
Never be alleged	206	91.1
Used to be alleged	30	8.9
Total	336	100.0

Table 4-3: Number and percentage of allegations

Number of Allegations	Number	Percentage
1 allegation	12	40.0
More than 1 allegation	18	60.0
Total	30	100.0

Table 4-4: Number and percentage of punishment in case of conviction

Punishment in case of conviction	Number	Percentage
Fine	28	93.3
Imprisonment	1	3.3
Imprisonment and fine	1	3.3
Total	30	100.0

4.2 Analysis of factors affecting white-collar crime within the Stock Exchange of Thailand

4.2.1 According to the Factor Analysis to find out the adequacy of Factor Analysis, variance, cut point of components and factors affecting white-collar crime, the results were as follows:

4.2.1.1 For the initial correlation matrix, normally, it should be in the range of 0.3 – 0.8 (Wiersma 1991) and the determinant of correlation matrix should be more than 0.0001. The correlation matrix less than 0.0001 would mean that the correlation between variables was high ($R > 0.8$); as a result, some variables should be deleted out. That is, there were 2 variables that had so high correlation that they seemed to be the same variable and either of them should be deleted. But, deleting any variable would be based on the selection of questions.

According to information testing, the initial correlation matrix, there were 871 matching in the range of R 0.3 – 0.8, and the determinant was at 1.219; so it deemed that variables had correlation. Bartlett's test was also used to check if the correlation matrix of target populations was the identity matrix. The identity matrix would represent that each variable was not associated. Grouping variables to form the factors did not occur; so the Factor Analysis could not be done further. Thus, Bartlett's test should have the statistic significance ($\text{Sig} < 0.05$) to make the correlation matrix not be the identity matrix (Burn, 1990).

4.2.1.2 Adequacy of the sample group, and co-variance matrix and correlation of variables were considered pursuant to 2 statistics: Kaiser-Meyer-Olkin (KMO) and Bartlett's test of Sphericity (Bartlett's test). KMO was used to check the adequacy of the sample group, which should be over 0.5 if the sample group had both suitable variables. If KMO was less than 0.5, the Factor Analysis should be avoided.

After data analysis, KMO was 0.877, which was over 0.5. This meant that the sample group was suitable for the Factor Analysis. It was also found that Bartlett's test of Sphericity held Chi-square at 16575.819 with the significance value at 0.000, which was less than 0.05. This meant that the correlation matrix of populations was not the identity matrix. Consequently, each variable was associated with each other and could be grouped as components. It could be concluded from the data analysis that 336 sets of sample group collected for this research were appropriate, all 60 variables were collectively associated and the Factor Analysis could be used as illustrated in Table 4-5.

Table 4-5: Adequacy of the sample group and co-variance matrix and correlation of variables (KMO and Bartlett's test)

Kaiser-Meyer-Olkin Measure of Sampling Adequacy.		.877
Bartlett's Test of Sphericity	Approx. Chi-Square	16575.819
	df	1770
	Sig.	.000

4.2.1.3 In setting up the same components (Extraction) by way of principle component analysis under the technique of factor rotation, interpreting components needed the factor rotation by inserting each variable into each component. The factor rotation method consisted of Varimax that was the orthogonal rotation by supposing that those components were free from each other. Varimax would give the maximum value distributed in components; so try to insert few variables with high correlation in each component to acquire the result as the group of components, which was good and simple for interpreting the meaning of components. The Researcher determined the appropriate number of data processing to find out the value at 25 times (the default of most programs is 25 times or up) and identified the criteria of Eigenvalues that they should be over 1 (Program sets the default at 1) (Jolliffe's suggests that Eigenvalues should be 0.7 or more, but Kaiser suggests that Eigenvalues > 1 should be the best because Scree plot could be selected to compare results. After analyzing Scree plot and Eigenvalues > 1, we would receive the number of same components or the number of components could be identified or the desired components might be printed out.

After considering Eigenvalues from the table showing variance of variables, it was found that all factors could determine the number of components, 14 components with Eigenvalues > 1 were grouped together as follows: Component 1 could explain variance of variables at 32.5; Component 2 could explain variance of variables at 6.98; Component 3 could explain variance of variables at 4.83; Component 4 could explain variance of variables at 4.55; Component 5 could explain variance of variables at 3.72; Component 6 could explain variance of variables at

3.23; Component 7 could explain variance of variables at 3.11; Component 8 could explain variance of variables at 2.89; Component 9 could explain variance of variables at 2.63; Component 10 could explain variance of variables at 2.78; Component 11 could explain variance of variables at 2.21; Component 12 could explain variance of variables at 2.05; Component 13 could explain variance of variables at 1.93; and Component 14 could explain variance of variables at 1.68. All 14 components could explain variance of variables at 74.50 as illustrated in Table 4-6.

Table 4-6: Total variance explained

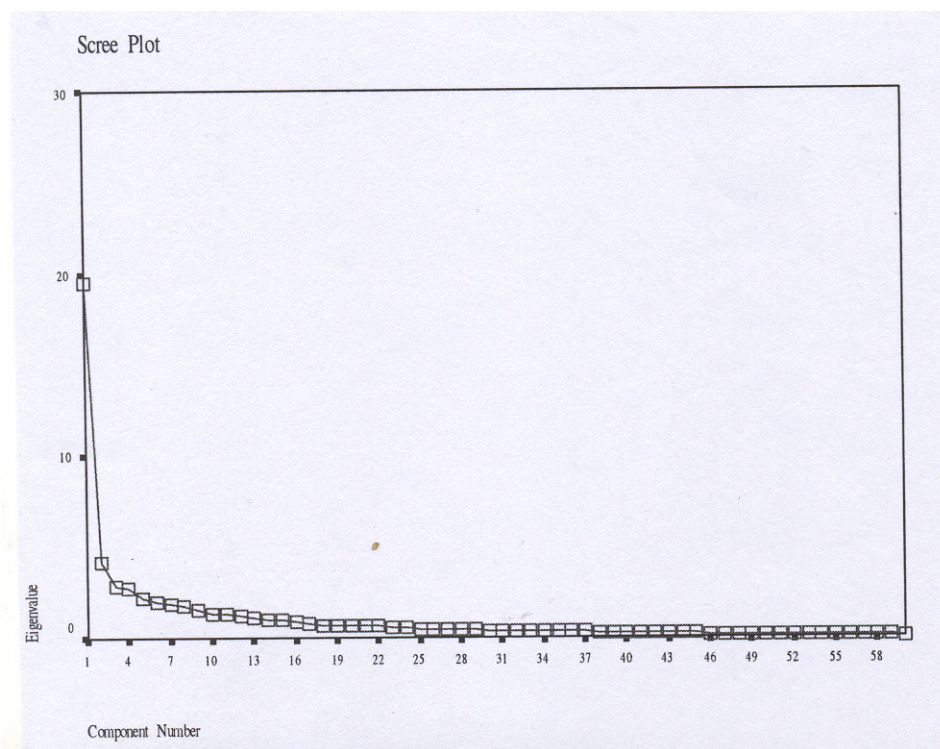
Component	Initial Eigenvalues			Extraction Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1	19.502	32.503	32.503	19.502	32.503	32.503
2	4.188	6.980	39.484	4.188	6.980	39.484
3	2.903	4.838	44.322	2.903	4.838	44.322
4	2.735	4.558	48.879	2.735	4.558	48.879
5	2.230	3.717	52.597	2.230	3.717	52.597
6	1.936	3.227	55.824	1.936	3.227	55.824
7	1.868	3.114	58.937	1.868	3.114	58.937
8	1.733	2.888	61.826	1.733	2.888	61.826
9	1.575	2.626	64.452	1.575	2.626	64.452
10	1.368	2.279	66.731	1.368	2.279	66.731
11	1.272	2.119	68.850	1.272	2.119	68.850
12	1.229	2.048	70.898	1.229	2.048	70.898
13	1.155	1.926	72.823	1.155	1.926	72.823
14	1.007	1.678	74.501	1.007	1.678	74.501

Extraction Method: Principal Component Analysis.

4.2.1.4 Considering the factor loading to assess which variable should be set in any component. If the highest factor loading value stayed in any component, it

shall be the variable measuring that component. But, there was a condition that the factor loading value should be 0.3-0.4 up. If there were plenty of sample groups, the statistic significance might be at 0.05 per the number of groups (Hair, 1995: 385). After the analysis, variables with factor loading value lower than 0.3 would be deleted out (Excusal cases list wise). There were 2 variables falling in this criterion; so the remaining variables were 58 only. After the analysis of Scree plot, the data was normally distributed. This meant that most data was not wrong and the value of most variables was 0.3 up. The factor loading of this sample group was, therefore, significant as shown in Graph 4-1.

Graph 4-1: Cutting point of component weight



4.2.1.5 For the Factor Analysis for factors affecting white-collar crime within the Stock Exchange of Thailand by identifying components, the factor loading should be 0.4 up (Pimpa 2003). In this research, factors affecting white-collar crime within the Stock Exchange of Thailand could analyze and synthesize 14 components only as shown in Table 4-7.

Table 4-7: Analysis of factors affecting white-collar crime within the Stock Exchange of Thailand

variables	Factor													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
X53	0.726													
X48	0.725													
X51	0.669													
X52	0.638													
X47	0.608													
X39	0.550													
X46	0.537													
X33	0.471													
X54	0.468													
X40	0.466													
X19		0.679												
X22		0.662												
X21		0.637												
X25		0.614												
X26		0.465												
X4			0.799											
X3			0.766											
X5			0.633											
X8			0.572											
X7			0.522											
X6			0.428											
X43				0.769										
X42				0.747										
X41				0.642										
X44				0.599										
X45				0.516										
X20				0.485										
X11					0.730									
X10					0.555									
X12					0.523									
X16					0.475									
X17					0.451									
X49						0.602								

Table 4-7: Analysis of factors affecting white-collar crime within the Stock Exchange of Thailand (Continued)

Factor														
variables	1	2	3	4	5	6	7	8	9	10	11	12	13	14
X28						0.583								
X18						0.554								
X50						0.551								
X55						0.486								
X27						0.449								
X31							0.660							
X34							0.461							
X32							0.441							
X24							0.418							
X1								0.872						
X2								0.858						
X59									0.576					
X60									0.535					
X58									0.510					
X57									0.45					
X15										0.64				
X14										0.508				
X38											0.604			
X9											0.436			
X13												0.618		
X23													0.534	
X36														0.50

After the Factor Analysis, it showed that all 14 components contained factors affecting white-collar crime within the Stock Exchange of Thailand as described below.

Component 1, which mainly dealt with factors relating to the culture of competition, consisted of 9 following factors. 1) Government officers gave advice and prepared official forms or accounts for private companies to evade the law. 2) For anyone knowing much loophole of law, it deemed that he was so clever, got high salary and would be highly demanded by many companies, for example, the counsel in some cases who claimed that the offenders made honest mistakes until those offenders were released from being offenders and respected in the society. 3) Companies have tried in every way to get commercial advantages such as fighting for

the customer base, fighting for executives, fighting for excellent employees, and strengthening relationship with government officers, which were common ways of securities business, and such attempts have been motivated by huge bonus. 4) Corporate executives had a belief that when they have inside information, they had to purchase or sell their securities before general investors in order to take profits. This behavior was common and like a duly bonus to executives. Any executive avoiding this act would be like a foul. 5) Social moral and belief that, for any corporation generating enormous profits, if it broke the law, it was still a good company like a hero. 6) There was a belief that making the highest profits for shareholders without any concerns about securities trading system, rule and regulations or other social problems because they were duties of the government who collected taxes from the companies already. So, the Companies would be responsible for their shareholders only. 7) There was an unofficial setting of company ranking in the securities business. Few top securities companies possibly had the opportunity of business conspiracy. For example, they set up, through several securities associations, high fees for member companies; as a result, small securities companies could not compete with giant securities ones and they had to break laws finally. 8) Associations with other persons until the evasion of law has been learnt and transferred between those securities associations. In addition, alleged members were also helped by these associations. 9) Fear of unemployment, family trouble, especially children who had to leave their school, were important factors forcing certain executives to be honest to their supervisors and to agree to commit white-collar crime within the SET although such acts contradicted to their feeling and ethics.

Component 2, which mainly dealt with factors relating to the structure of opportunity, consisted of 5 factors. 1) Need to be respected by securities people that he/she was the God of Stocks or value investor. 2) Severity of punishment depended on power and influence of offenders. For example, street criminals have been usually punished more severely than white-collar offenders in the SET. 3) Securities law aimed at protecting the securities business, especially major investors, but not retail investors. 4) There were a lot of white-collar victims in the SET but each victim got few damages. Some did not pay attention to it. Some didn't know that they were

victimized. 5) Mass media' presentation about dismissal of action for alleged offenders breaking the securities law.

Component 3, which mainly dealt with factors relating to motivation, consisted of 6 factors. 1) Executives or business owners had ability in justifying their offences until such offences were acceptable, e.g. business survival, maintaining the status of the company or factory, helping employees not to be unemployed. 2) Investors or executives had abilities in exercising techniques of neutralization; for example, they excused that they did not harm anyone, did not do anything wrong or if their actions were illegal, they were not criminals, etc. 3) Executives' self-justification for any offence that it should not be illegal. For example, they had meeting to manipulate their share prices to resolve terrible situations in the Company; executives did not have any personal interest; and the Company did not deceive anyone, etc. 4) Executives mentioned about business necessities done by everyone. For example, in the initial public offering, the Company's shares might be sold in a low price (offence) to patrons. This was commonly done by every securities company and we've not done in what 'others do not do'. 5) The family's security in the city society where city people could continue living by salary. If they did not break the law, others would do while they might be moved out or fired. 6) The society expected that after university graduates would get good job and high salary although they might work in corporations with illegal behavior.

Component 4, which mainly dealt with factors relating to capitalist trading system, consisted of 6 factors. 1) In the stock market, there were certain retail investors who were weak, had no good knowledge and efficient control, and certain investors who were ready to commit offences. 2) There was the accumulation of excessive wealth, growth of exchange market or use of money as exchange medium. 3) Executives or business owners did not have competitiveness. 4) Economic competition in capitalism caused inequality, and advantages and disadvantages. 5) Wealth, progress or job security leading to higher salary and better social status were targets of workers' life without any concerns about the acquisition method. 6) There was a belief among investors and executives in securities companies that just capitalism could make their companies secure and survive.

Component 5, which mainly dealt with factors relating to business ethics, consisted of 5 factors. 1) Offenders got enormous benefits, which were worthwhile to break securities law. Particularly, if considering statistics of offences and punishment and long period of prosecution, the offenders had much more chance to be released. 2) There was a belief among businessmen that integrity, fair game, business ethics and corporate governance were only theories or idealism that could not be done in real practices and they were opposite always. 3) Although certain criteria, conditions and methods of government bodies; for example, charges for securities trading fee lower than the fee amount set up by the SET made securities companies get the big sharing of trading fee. This act was much worthwhile if compared with a little amount of fine if they were arrested. 4) Investors had a belief in offences relating to manipulation and insider trading that they were not serious or not offences, but they were like borrowing others' money temporarily and it would be paid back later. 5) Business culture was more important than the influence of law; so businessmen did not fear the power of law.

Component 6, which mainly dealt with factors relating to trading practices, consisted of 6 factors. 1) In business circumstances where the competition was so high, if our company did not bribe government officers, other companies would do and they would get that job. Bribing authorities was common in the securities business, and it seemed a part of investment cost. 2) General people paid respect and praise to businessmen in the stock market who were successful in their work without paying attention to their financial sources if they came from frauds. 3) There were conspiracies between politicians and businessmen in securities trading. 4) Regular offering expensive gifts to government inspectors would help the company operation smoother. This behavior has been done until it became the organizational culture. 5) Physical needs, security and safety, social needs, self-esteem or self-actualization were targets of all businessmen without paying attention to the acquisition methods whether they were legal or not. 6) The highest profit was the main target of every securities company, which was deemed successful, without paying attention to methods or law.

Component 7, which mainly dealt with factors relating to social structure, consisted of 4 factors. 1) In some cases, securities companies and listed companies on the SET pushed their employees to be involved in breaking securities law. 2) When any competitive securities companies gained more profits by employing illegal methods, other securities companies usually had imitation actions and broke the law if they had chance. 3) Laws, criteria, conditions and methods of the SET indirectly forced investors to commit offences or this might be called “coercive crime”. 4) There was a belief among investors in the securities business that, violations of law, criteria and conditions and procedure of the Office of the SEC were common in the securities business.

Component 8, which mainly dealt with factors relating to enforcement of law, consisted of 2 factors. 1) The SET prescribed too many and unfair laws, criteria, conditions and procedure as notified by the Office of the SEC. 2) Enforcement of law was too strict.

Component 9, which mainly dealt with factors relating to life and business goals, consisted of 4 factors. 1) Government officers sought for wealth as defined by capitalism no matter how they got it. 2) Business competition might be illegal but its outcome was concrete in form of money; so it stimulated the imitation of offences. Other companies might comply with rules and regulations; although it was legal, they could not obtain the concrete result. 3) The control mechanism was unfair and inappropriate for the economic competition and free trade. 4) The mass media regularly presented business operating results of securities business, either profits or losses, so the securities companies compete with each other to gain the highest profits.

Component 10, which mainly dealt with factors relating to impact by offences, consisted of 2 factors. 1) Businessmen had a belief that white-collar crime was victimless. No one got damages and such crime was not severe. 2) There was a belief that offences of big corporations or rich business owners caused slight damages to those companies or owners.

Component 11, which mainly dealt with factors relating to punishment measurement, consisted of 2 factors. 1) Judgments on white-collar crimes in the SET started from agencies issuing related rules such as the SET or the Office of the SEC. This process was different from street crimes to which the judgment started from the police. In addition, white-collar offenders received few punishments or no imprisonment. 2) No accurate criteria of guideline, for example, no ruling of the Supreme Court identified which offence deemed or deemed not the securities offence.

Component 12, which dealt with factors relating to fairness in the society, consisted of 1 factor; namely, the employer's taking advantage made employees get unfair wages.

Component 13, which dealt with factors relating to investment worthiness and risk, consisted of 1 factor; namely, the average fine charged to a big corporation was only 300,000 Baht; this amount was so little if compared with its profit at several hundreds of million.

Component 14, which dealt with factors relating to dishonest officers, consisted of 1 factor; namely, some government officers involved in white-collar crime within the SET received a large amount of money but they have never been arrested. This was one motive for other government officers.

However, according to comments of questionnaire respondents from open-ended questions about factors affecting white-collar crime within the Stock Exchange of Thailand, apart from main 60 questions, the following were conclusions from such comments:

Component 1: Factors relating to the culture of competition, e.g. 1) bad examples and friends may persuade others to follow defrauding behavior, especially ones who are rich by breaking the law; 2) imitation behavior after seeing other persons have illegal actions and become rich; 3) requirement of organization executives to build up good image for creditability of mobilization in the SET, which

is a factor relating to neutralization behavior; 4) everyone has greed and lust, so one will take whatever he can grab; 5) one wants to retain personal benefits without caring for other persons; and 6) one does not know his own middle way. These comments are relevant to Factor 1 regarding culture of competition.

Component 2: Factors relating to business ethics, e.g. 1) honesty and ethics of leaders determine the culture; 2) ethics must extremely cultivated in Thai youths until they are graduates and this matter should be re-focused before they start working; 3) lack of good quality of life, attitude, ethics, morals and education, especially during childhood, children should learn about morals and ethics to have good immune and attitude so that they will be quality and moral adults and leaders; 4) executives should have ethics in their mind and use it in their business management; and 5) morals and ethics of general people have been dropping. At present, Thai people lack ethics and morals because the society has supported materialism too much. These comments are relevant to Factor 5 regarding business ethics.

Component 3: Factors relating to integrity, e.g. 1) the management in any company may be in trouble, but its shareholders have never been aware of it; 2) executives who claim that they have acts for the company, but, in fact, they act for their hidden personal benefits; 3) what is right remains right although none does it. What is wrong remains wrong although everyone does it; and 4) companies used to bribe government officers to get companies' documents back because those officers resist that they could not find such documents. But, the documents were found suddenly after the companies bribe the officers although the companies did not break any law. These comments are relevant to Factor 5 regarding business ethics.

Component 4: Factors relating to enforcement of law, e.g. 1) government officers' deficiency or no prosecution for influential persons; 2) offenders are not severely convicted; 3) government officers who successfully prosecute for offenders should be rewarded; and 4) enforcement of law is the most important since it can reduce the number of offences. These comments are relevant to Factor 8 regarding enforcement of law.

Component 5: Factors relating to social value, e.g. 1) Thai society respects rich men without paying attention to sources of wealth; 2) Thai society praises rich and wealthy people that stimulates the building of richness illegally; 3) competition and ostentation stimulate the negative thinking; and 4) capitalism.

Component 6: Factors relating to punishment, e.g. 1) in practice, punishment measures to listed companies, SET officers/ executives of listed companies/member companies breaking the criteria or provisions set forth in the Securities and Exchange Act and the Public Limited Company Act are in double standard; 2) accuracy of private letter rulings according to provisions, rules or the Securities and Exchange Act, in practice, are not confirmed; and 3) clarity of rules and regulations, and intensive punishment are first important factors. These comments are relevant to Component 11 regarding punishment.

Component 7: Factors relating to mass media, e.g. 1) mass media put too much influence on investors and they do not have good data analysis before presenting it; 2) penalties should be determined for the mass media presenting wrong or untrue information.

Component 8: Factors relating to grouping of investors, e.g. the research should separate companies listed on the SET into 3 groups. 1) Companies with high trading value and volume and most are public limited companies monopolizing certain products or being supported by politicians or potential politics. This group of companies always has the stock manipulation. 2) Companies with middle trading value and volume. This group has had consistent business operations and good intention in operating their businesses but they have no supports. So, this group is highly likely to commit offences because they want to grow up and survive. 3) Companies with low trading value and volume. This group is usually a manipulation channel of stock manipulators because the trading volume could be boosted easily with little investment but the manipulation process may take time.

Component 9: Factors regarding government policies, e.g. 1) Chinese Wall Policy; 2) Gilt Policy; 3) Appropriateness of Transaction Policy Anti Money Laundering Policy (AML); and 4) Foreign Corrupt Practice Act.

Component 10: Factors relating to legislation, e.g. 1) laws should be updated and consistent to facts; 2) The State's rules and regulations are not precise, prompt and accurate; 3) The SEC's regulations are not clear and can prosecute offenders clearly and severely; 4) current laws have many loopholes making retail investors get many disadvantages; 5) offenders have many other ways to commit more complicated offences; 6) offenders have known the punishment measurement of the SET, so they are able to evade punishments/ well-prepared to evade them or punishments are so weak and do not meet changing situations; 7) The governments have had good intent to issue each rule and law. But, when any offence occurs, the regulators, either the SEC or judges, are not single-minded and they argue that laws are unclear with many loopholes; 8) at present, due to intensive rules of the SET and the SEC, securities companies have committed fewer offences, but major investors and executives of listed companies have committed more offences; and 9) offenders have believed that the Securities and Exchange Act cannot charge them of doing wrong. But, if considering the case of PTIPOLENE, people may think over and fear the punishment of law more.

According to the results of data analysis, the information from analyzing factors stated in the questionnaire under hypotheses and theories of the research could form 14 components, as well as information from collecting the data of target populations based on open-ended questions could form 10 components or the total of 24 components. Finally, factors affecting white-collar crime within the Stock Exchange of Thailand could be summarized as follows:

1. From the questionnaire after the Factor Analysis, 14 factors were found:	2. From the open-ended questionnaire not passing the Factor Analysis, 10 factors were found:
1.Culture of competition 2.Structure of opportunity 3.Motivation 4.Belief in capitalism 5.Businessmen's concept 6.Trading practice 7.Social structure 8.Enforcement of law 9.Life and business goals 10.Impact by offences 11.Punishment 12.Equality in the society 13.Worthiness and risk in investment 14.Control mechanism to the society	1.Culture of competition 2.Business ethics 3.Integrity 4.Enforcement of law 5.Social value 6.Punishment 7.Mass media 8.Grouping of investors 93Government policies 10.Legislation

Conclusion: The results of data analysis showed that factors affecting white-collar crime could be grouped in 14 components as follows:

- (1) Culture of competition
1. Advisory officers evade laws.
 2. Companies have lawyers capable of evading laws.
 3. Companies do everything to take advantages in commercial activities.
 4. Executives take advantage from inside information.
 5. Social value praising offenders who are rich and intelligent.
 6. Shareholders' highest benefit, not care for the society.

7. Big corporations monopolize businesses and take advantage.
8. Associate with friends who break laws.
9. Commit offences due to fear of unemployment and their children may have to leave school.

- (2) Structure of opportunity
1. To be accepted as the God of Stock.
 2. Thefts are more influential than laws.
 3. Law protects big corporations, not small ones.
 4. Victims have not been aware, not pay attention.
 5. Influence of news presentation about dismissal of cases.

- (3) Motivation
1. Survival is justified by business owners.
 2. Investors exercise techniques of neutralization.
 3. Give the one-sided justification
 4. Business necessity, everyone does PO.
 5. Necessity as family head and salary man.
 6. The society expects that graduates will get good jobs.

- (4) Belief in capitalism
1. The SET contains many moths (innocent speculators) while regulators are so weak.
 2. Capitalism, excessive wealth, money as medium
 3. Executives are not good.
 4. Unfair competition, liberalism
 5. Wealth is a life goal.
 6. People believe in capitalism. Capitalism help them survive.

- | | |
|-----------------------------|--|
| (5) Businessmen's concept | <ol style="list-style-type: none">1. Benefits are worthwhile to take risks.2. Businessmen do not trust in ethics.3. It is worthwhile to violate laws.4. It is believed that the stock manipulation is not wrong or severe.5. Business culture is more important than law. |
| (6) Trading practice | <ol style="list-style-type: none">1. Competition forces companies to have bribery.2. The highest profit is a main goal, no concerns about law.3. The society prefers rich men and money.4. Politicians conspire with businessmen to defraud.5. Custom of gift offering to government officers.6. Life and business goals. |
| (7) Social structure | <ol style="list-style-type: none">1. Companies allow their employees to defraud.2. Imitate companies that break the law but they become rich.3. Law forces people to act illegally.4. Breaking the securities law is common. |
| (8) Enforcement of law | <ol style="list-style-type: none">1. The SET issues too many unfair rules.2. Enforcement of law is too strict. |
| (9) Life and business goals | <ol style="list-style-type: none">1. Government officers show off their richness.2. Do evil, get money. Do good, get honorable shield.3. Trading control mechanism is inappropriate and unfair for the trading linearization.4. News stimulates the competition of making profits. |

- | | |
|------------------------------|---|
| (10) Impact by offences | 1. Deceit makes companies get few damages. It is acceptable.
2. There are no victims, damages, severity in white-collar crime. |
| (11) Punishment | 1. Regulation issuers are not single-minded.
2. No standard of legal or illegal acts. |
| (12) Equality in the society | - Employers take advantage of employees. |
| (13) Investment worthiness | - Deceivers pay so few fines. |
| (14) Dishonest officers | - Some officers are evil but rich. |

Note: Number () behind factors is the component code separated as follows:

Number 1-20: Questions about motivation factor

Number 21-40: Questions about structure of opportunity

Number 41-60: Questions about culture of competition

Conclusion: From respondents' comments to open-ended questions, it was found that factors of white-collar crime were originated by 10 following components:

- | | |
|---------------------|--|
| (1) Motivation | 1. Bad friends may distract us.
2. Imitation, want richness.
3. Executives build up image to look neutral.
4. Men are greedy.
5. Men are selfish.
6. Men do not behave in the Middle Way. |
| (2) Business Ethics | 1. The leaders are honest.
2. Morals should be cultivated in children until they graduate. |

3. Lack of good quality of life since childhood.
4. Executives are trapped in ruinous ways of life.
5. Thai people are less moral.

(3) Integrity

1. The company information is not disclosed completely.
2. Have acts for personal interest but executives claim that they have those acts for the company.
3. Do the right thing though none does it.
4. Officers ask for bribes.

(4) Enforcement of law

1. Deficiency in taking legal actions against influential persons.
2. Offenders are not punished severely.
3. There should be rewards leading to arrest.
4. Significance of enforcement.

(5) Culture of competition

1. Thai society judges people from their richness.
2. The society praises rich but deceitful people.
3. Like to have competition, show off.
4. Capitalism

(6) Structure of opportunity

1. No standard of punishment
2. No accurate practice guideline
3. Unclear SET rules
4. Gentle punishment

(7) Mass media

1. Mass media influences investment.
2. There should be punishment measures for any mass media giving wrong news.

- (8) Grouping of investors
1. Big
 2. Medium
 3. Small
- (9) State policy
1. Chinese Wall
 2. Gilt and take policy
 3. Appropriateness of Transaction
 4. Policy Anti Money Laundering Policy (AML)
 5. Foreign Corrupt Practice Act
- (10) Legislation
1. Updated laws
 2. State rules are not precise, prompt and accurate.
 3. SET's rules are unclear.
 4. Laws have some loopholes.
 5. Offenders know the evasion of law.
 6. Offenders know the punishment direction of the SET.
 7. Enforcers are not strict.
 8. More knowledgeable persons commit offences.

CHAPTER 5

DISCUSSION

This chapter was the discussion of data analysis results by integrating the knowledge base from the results of quantitative research results from the Factor Analysis as presented in Chapter 4 earlier, and the factors obtained from comments of questionnaire respondents in accordance with the Toward an Integrated Theory of White-collar Crime of James William Coleman and other 13 supplementary theories relating to criminology, and justice and social administration in the Thai society in order to examine factors affecting white-collar crime within the Stock Exchange of Thailand. The Researcher would like to divide the factors affecting white-collar crime within the Stock Exchange of Thailand into 2 parts:

- 1) Analysis of personal background; and
- 2) Analysis of results for factors, which were divided into:

2.1 Analysis of results for factors affecting white-collar crime within the Stock Exchange of Thailand based on Toward an Integrated Theory of White-collar Crime of James William Coleman; and

2.2 Analysis of results for factors affecting white-collar crime within the Stock Exchange of Thailand based on other theories relating to criminology, and justice and social administration.

5.1 Analysis of personal background

According to personal data of target populations, the enforcers responded the questionnaires more than other groups or at 82.1%. Most questionnaire respondents were male whose ages were in the range of 46-55, completed the master degree, were married and Buddhist. Most target populations have never alleged for any offences and only 8.9% have been alleged for committing more than one offence and they were punished by form of fines only.

5.2 Analysis of results

This part was divided into:

5.2.1 Analysis of results for factors affecting white-collar crime within the Stock Exchange of Thailand based on Toward an Integrated Theory of White-collar Crime of James William Coleman

From searching for factors affecting white-collar crime within other countries, most factors were originated from the concept of life goal regarding investment for the sake of shareholders' highest interest without caring for methods, law or ethics. Therefore, those offenders used legal tricks to create the false accounting by mentioning about transparency, market mechanism, survival and business success without extending any legal and social responsibility. For the origins of white-collar crime within Thailand, at the initial stage, it came from the economic fluctuation resulted by many local and international factors, e.g. regression of real estate business, liquidity difficulties, changes of currency policy from the basket of currency to the managed-float system, taking out foreign loans by Thai financial institutions leading to financial offences, information concealment or disclosure of false financial information, stock manipulation and many offences committed by executives. According to this research, there were 14 factors affecting white-collar crime within the Stock Exchange of Thailand: 1) culture of competition, 2) structure of opportunity, 3) motivation, 4) belief in capitalism, 5) businessmen's concept, 6) trading practice, 7) social structure, 8) enforcement, 9) life and business goals, 10) impact by offences, 11) punishment, 12) fairness in the society, 13) investment worthiness, and 14) dishonest officers. From open-ended questions, another 2 factors were found: 1) factor on mass media, and 2) factor on government policies. For the factors affecting white-collar crime, James William Coleman had a hypothesis that criminal behavior was derived from the conjunction of: 1) appropriate motivation, 2) structure of opportunity, and 3) culture of competition. For **(1) motivation**, it may be considered in 4 sides: 1) factor on personality of persons causing the original stimulus to crimes, 2) factor on culture protesting the criminal behavior, 3) factor on neutralizing controls, and 4) organizational complexity originated forms of personal motivation. For **(2) structure of opportunity**, it was considered in 7 sides: 1) factor

on industries causing the facilitative crime and coercive crime such as too strict rules, regulations and criteria, etc., 2) factor on groups of similar organizations internally established, 3) factor on changes of rules and regulations, 4) factor on organization, for example, a company gaining few profits was likely to violate laws, 5) factor on duties on payment receipt, for example, calling for service fees and license fees, 6) factor on subcultures in occupations originating the communication and sharing of knowledge and techniques necessary for committing offences, and 7) factor on gender because most offenders or 95% were male who violated stock exchange rules under more complicated offences and longer offence period. It was more possible that such offences were jointly committed with others and they had more justifications for committing crimes while female offenders usually argued that their offences were “needs of husband and children”. For **(3) culture of competition**, it was considered in 10 sides: 1) culture of short-cut wealth by way of stock speculation; 2) culture of extravagant spending and consumer culture; 3) culture of trendy fashion by following other people to do the real estate investment, purchase some stocks, take out foreign loans; 4) culture of daydream, for example, Thailand would be a Asian tiger or NICS, or banks and capital companies in Thailand would not be bankrupt; 5) culture of “To blow one’s own horn” as seen in the disobedience to any warnings; 6) culture of patronage system as seen in the patronage such as loans granted to politicians by Bangkok Bank of Commerce (BBC); 7) culture of ignorance as seen in setting up the provisioning on NPLs or proportion of credit granting; 8) culture of monetary favor as seen in business speculation, low rates of fee for real estate transfer (0.5% of transfer amount), etc.; 9) culture of credulousness as seen in rumors about baht devaluation, bankruptcy of financial institutions; 10) culture of not accepting truth as seen in the case that the Bank of Thailand denied the analytical report of Credit Lyonnais Securities Asia or IMF. The above were the culture of competition regarding profit taking, success, materialism, consumer culture, and life and business goals. These also led to subcultures that care for personal interest rather than social interest, and they also led to economic crimes. .

If comparing main factors affecting white-collar crime within the Stock Exchange of Thailand with those of other countries, there were 3 same factors: 1)

motivation, 2) structure of opportunity, and 3) culture of competition. In addition, there were 11 different factors found from answering 60 questions in the questionnaire: 1) belief in capitalism, 2) business concept, 3) trading practice, 4) social structure, 5) enforcement, 6) life and business goals, 7) impact by offences, 8) punishment, 9) fairness in the society, 10) investment worthiness, and 11) dishonest officers. There were 2 different factors from open-ended questions: 1) mass media, and 2) government policies. The factors, based on theories, of other countries were different from factors affecting white-collar crime within the Stock Exchange of Thailand because the social structure in western countries is based on capitalism that believes in seeking for knowledge for further gaining happiness and comfort in the present world, on Christianity, single family, self-reliance rather than reliance on family or relatives. Consequently, these western countries placed less reliance on the patronage system, had more respect in rights and freedom of individuals, and their society aimed at materials rather than mind. For the Thai society, most citizens are Buddhist with cultural varieties of Thai-Buddhist, Thai-Muslim and spiritual respect such as mountain tribes or even Thai people who had social moral and belief in life after death, merit and sin, Law of Karma, and have not focused on materialism. Although, later, capitalism has played more roles, most living has still relied on nature and environment. People have been living in the extended families where there are transfers, teaching and learning in the family. The Thai society favors the patronage system in part of merchants, government officers or civil servants. The Thai society focuses on mental and spiritual value rather than material value. Freedom and education are still little. Thus, the Thai society is different from western communities in social, economic and political context. However, factors affecting white-collar crime of other countries were the same to those of Thailand because both factors had many mutual and consistent component variables; for example, business or personal survival was justified by business owners, use of neutralization techniques or the society expected that new graduates would get good jobs, etc. These were subcultures that encouraged offence committing. Sometimes, family heads might argue that their income source was salary. These reasons were a part of motivation only. Some argued that existing laws have protected major shareholders, not retain ones; so the latter had to form groups to commit offences for their survival, which was the factor on

organization. Moreover, the influence of presenting news that the Court dismissed securities offenders, communications in industries, learning and transferring offence techniques, all were subcultures, which was the factor on structure of opportunity. It is obvious that offenders viewed that corporations should make the best profits for their shareholders without caring for the society. Or, the social value praised persons who broke law and became rich that they were good. Or, the corporations tried in every way to take commercial advantages. Or, the corporations engaging employees who were good at law would gain some commercial advantages. These were viewpoints that capitalism made people believe that the culture of competition regarding needs for success and materialism were targets or goals of life and business in the competitive environment. For example, people did not care for law or rules of government bodies or they did everything for personal interest without caring for social or public interest. There were also other cultures of competition, e.g. culture of trendy fashion, culture of monetary favor or culture, culture of credulousness, culture of short-cut wealth, culture of extravagant spending, etc. Therefore, the factors in relation to motivation, structure of opportunity, and culture of competition in other countries and Thailand were consistent and there were some joint variables. Thus, all those 3 factors were reliable and universal to be used by the Researcher as the main suggestion. For other different factors, they would be suggested in other chapter.

5.2.2 Analysis of component variables to 14 factors affecting white-collar crime within the Stock Exchange of Thailand based on other theories relating to criminology, and justice and social administration

From studying component factors of all 14 main factors, it was found that each main factor comprised many component variables. So, it is reasonable to take such component variables to study with existing criminological theories to find out whether they would be supported by any theory or research or not so that all 14 factors look reliable and could be implemented.

5.2.2.1 Factor on culture of competition

When considering the culture of competition from this research by way of quantitative factor analysis, it was found that most subjects of the sample group

viewed that factors affecting white-collar crime within the Stock Exchange of Thailand were originated by this factor under 9 supporting variables:

(1) Government officers gave advice and prepared official forms or accounts for private companies to evade the law.

(2) For anyone knowing much loophole of law, it deemed that he was so clever, got high salary and would be highly demanded by many companies, for example, the counsel in some cases who claimed that the offenders made honest mistakes until those offenders were released from being offenders and respected in the society.

(3) Companies have tried in every way to get commercial advantages such as fighting for the customer base, fighting for executives, fighting for excellent employees, and strengthening relationship with government officers, which were common ways of securities business, and such attempts have been motivated by huge bonus.

(4) Corporate executives had a belief that when they have inside information, they had to purchase or sell their securities before general investors in order to take profits. This behavior was common and like a duly bonus to executives. Any executive avoiding this act would be like a foul.

(5) Social moral and belief that, for any corporation generating enormous profits, if it broke the law, it was still a good company like a hero.

(6) There was a belief that making the highest profits for shareholders without any concerns about securities trading system, rule and regulations or other social problems because they were duties of the government who collected taxes from the companies already. So, the Companies would be responsible for their shareholders only.

(7) There was an unofficial setting of company ranking in the securities business. Few top securities companies possibly had the opportunity of business conspiracy. For example, they set up, through several securities associations, high fees for member companies; as a result, small securities companies could not compete with giant securities ones and they had to break laws finally.

(8) Associations with other persons until the evasion of law has been learnt and transferred between those securities associations. In addition, alleged members were also helped by these associations.

(9) Fear of unemployment, family trouble, especially children who had to leave their school, were important factors forcing certain executives to be honest to their supervisors and to agree to commit white-collar crime within the SET although such acts contradicted to their feeling and ethics.

The above 9 variables mainly occurred since they were influenced by the principle of free will as proposed by Cesare Baccaria (1738-1794) on the philosophy that “humans are reasonable and seek for their best material benefits. They decide to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages from such acts before making decision to do or omit to do such behavior.” He also believed that if humans were prevented to break laws, penalties had to be severe, accurate and prompt to make humans believe and foresee deficits from their wrongdoing. Finally, humans would omit their wrongdoing.” Those variables also came from utilitarian of Jeremy Bentham (1748-1832) under a belief that human behavior was controlled by 2 natural principles: pleasure and pain. Because humans were reasonable; thus, before doing any acts, they would compare between pleasure and pain. If the outcome would offer pleasure rather than pain, one would commit the crime. In addition, according to individuals’ benefit according to capitalism of Willem Bonger (1876-1940), it was hypothesized that the Capitalistic Organization of Society originated crimes. Because the private firms possessed the production process; so they sought for the highest profits. This caused egoistic tendencies, greed, and no social responsibility, or capitalism stimulated crimes. Moreover, Sutherland’s Differential Associations Theory (Edwin H. Sutherland; 1883-1950) viewed that the social structure was derived from the conflict and disorder society. He proposed a concept that “criminal behavior was not directly originated by genes or social circumstances, but by learning of criminal behavior from close persons by means of communications, either oral or manner.” Furthermore, Maslow’s Hierarchy of Needs (Abraham H. Maslow; 1967-1968) divided human needs into 5 levels: physical survive, safety security, belonging, self-esteem, self-

actualization. Finally, Toward an Integrated Theory of White-collar Crime claimed that white-collar crime was the conjunction of motivation, structure of opportunity and culture of competition.

It is obvious that, for variables relating to government officers gave advice to evade the law as mentioned in (1), companies engaged persons knowing much loophole of law as mentioned in (2), companies have tried in every way to get commercial advantages as mentioned in (3), corporate executives had a belief that when they have inside information, they had to purchase or sell their securities before general investors in order to take profits as mentioned in (4), a belief that making the highest profits for shareholders without any concerns about securities trading system, rule and regulations as mentioned in (6), or an unofficial setting of company ranking in the securities business for business monopoly as mentioned in (7), all were the processes to reach goals or objectives of life and business, that is, being successful, winner, rich and respected were partially the culture of competition in terms of people and business according to the capitalistic trading system. Therefore, hindrance in relation to law, morals and ethics was not so important or crucial in the viewpoint of securities business. Some companies might care for law and morals, but they were not the first priorities. Hence, Bonger's concept in Marxist Theory, Free Will of Cesare Beccaria in Classical School Theory, utilitarianism of Jeremy Bentham in Economic Theory, and motivation of Abraham H. Maslow in Hierarchy of Needs Theory were consistent to Toward an Integrated Theory of White-collar Crime of James William Coleman.

For researches supporting the Marxist Theory, it seemed that this theory adhered to its basic belief too much. It believed that capitalism originated crimes. Thus, this meant that communist countries should be free from any crimes, but, in real situations, crimes still occurred there. As a result, theorists of this theory hesitated to conduct comparative studies on statistics of criminal cases in countries with different economic systems. Thus, after Carl Marx and Marxist theorists presented this theory, up to now, no research has been conducted to test this theory. Although there was no supporting research, it does not mean that this theory lacked its

value in criminology. But, it was still capable of explaining certain phenomena regarding the influence of economic power to the legal system and justice procedure in capitalistic countries, which was useful for making the enactment process, justice procedure, enforcement of securities law, and stock market transparent and fair for everyone in the society like this research.

The researches supporting the Classical School Theory and the Economic Theory were those conducted by Gary Jensen (Jensen, 1969) and Linda Anderson et al. (Anderson et al., 1977). The researches showed that if one felt that it was risky to be arrested or he feared to be punished, he would decide not to break the law. The research of Decker et al. (Decker et al., 1993) surveyed opinions of criminals robbing house properties, which were compared with opinions of general people. They found that the risk of possible arrest and expected things to be got from crimes were important factors for criminals' decision on robbery. The research of Tunnell (Tunnell, 1990) found that if offences were impossibly found, the convicts would continue commit offences since their life outside prisons was not different from that in prison. According to the research of Decker et al. (Decker et al., 1993) aiming to examine the decision process of thefts in cases of house larceny, and the research of Simpson & Koper (Simpson & Koper, 1992) aiming to examine whether the increase of punishment in business laws would result to the decrease of business offences, e.g. tax evasion, embezzlement, etc. or not. These researchers obtained the conclusion that supported the Economic Theory that the punishment prescribed by law influenced lower offences; so these researches supported the Economic Theory.

For researches conducted to support Maslow's Hierarchy of Needs, most were business researches; for example, researches of Drucker, Likert, McGreggor and Argyris, etc. According to the research on "Enlightened Economics and Management", building the management team to reach the self-actualization would finally lead the organization to the summit of success. But, criminological researches based on this theory have not been found clearly because unconsciousness or instinct could be difficultly proved in real practice; so most researchers mainly aimed to examine offenders' mind resulting to the justice process, which was the Neo-

Classical School of Crime). Thus, no researches supported this theory like the Marxist Theory as described above.

For the variable on social value and belief that, for any corporation generating enormous profits, if it broke the law, it was still a good company like a hero as mentioned in (5) or the variable on associations with other persons until the evasion of law has been learnt and transferred between those securities associations as mentioned in (8), these variables were the concept of imitation or imitating rich people either they had legal or illegal acts, which was used as the close and simplest guideline to meet the life goals. This concept was consistent to the concept about capitalism proposed by Carl Marx and Bonder in the Marxist Theory, Maslow's Hierarchy of Needs, and Sutherland's Differential Associations.

As mentioned earlier, there were no researches supporting the Marxist Theory and Maslow's Hierarchy of Needs. For researches supporting Sutherland's Differential Associations, because this theory was derived from the Social Learning Theory, so researches on this theory were quite similar. For example, in the research of Short (Short, 1957), the researcher measured characteristics of associations among criminals in 4 dimensions: frequency, duration, emphasis and intensity. The results showed that criminal behavior was derived from learning from criminal friends. There were also many other researches that youths whose friends or close persons were criminals were likely to have criminal behavior more than youths whose friends or close persons were not criminals. Most researches have involved the learning of agreement with offences, or they emphasized on the learning process; they did not measure variables, content or significant essence of what to be learnt (Matsueda, 1988).

For the variable on fear of unemployment, family trouble, especially children who had to leave their school, were important factors forcing certain executives to be honest to their supervisors and to agree to commit white-collar crime, this variable dealt with the fear of not reaching the life and business goals or fear of life failure. The external pressure or fears of family trouble, and internal pressure or

fears of life failure, even temporary unemployment, were powerful enough to encourage people to commit offences although such offences contradicted to their personal feeling. We might call this crime as the coercive crime as mentioned in (9) above, which was consistent to the Strain Theory of Robert Merton (Merton, 1938; 1957) and Maslow's Hierarchy of Needs.

For researches supporting Maslow's Hierarchy of Needs, there have not been clear criminological researches, but there have been some for the Strain Theory, e.g. researches of Nye (Nye, 1958), Akers (Akers, 1964), Tittle & Villemez (Tittle & Villemez, 1977), which found that rates of offences by different social classes were not different for misdemeanors, but the felonies have been normally committed by lower class (Hindeland et al., 1979).

The above variables and theories showed that, under capitalism, everyone was equal to build up this economic status. According to egalitarian ideology, capitalism allows individuals to possess properties, so everyone focuses on creating his material wealth in the environment of competition, praising clever and rich people without any concerns about correctness and fear of disappointment, failure and unemployment. Everyone has right and may be expected to form his financial status although everyone may not be able to attain this objective. Moreover, this culture determines methods or techniques to meet social goals. In other words, the society creates value and stimulates people to willingly comply with methods although they may be unable to attain such social goals. In the past, the society placed too much emphasis on social goals or success or wealth but it placed too little emphasis on privileges until the compliance with social practice is ignored. Importantly, persons using methods opposite to the culture still have good social status or praise. This presses or stimulates or motivates persons unable to attain social goals by using methods accepted by the culture or society to have imitations. The methods contrary to that culture were done to attain goals quicker. Some methods were illegal and mainly caused crimes finally. This factor supported the motivation factor with the same direction of concepts and theories by focusing on offenders or subjective.

Besides, the factor on culture of competition obtained from the Factor Analysis was consistent with the factor on culture of competition obtained from supplemental suggestions in the questionnaire. More 4 component variables were found: 1) Thai society respected rich people without concerns about sources of wealth; 2) the society respected rich and good-financial status people, which stimulated illegal wealth; 3) competition and ostentation stimulate the negative thinking; and 4) capitalism. The variables relating to factors affecting white-collar crime within the Stock Exchange of Thailand answered by questionnaire respondents, and variables obtained from the Factor Analysis came from the different data sources. The concept for research questions came from answers given by offenders in the United Kingdom and the United States whereas answers given by questionnaire respondents who were personnel associated with the enforcement of securities law. But, answers given by those different sources were in the same direction and consistent. The supplemental suggestion, so, confirmed that the culture of competition was the universal matter. Both directions could get together and were consistent with the theory that has been supported by several researches.

For researches supporting the Marxist Theory, it seemed that this theory adhered to its basic belief too much. It believed that capitalism originated crimes. Thus, this meant that communist countries should be free from any crimes, but, in real situations, crimes still occurred there. As a result, theorists of this theory hesitated to conduct comparative studies on statistics of criminal cases in countries with different economic systems. Thus, after Carl Marx and Marxist theorists presented this theory, up to now, no research has been conducted to test this theory. Although there was no supporting research, it does not mean that this theory lacked its value in criminology. But, it was still capable of explaining certain phenomena regarding the influence of economic power to the legal system and justice procedure in capitalistic countries, which was useful for making the enactment process, justice procedure, enforcement of securities law, and stock market transparent and fair for everyone in the society like this research.

The researches supporting the Classical School Theory and the Economic Theory were those conducted by Gary Jensen (Jensen, 1969) and Linda Anderson et al. (Anderson et al., 1977). The researches showed that if one felt that it was risky to be arrested or he feared to be punished, he would decide not to break the law. The research of Decker et al. (Decker et al., 1993) surveyed opinions of criminals robbing house properties, which were compared with opinions of general people. They found that the risk of possible arrest and expected things to be got from crimes were important factors for criminals' decision on robbery.

5.2.2.2 Factor on structure of opportunity

According to the results of Factor Analysis, the factor on structure of opportunity also comprised other supporting variables:

- (1) Need to be respected by securities people that he/she was the God of Stocks or value investor.
- (2) Severity of punishment depended on power and influence of offenders. For example, street criminals have been usually punished more severely than white-collar offenders in the SET.
- (3) Securities law aimed at protecting the securities business, especially major investors, but not retail investors.
- (4) There were a lot of white-collar victims in the SET but each victim got few damages. Some did not pay attention to it. Some didn't know that they were victimized.
- (5) Mass media' presentation on dismissal of action for alleged offenders who broke the securities law.

All 5 variables were influenced by the concept about legal punishment efficacy that "punishment severity, promptness and accuracy were the heart of criminal prevention" (Zimring & Hawkins, 1973). This concept also viewed that humans always regarded the outcome of any acts before starting such acts. In addition, crime consisted of 3 elements: criminals committing offences, suitable victims and lack of ability in protecting properties or physical body. The victimization would be rising if there were all 3 elements.

It is obvious that variables relating to severity of punishment depended on power and influence of offenders as mentioned in (2) securities law aimed at protecting the securities business, especially major investors, but not retail investors as mentioned in (3) or mass media's presentation about dismissal of action for alleged offenders breaking the securities law as mentioned in (5) all were factors relating to law and enforcement. According to the concept of Cesare Baccaria in this book entitled *Risks relating to Crime and Punishment*, he criticized the justice procedure that it has not been fairly undertaken by state officers and judges who did not sustain fairness to protect people's rights and liberty, but, conversely, they used the justice procedure as the state's tool or ruler to maintain the ruling power. Baccaria proposed that only parliament should have enactment power since it represented people in the society. Penalties were stated in laws to prevent judges to exercise unlimited power. Law had to mention penalties for each offence. Each illegal action had to be specified in laws and each law should be clear and simple. The court's function was not to interpret the legislation. Law and punishment had to be more severe than benefits to be gained by criminals, but such punishment should not be torture or cruelty. Life imprisonment was more severe than execution. Prompt punishments and close to the time of offence were the most appropriate and useful. Prevention of crime was better than punishment. The above issues were consistent with the Classical School Theory and the Deterrence Theory that placed hypotheses on legal punishment efficacy that "punishment severity, promptness and accuracy were the heart of criminal prevention".

The researches supporting the above theories were those conducted by Gary Jensen (Jensen, 1969) and Linda Anderson et al. (Anderson et al., 1977). The researches showed that if one felt that it was risky to be arrested or he feared to be punished, he would decide not to break the law. Later, the research of Decker et al. (Decker et al., 1993) found that, apart from measuring variables on fear of arrest and legal punishment, it was also necessary to include the expectation obtained from crimes in the Deterrence Theory.

Although most researches concluded that severity and accuracy of law were negatively associated with offences or few offences, but they did not place too much influence on stopping individuals' behavior. It was also found the punishment of death did not give any effect to the statistics on murder (Akers, 1994) since there were other factors curbing individuals to commit offences such as family attachment, fear of social condemnation, no chance of committing offences, etc. Therefore, it was not conclusive that these researches supported or did not support these theories. The implementation of theories to the criminal prevention and suppression policy must concern types of crime or criminals, which should be studied further.

The subsequent variable on needs to be respected by securities people that he/she was the God of Stocks or value investor as mentioned in 5.1.2 was the personal wish of questionnaire respondents that offenders' needs for such self-actualization came from this reason, which was the need in Level 4 from all 5 levels classified by Maslow's Hierarchy of Needs: 1) physical survive, e.g. needs for four necessities for maintaining the living, relaxation and sleeping, physical warmth and health; 2) safety security, e.g. safety and security, assistance, property, protection for peace and calmness, etc.; 3) belonging e.g. affection, favor, sexual instinct, membership, grouping, etc.; 4) self-esteem, e.g. respect, trust, assessment, belief, pride, etc.; and 5) self-actualization, e.g. creativity, challenge, advanced knowledge, innovation, religious belief, truth seeking, fairness and beauty value, etc.. There have not been clear and direct researches supporting this theory (Pornchai Khuntee et al., 2000: 177) as mentioned earlier.

For the last variable that there were a lot of white-collar victims in the SET but each victim got few damages or some did not pay attention to it or some didn't know that they were victimized as mentioned in 5.2.4, this was consistent to the Routine Activity Theory that applied the Deterrence Theory and the Rational Choice Theory under the philosophy that crime was originated by 3 elements: criminals committing offences, suitable victims and lack of ability in protecting properties or physical body. The victimization would be rising if there were all 3 elements.

This variable was supported by many researches; for example, those of Cohen & Felson (Cohen & Felson, 1979) conducted in both micro and macro levels. In the macro level, they examined the statistics on violence against properties from Year 1947 to 1974. They found that statistics on house larceny have been increasing gradually because the changing social condition forced more people to leave their houses. In the micro level, they found that people wandering outside instead of staying at home were usually victims of crimes relating to bodily injuries, robbery or rape, etc. According to the research of Newman (Newman, 1972), building characteristics also influenced the criminals' offences since the building resulted to the common area inspection and control. Sherman et al. (Sherman et al., 1989) examined scenes of incident in cases of violence against life and body, and found that scenes of incident were associated with offences relating to bodily injuries because they allowed or give chance of being victimized or lacking the protection or prevention for offences, etc. The theory, so, supported such variable.

Besides, it was found that the factor on structure of opportunity obtained from the Factor Analysis were relevant to the factor on structure of opportunity obtained from supplemental suggestion of questionnaire respondents. It was found that such factor comprised another 4 component variables: 1) punishment standard because SET's officers, executives of listed companies, member companies not complying with rules or obligations of the SET; 2) rulings to provisions, rules or the Securities and Exchange Act were not confirmed in writing for their accuracy; 3) clarity of rules and regulations and punishment intensity were first important factors; and 4) lack of prompt and efficient enforcement process. All these variables dealt with rules, law, enforcement of law and punishment that were based on the Deterrence Theory and the Classical School Theory. These theories emphasized that, before committing offences, criminals would consider general circumstances, e.g. opportunity of offence, disadvantages, benefits, risks, motivation or motives of crime. Individuals always calculated the outcome after committing crimes, either possibility of arrest, punishment in case of arrest and other legal alternatives (Sullivan, 1973). The Deterrence Theory explained causes of criminal behavior based on legislations. The supplemental suggestion of this research came from the different sources, but the

outcome was consistent and made the factor on structure of opportunity more reliable. The results of Factor Analysis and supplemental suggestion were supported by theories and researches, so it was deemed that those research results were consistent.

5.2.2.3 Factor on motivation

According to results of Factor Analysis, causes of white-collar crime within the SET came from the factor on motivation under 6 component variables:

(1) Executives or business owners had ability in justifying their offences until such offences were acceptable, e.g. business survival, maintaining the status of the company or factory, helping employees not to be unemployed.

(2) Investors or executives had abilities in exercising techniques of neutralization; for example, they excused that they did not harm anyone, did not do anything wrong or if their actions were illegal, they were not criminals, etc.

(3) Executives' self-justification for any offence that it should not be illegal. For example, they had meeting to manipulate their share prices to resolve terrible situations in the Company; executives did not have any personal interest; and the Company did not deceive anyone, etc.

(4) Executives mentioned about business necessities done by everyone. For example, in the initial public offering, the Company's shares might be sold in a low price (offence) to patrons. This was commonly done by every securities company and we've not done in what 'others do not do'.

(5) The family's security in the city society where city people could continue living by salary. If they did not break the law, others would do while they might be moved out or fired.

(6) The society expected that after university graduates would get good job and high salary although they might work in corporations with illegal behavior.

The above 6 variables mainly dealt with justifications to protect personal interest, use of techniques; for example, arguing for public interest, or blaming surroundings or arguing that it was a common matter done by others even it broke the law. These excuses were given to make offenders look good or subjective

viewpoint. The criminal would view himself that he did correctly while others did wrongly or the law made them act wrongly or his victim did wrongly. The offender has never thought that he committed the offence. This thinking was the same for businessmen and politicians. For example, businessmen and politicians committing crimes are now prosecuted in several cases occurring during the administration of Thaksin Shinawatra. This is the viewpoint of neutralization, which is the normal characteristic of the Thai society until it was the common practice of businessmen and politicians at present. The Positive School is a theory searching for causes of crime by focusing on criminals. This theory is based on 2 hypotheses: 1) human behavior comes from pressure or factors beyond humans' control; and 2) factors stimulating criminal behavior are different from factors stimulating compliance with law. Offenders usually use techniques of neutralization to excuse for their offences or feel that they do not break the law or they are not evils (Sykes & Matza, 1957). Matza proposed that "neutralization technique" is one behavior allowing individuals to agree with violations of law instead of compliance with law. This theory was influenced by main hypotheses of Sutherland's Differential Associations Theory and Akers' Social Learning Theory. But, most scholars think that this theory should be put in the Social Control Theory (Akers, 1994). This variable mainly focuses on offenders, which is derived from the interaction concept of labeling theorists. These offenders look at persons surrounding them and find that general people expect or think that they will commit crimes certainly; so they have accumulated this thinking and developed the neutralization technique when committing crimes. This reason is not an excuse in offending but motivation; for example, law is not good, not appropriate, not correct or offenders have to offend for business survival or themselves or general people have this behavior as well or subcultures accept such offences or offenders feel that they should receive that thing, etc.

Labeling Theory is a theory pinpointing that crime is derived from criminal behavior, which not only involves criminals, but social reaction to such criminal behavior, reaction by government bodies to individuals and incidents prescribed by law as offences. This theory was influenced by the Symbolic Interactionism Theory that studies meanings of language or symbol used in the

communication process in the society. This theory is based on the basic principle that one will construct the individual's identity and self-concept to particular persons, objects or incidents in the communication process in the society only (Akers, 1994). This theory consists of 3 main principles: 1) symbols learnt and used by individuals exist in the real world; 2) individuals have social learning through persons they have associations; and 3) individuals' opinions or value given to any situation originates behavior of those people. To elaborate, interpretation to facts originates human behavior (Mastereest Roberson, 1990: 200). Later, the Labeling Theory has rooted many other theories, including Toward an Integrated Theory of White-collar Crime that hypothesizes that white-collar crime is the conjunction of motivation, structure of opportunity and culture of competition, which is the main theory used in this Research.

When considering variables regarding investors or executives had abilities in exercising techniques of neutralization; for example, they excused that they did not harm anyone, did not do anything wrong or if their actions were illegal, they were not criminals, etc. as mentioned in 5.3.1 or executives or business owners had ability in justifying their offences until such offences were acceptable, e.g. business survival as mentioned in 5.3.2 or they had meeting to manipulate their share prices to resolve terrible situations in the Company; executives did not have any personal interest; and the Company did not deceive anyone, etc. as mentioned in 5.3.3 or, in the initial public offering, the Company's shares might be sold in a low price (offence) to patrons. This was commonly done by every securities company and we've not done in what 'others do not do' as mentioned in 5.3.6, these variables were techniques of neutralization among offenders. This does not mean that such offenders reject social value or rules, but they use such techniques as excuses that they do not act illegally or they want to feel that they are not evils (Sykes & Matza, 1957). The offenders will not commit crime until they have the development of neutralization and feel that although the criminal behavior is not correct, but acceptable. They may reject responsibility, damages incurred, victimization, or they may blame other persons or shift responsibility on others, etc. This concept is similar to the concept about subcultures; so such excuses are consistent to this theory.

The researches supporting the Matza's Delinquency and Drift Theory included that of Agnew (Agnew, 1994). He examined the relationship between use of neutralization techniques and use of violence by youth. The research showed that a lot of youths accepted the use of violence, and techniques of neutralization influenced on the use of violence by 2 types of youth: youths whose friends were offenders, and youths did not accept the use of violence, which supported the principle of this theory.

For variables relating to the society expected that after university graduates would get good job and high salary although they might work in corporations with illegal behavior as mentioned in 5.3.4 and the family's security in the city society where city people could continue living by salary. If they did not break the law, others would do while they might be moved out or fired as mentioned in 5.3.5; they were all derived from the social expectation pressing individuals to have self-assessment and to imitate such illegal behavior as responses to that expectation although it might be contrary to their feeling or morals. This is individuals' responses in the social communication process. Presenting meanings or one's feelings to himself and other people in the society put influence on behavior of that person (Mead, 1934). Such behavior, thus, was consistent to concepts of the Labeling Theory and the Symbolic Interactionism Theory. Moreover, offenders' crime did not come from techniques of neutralization, but social pressure pushing individuals to do illegal behavior. This is in compliance with the Toward an Integrated Theory of White-collar Crime of James William Coleman that the criminal behavior is the conjunction of motivation, structure of opportunity and culture of competition.

Many scholars have conducted many researches on the Labeling Theory in order to testify the Theory's hypothesis that labeling or blaming makes individuals recognize their criminal being, and, finally, they will have the criminal behavior or permanent deviance. For example, the research of Cameron (Cameron, 1964) showed that persons frequently stealing goods in the department store did not accept that their behavior was theft or illegal acts. These persons tried to excuse that such behavior was not evil, but blamable behavior only. Cressey (Cressey, 1953) found that criminals in type of embezzlement stayed in so high working positions that

they did not view such embezzlement as crime but temporarily borrowing others' money. However, these researches could not find a conclusion supporting such hypothesis. But, there were another 6 researches supporting it by confirming that arrested youths would commit more crime, have bias against the police and have more attachment with criminal friends.

However, from the Labeling Theory's explanation about causes of criminal behavior, there is one interesting remark that the social control mechanism, either people in the society or officers in the justice procedure, is the crucial cause stimulating the criminal behavior. So, we have to look back disadvantages of state's social mechanism. This provokes a new idea that the criminal behavior is influenced by social punishment to any behavior determined as crime or deviance. This concept has been developed to a thought that the social power is an essential factor turning one's behavior to be an offence or deviance (Orcutt, 1983), which is a philosophy rooting the contrary theories later.

In addition, the factor on motivation obtained from the Factor Analysis was consistent to the supplemental suggestion from questionnaire respondents in 15 variables; namely, 1) bad examples and friends may persuade others to follow defrauding behavior; 2) imitation behavior after seeing other persons have illegal actions and become rich; 3) requirement of organization executives to build up good image for creditability of mobilization in the SET; 4) everyone has greed and lust, so one will take whatever he can grab; 5) one wants to retain personal benefits without caring for other persons; and 6) one does not know his own middle way. These comments, hence, supported the factor on motivation.

5.2.2.4 Factor on belief in capitalism

The results of Factor Analysis showed that this factor consisted of 6 following variables:

(1) In the stock market, there were certain retail investors who were weak, had no good knowledge and efficient control, and certain investors who were ready to commit offences.

(2) There was the accumulation of excessive wealth, growth of exchange market or use of money as exchange medium.

(3) Executives or business owners did not have competitiveness.

(4) Economic competition in capitalism caused inequality, and advantages and disadvantages.

(5) Wealth, progress or job security leading to higher salary and better social status were targets of workers' life without any concerns about the acquisition method.

(6) There was a belief among investors and executives in securities companies that just capitalism could make their companies secure and survive.

It is obvious that all 6 variables above were derived from the concept about free trade and capitalism on the principle of Survival of the Fittest and the Fittest Gobble up the less Fit. A large portion of properties is belonged to a small group of people. The private corporations hold ownership in properties and production tools. Capitalism stimulates or persuades the people to have greed and selfishness and do everything to acquire what they want. Law and justice procedure specify selfishness and greed of labor class as crimes but, meanwhile, they stimulate and promote selfishness of ruling class. Socialism could reduce crimes since it promotes general people's living as a whole; so everyone engages equality and needs not seek for many properties. This concept is the principle of Marxist Criminology, and the concept that crime is derived from 3 elements: criminals committing offences, suitable victims and lack of ability in protecting properties or physical body. The victimization would be rising if there were all 3 elements.

For variables on unfair competition in capitalism resulted by advantages and disadvantages as mentioned in 5.4.2, non-competitiveness of executives as mentioned in 5.4.3, accumulation of excessive wealth as mentioned in 5.4.4, wealth, progress or job security as mentioned in 5.4.5, and belief among investors and executives in securities companies that just capitalism could make their

companies secure and survive as mentioned in 5.4.6, they all are concepts or beliefs in capitalism seen as the origin of crime (Bonger, 1967), ownership in means of production by private corporations, and expectation in profit taking in the capitalistic society leads to the Egoistic Tendencies. As a result, individuals have greedy and selfishness, no social responsibility, or capitalism stimulates the climate of committing crimes. All social classes are affected by capitalism similarly or equally. Laws are set up by Bourgeois while white-collar crime emerges due to personal needs of wealth or security. It is obvious that every variable aims to the same life goals, including wealth, richness and success. They compete to reach the same ultimate goal without caring for methods. They seek for short-cut techniques to survive and win finally. This is like some water streaking out from the bottle; but only 20% could come out, but 80% of water is still in the bottle and become rotten since it has no energy for further competition. This is the nature of survival. Capitalism has conquered the world and many countries around the world follows up this concept, except countries believing in spiritualism where they place more emphasis on mental happiness and spirit than materials, or they prefer peace to materials or war. The above 5 variables, therefore, are consistent with the Marxist Theory, especially concepts of William Bonger, and Toward an Integrated Theory of White-collar Crime of James William Coleman that white-collar crime was the conjunction of motivation, structure of opportunity and culture of competition. Capitalism may be either the culture of competition and motivation depending on subjective view or objective view. In either view, capitalism is the top main factor of white-collar crime. So, the consequent issue to be studied is that capitalism originates white-collar crime within the Stock Exchange or not. How is white-collar crime prevented? Is capitalism only a phenomenon in the society? Does crime depend on individuals in groups or social control? These should be studied in the future. As mentioned earlier, few studies supported hypotheses of these theories.

For the variable that, in the stock market, there were certain retail investors who were weak, had no good knowledge and efficient control, and certain investors who were ready to commit offences, it is consistent to the concept of Jereme Bentham (1748-1832), English philosopher, who has examined the means motivating

individuals to have ethics, and means of social revolution. Bentham held the principle of Free Will as proposed by Cesare Baccaria on human behavior. He proposed 2 concepts: utilitarianism, and law and punishment. He viewed that humans are reasonable and seek for their best material benefits. They decide to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages from such acts before making decision to do or omit to do such behavior. For this viewpoint, the Researcher considers that it is so broad. If carefully looking into real situations, one may have time to think of results of some acts. Sometimes, the desire of mind is beyond our expected outcome. For example, love, greed, anger and entrancement are abstract matters up to one's pleasure. They are unexplainable and the performer does not want to know the outcome. For instance, if one wants to get married with someone, his love is beyond any reason. Although he is warned by many people, he still insists his decision. The disappointment in love may destroy his life eventually. Sometime, these factors are out of social control, but they are up to the natural mechanism and human instinct. For the Deterrence Theory, it views that "punishment severity, promptness and accuracy were the heart of criminal prevention" (Zimring & Hawkins, 1973). It is also believed that humans are ethical animals and regard the results before any behavior. Thus, we can prevent people to commit offences if laws are efficient and suitable; for instance, severe penalties, prompt punishment and high possible arrests. This theory is useful in criminology and roots the legislation and philosophy of criminal justice administration of many countries around the world. However, to attain the success of justice administration, this theory is partially correct in term of theoretical textbooks. But, the real practice is also important like the theory. Although the theory is written excellently, it will be meaningless if it cannot be implemented or practiced pursuant to its intent. Thus, the enforcement or practice is important, especially learning among practitioners. According to Sutherland's Differential Associations, not only offenders but also enforcers could imitate the behavior or actions from other enforcers. To enhance the model of enforcement including legislations, practice, punishments or sentences, Thailand should study these guidelines from other countries have ever enforced these guidelines so that efficiency, efficacy and benefits shall belong to the country finally. This matter will be presented at the end of this thesis. The last theory is the Routine

Activity Theory on the principle that crime consisted of 3 elements: criminals committing offences or investors waiting the suitable time to commit offences, suitable victims or weak investors who lack of knowledge, and lack of ability in protecting properties or physical body or retail investors' carefulness or recognition as well as the state's control mechanism preventing the violation of rules so that no one has chance to commit offences. Therefore, this variable is consistent to these theories.

The researches supporting these theories included those conducted by Felson (Felson, 1995) showing that a society consisted of many motives persuading individuals to commit crimes. But, the society also had the mechanism assisting or stimulating individuals to invest in their own behavior. What allowed individuals to make the deviant behavior included personal weakness, situations, motives, stimulant, association and sluggishness. Anyone staying in such situation usually committed the crime. In the meantime, the society also comprised the family institution as self-control to prevent one to commit the crime. According to Sherman et al. (Sherman et al., 1989), incidents in cases of bodily harm occurred at residences, intersections, parks, flats or slum. This could be concluded that incidents were associated with the bodily harm because they gave chance to victimization and there was no protection or prevention to crimes. This conclusion may be applied to the case of retail investors.

According to the supplemental suggestion of questionnaire respondents, the factor on culture of competition consisted of 4 variables, which is the same to factor on culture of competition presented earlier. This issue, so, could be combined with the issues on culture of competition to be presented in next chapter since the concept came from the same theory.

5.2.2.5 Factor on business concept

According to the results of Factor Analysis, the factor on business concept consisted of 5 variables:

(1) There was a belief among businessmen that integrity, fair game, business ethics and corporate governance were only theories or idealism that could not be done in real practices and they were opposite always.

(2) Offenders got enormous benefits, which were worthwhile to break securities law. Particularly, if considering statistics of offences and punishment and long period of prosecution, the offenders had much more chance to be released.

(3) Although certain criteria, conditions and methods of government bodies; for example, charges for securities trading fee lower than the fee amount set up by the SET made securities companies get the big sharing of trading fee. This act was much worthwhile if compared with a little amount of fine if they were arrested.

(4) Investors had a belief in offences relating to manipulation and insider trading that they were not serious or not offences, but they were like borrowing others' money temporarily and it would be paid back later.

(5) Business culture was more important than the influence of law; so businessmen did not fear the power of law.

From the above 5 variables, most were influenced from a concept that humans are reasonable and seek for their best material benefits. They decide to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages from such acts before making decision to do or omit to do such behavior. The selection of illegal behavior is to get the highest pleasure or benefit. Humans are ethical animals and regard the results before any behavior. Thus, we can prevent people to commit offences if laws are efficient and suitable; for instance, severe penalties, prompt punishment and high possible arrests will block individuals not to commit crime (Decker et al., 1993).

When considering variables that there was a belief among businessmen that integrity, fair game, business ethics and corporate governance were only theories or idealism as mentioned in 5.5.1 or offenders got enormous benefits, which were worthwhile to break securities law if considering statistics of offences as mentioned in 5.5.2 or an illegal act was much worthwhile if compared with a little amount of fine if they were arrested as mentioned in 5.5.3, and business culture was more important than the influence of law; so businessmen did not fear the power of law as mentioned in 5.5.5, they all were reasons considered by businessmen for advantages and

disadvantages before their decisions. When benefits were over punishments after considering the past operating results as well as strictness of enforcement, businessmen would decide to have illegal behavior. For law pursuant to the Classical School Theory, Deterrence Theory, Economic Theory, Rational Choice Theory, and Social Control Theory under the research conducted by Linda Anderson et al. (Anderson et al., 1977), it showed that if one felt that it was risky to be arrested or one feared to be punished, he would not break the law. The research of Decker et al. (Decker et al., 1993) showed that one would commit a crime within type of violence against properties when he saw that the property value obtained from that crime could be interpreted into much money until that offender did not fear the law. The research of Simpson & Koper (Simpson & Koper, 1992) showed that the increasing punishment set forth in the business law resulted to fewer business offences, e.g. tax evasion, fraud, etc.

Moreover, the supplemental suggestion of questionnaire respondents was consistent to the factor on business ethics with 5 variables: 1) honesty and ethics of leaders determine the culture; 2) ethics must extremely cultivated in Thai youths until they are graduates and this matter should be re-focused before they start working; 3) lack of good quality of life, attitude, ethics, morals and education, especially during childhood, children should learn about morals and ethics to have good immune and attitude so that they will be quality and moral adults and leaders; 4) executives should have ethics in their mind and use it in their business management; and 5) morals and ethics of general people have been dropping. Since executives lacked business ethics and corporate governance, they took advantage due to their selfishness or personal survival. Because of pressing environment, loosing enforcement or lenient regulators and weak justice procedure, it was likely that businessmen had more illegal acts. From the concepts, theories, researches and supplemental suggestion, it should be believed that this factor was a part of white-collar crime within the Stock Exchange of Thailand.

5.2.2.6 Factor on trading practice

According to the results of Factor Analysis, the factor on trading practice was one cause of white-collar crime and this factor consisted of 6 variables:

(1) There were conspiracies between politicians and businessmen in securities trading.

(2) The highest profit was the main target of every securities company, which was deemed successful, without paying attention to methods or law.

(3) General people paid respect and praise to businessmen in the stock market who were successful in their work without paying attention to their financial sources if they came from frauds.

(4) In business circumstances where the competition was so high, if our company did not bribe government officers, other companies would do and they would get that job. Bribing authorities was common in the securities business, and it seemed a part of investment cost.

(5) Regular offering expensive gifts to government inspectors would help the company operation smoother. This behavior has been done until it became the organizational culture.

(6) Physical needs, security and safety, social needs, self-esteem or self-actualization were targets of all businessmen without paying attention to the acquisition methods whether they were legal or not.

The variables from this factor were mainly goals or objective of business operation. Under the environment and social value pressing and supporting any actions in business ways until they have been accepted and practiced continuously such as bribe, gifts offered on great days and festivals, which were proper and timely bribes. The relationship between business and government authority is not family relation or respectable persons with no compensation. These actions were the gratuitous offers. Most variables came from the concept of Maslow's Hierarchy of Needs, which divided human needs into 5 levels: 1) physical survive, 2) safety security, 3) belonging e.g. affection, favor, grouping, 4) self-esteem, e.g. respect, reputation, success, etc.; and 5) self-actualization. Later, this concept was applied to business and management that was the ultimate life and business goals and a part of

motivation. Thus, businessmen did not care for methods or did not regard which color the cat has, black or white, if it can catch rats as stated by Deng Xiao Ping, former China leader. Therefore, company employees acted as cats that caught rats. But, they did not eat those rats, but sent to the company. If that cat was arrested, it would become the theft cat and the scapegoat finally. If the cat was white, it would be recognized easily and could not catch the rats. If the cat did not try to be a black cat, it might be fired or unemployed. Then, other cat ready to be the black cat would replace and take that position. This was the business cycle and a part of white-collar crime at present.

The conspiracy between politicians and businessmen in securities trading was high. This showed that, at present, the securities trading in the Stock Exchange of Thailand has been conspired by politicians and businessmen. This could be seen in the list of alleged offenders; most of them were businessmen and some were businessmen whose families were politicians; for example, the case of stock trading of First City Investment Plc. (FCI) owned by Khun Ying Patcharee Wongpaitoon or shares of Bangkok Bank of Commerce Plc. (BBC) of Mr. Krirkiat Chaleechan, etc. This is consistent to the concept and theory of the Classical School Theory that humans are reasonable and seek for their best material benefits. They decide to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages from such acts before making decision to do or omit to do such behavior. When businessmen and politicians had conspiracy, they have learnt and transferred techniques of committing white-collar crime. This is consistent to the Differential Associations with a concept that the criminal behavior came from learning process and criminal behavior of close persons by way of oral communications or manners to approach success or wealth and power so that offenders were respected and self-actualization pursuant to Maslow's Hierarchy of Needs. In addition, businessmen and politicians had similar motivation and culture or practice. As stated that the ethical standard of businessmen was equal to that of politicians. When both types of people had chance, they would commit white-collar crime promptly. According to Toward an Integrated Theory of White-collar Crime, the criminal behavior was the conjunction of motivation, structure of opportunity and

culture of competition. This is a single theory sufficiently explaining the cause of white-collar crime. It was also found that only Motivation Theory could not cover this behavior. People in powerful positions would think of and plan in advance before any offence since they had to spend much money and their offence was so complicated. This is consistent to the Economic Theory that an individual has reasonable decision-making process to commit crime. This principle is human's nature that wants the most gain and the least loss. Hence, if he thinks that he will not get any gains from crime, he will not commit it.

Furthermore, this issue is consistent to the concept of Anand Panyarachun (1993) had a lecture on Effect of Rapid Economic Growth to Political Structure of Thailand that the business community gained some growth and viewed that they have been treated unfairly by political parties, which had slower development than the business sector because old political leaders did not trust the businessmen. But, in past 2 decades, the political campaigns required an enormous amount of money. Politics was a matter of money, embodied in a long history of the country and it was a social cancer affecting the economic and political system. Bribery seemed common in the country. Thai industries not only rely on technical knowledge, but also connections and influence. A hindrance to the development of clean political system was a deep feeling that if one did anything for us, we would be indebted to him and do something in return. This could be seen in the vote-buying in the general election, especially in rural areas. The culture of money was the same; wealthy people were always respected no matter they got their money. The politicians have done unusual actions to seek for extra benefits. The political process, actually, contradicted to ethics, in particular, Thai politicians thought of their local interest rather than national interest. Besides, Thailand did not have the powerful Office Attorney General like Japan; so we had to solve problems step by step.

For this factor, the questionnaire respondents had supplemental and consistent suggestion about the factor on culture of competition and motivation as presented earlier. So, this factor was supported by theories, researches, and opinions of target populations answering the questionnaire. Therefore, it deemed that the factor

on trading practice was a cause of white-collar crime within the Stock Exchange of Thailand.

5.2.2.7 Factor on social structure

According to the results of Factor Analysis, the factor on social structure was a cause of white-collar crime. This factor consisted of 4 variables:

(1) There was a belief among investors in the securities business that, violations of law, criteria and conditions and procedure of the Office of the SEC were common in the securities business.

(2) In some cases, securities companies and listed companies on the SET pushed their employees to be involved in breaking securities law.

(3) Laws, criteria, conditions and methods of the SET indirectly forced investors to commit offences or this might be called “coercive crime”.

(4) When any competitive securities companies gained more profits by employing illegal methods, other securities companies usually had imitation actions and broke the law if they had chance.

The above variables came from the concept in Bonger’s Marxist Theory that the capitalistic organization of society determines crimes. Ownership of the means of production by private companies, and expectation in profits shows egoistic tendencies; these make individuals have greedy and selfishness, no social responsibility, or capitalism stimulates the climate of committing crimes. This theory also viewed that the social control mechanism including law or requirements were not sufficient enough and they partially provoked criminal behavior due to inequality of power, wealth and capabilities in industries. Moreover, the social factor provoked the criminal behavior as well. Individuals had the reasonable decision-making process of committing crime. It was the human nature desiring the highest profits and the fewest losses in order to attain the business demands or goals, which were the needs of self-actualization and compromising working or living.

According to the above concepts and theories, it is obvious that factors relating to a belief among investors in the securities business that, violations of law,

criteria and conditions and procedure of the Office of the SEC were common in the securities business as mentioned in 5.7.1 or securities companies and listed companies on the SET pushed their employees to be involved in breaking securities law as mentioned in 5.7.2 and laws, criteria, conditions and methods of the SET indirectly forced investors to commit offences or this might be called “coercive crime” as mentioned in 5.7.3, they all came from the social structure, either the organization or legislation, stimulating the white-collar crime. It may be concluded that the questionnaire respondents proposed these opinions as their reaction to respond to the victimization of justice procedure. These opinions were in conjunction with the Marxist Theory of Bonger and the Social Control Theory because both official and unofficial control and internal and external system failed to control the normal securities trading system. This was consistent with Toward an Integrated Theory of White-collar Crime that the criminal behavior was the conjunction of motivation, structure of opportunity and culture of competition. Therefore, this factor was a part of culture of competition as defined by this theory.

For the variable that when any competitive securities companies gained more profits by employing illegal methods, other securities companies usually had imitation actions and broke the law if they had chance, this was the behavior deriving from learning the criminal behavior from close persons or competitors in the same business or industry by means of oral communication or manners. In addition, such companies agreed with such illegal behavior because it provided them some profits, which was one objective of business operation for the shareholders’ highest profits, instead of complying with law. As a result, other securities companies had to imitate the same illegal behavior. This was consistent to Sutherland’s Differential Associations Theory.

Both theories have been supported by some researches. For Sutherland’s Differential Associations Theory, it was supported by the research of Short (Short, 1957) measuring the characteristics of associating with criminal friends in 4 dimensions: frequency, duration, emphasis and intensity of criminal behavior. The results showed that the criminal behavior came from learning from criminal

friends. There was also the research of Agnew (Agnew, 1991) aiming to examine reactions in 3 dimensions: attachment with friends, duration of associating with friends and scope of crime shown by friends under the longitudinal study. The research found that such variables were correlated with each other and resulted to individuals' higher criminal behavior, especially felony. Thornbun et al. (Thornbun et al., 1994) conducted a research based on the hypothesis that the associations with criminal friends and criminal behavior had interaction at all time. Each variable also influenced individuals to have more criminal behavior. The results showed that the associations with criminal friends stimulated individuals to have higher criminal behavior as being supported by friends. In the meantime, participating in such criminal behavior also allowed individuals to associate with criminal friends more. This interaction occurred all the time as long as those persons stayed in the criminal sphere ((Thornburry et al., 1994: 74). These 3 researches indicated that associating with criminals led to the criminal behavior by way of learning. So, they supported Sutherland's theory.

For researches on the Marxist Theory, no explicit researches have been conducted as explained earlier.

Besides, the supplemental suggestion of questionnaire respondents was relevant to the factor on legislation that consisted of 9 variables: 1) laws should be updated and consistent to facts; 2) the State's rules and regulations are not precise, prompt and accurate; 3) current laws have many loopholes making retail investors get many disadvantages; 4) The governments have had good intent to issue each rule and law. But, when any offence occurs, the regulators, either the SEC or judges, are not single-minded and they argue that laws are unclear with many loopholes; 5) offenders have many other ways to commit more complicated offences; 6) offenders have known the punishment measurement of the SET, so they are able to evade punishments/ well-prepared to evade them or punishments are so weak and do not meet changing situations; 7) the SEC's regulations are not clear and can prosecute offenders clearly and severely; 8) at present, due to intensive rules of the SET and the SEC, securities companies have committed fewer offences, but major investors and

executives of listed companies have committed more offences; and 9) offenders have believed that the Securities and Exchange Act cannot charge them of doing wrong. But, if considering the case of PTIPOLENE, people might think over and fear the punishment of law more, but they also tried to evade other laws. This is the problem on social structure in terms of law and compliance, which was consistent to the factors discovered from the Factor Analysis. The factor on social structure, therefore, was supported by theories, researches and supporting opinions. As a result, the social structure was a cause of white-collar crime within the Stock Exchange of Thailand.

5.2.2.8 Factor on enforcement of law

According to the results of Factor Analysis, the factor on enforcement of law caused the white-collar crime within the Stock Exchange of Thailand. This factor consisted of 2 variables:

- (1) The SET prescribed too many and unfair laws, criteria, conditions and procedure as notified by the Office of the SEC.
- (2) Enforcement of law was too strict.

Both variables covered the legislation and enforcement, which came from concepts about motivation, structure of opportunity and culture of competition. This could be seen in the principle of Marxist Theory mainly stating about the culture of competition that law and justice procedure have been controlled by the Bourgeois. Law provoked the criminal behavior. If the justice procedure was fairer, crimes would eventually be reducing. The above two variables also came from the principle of the Classical School Theory of Cesare Baccaria that humans were reasonable and sought for their best material benefits. They decided to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages from such acts before making decision to do or omit to do such behavior. Thus, law was essential to control humans' rationalization and knowledge so that humans omit their criminal behavior. This principle has been developed to be the Deterrence Theory under the hypothesis about legal punishment efficacy that "punishment severity, promptness and accuracy were the heart of criminal prevention". Together with the principle of Toward an Integrated Theory of White-collar Crime under the hypothesis

that white-collar crime was the conjunction of motivation, structure of opportunity and culture of competition. There was also Matza's Delinquency and Drift Theory under the hypothesis that offenders usually use techniques of neutralization to excuse for their offences or they did not reject the social value or social rules. They used techniques to make themselves feel that they did not break the law or were evil, e.g. not intending, not harming anyone, no injured persons, blaming victims or being persecuted, or doing for others, etc.

This case had 2 viewpoints: 1) there were too many legislations and too strict enforcement, or 2) offenders gave excuses by blaming laws and enforcement to neutralize them. In practice, the legislations usually lay down broad principles whereas details of laws depend on the administrators who issue many rules and regulations. Like ministerial regulations of the Department of Revenue, most of them have been issued as the practice guidelines, but issued after the emergence of offences in order to solve those problems and stop violations. Therefore, blaming that too many rules were issued was only an excuse to be released from punishment. The past enforcement, there were settlements of fine, but the amount was not great because fines were settled under compromises and those offences were still under certain conditions allowing the fine settlement. The settlement of fine is to control the securities trading at an acceptable level and to suppress subsequent larger offences. The theory that could be suitably applied to this case is the Matza's Delinquency and Drift Theory. Both excuses were techniques of neutralization used by offenders only. This theory was based on the hypothesis of Sutherland's Differential Associations Theory and Social Learning Theory or Social Control Theory only.

Another interesting point is that, apart from justifications, offenders might respond to the society in case that they did more than one illegal act. If an offender committed crime for the first time, he might argue that there were too many and unfair laws. But, if he repeated his crime, it was difficult to give the same excuse. The subsequent crime might be reacted or labeled by the society (social reaction). Thus, the offender had to take any action to escape from the allegation. Creation of meanings or feeling of an individual to the environment, himself and other persons in

the society influenced the behavior of that person (Mead, 1934). Thus, human behavior is mutually formed or determined by the definition or meaning with other people in the society, not environment. The social order was the result of reaction and communication process in the society. Because some securities companies and corporate companies have been involved with the SET as SET directors whereas the SET was the initiator filing securities offences to the SEC, which has been participated by executives of securities companies or listed companies; as a result, the investigations were quite compromising but might originate the violations of law. Those securities companies' executives should be involved in the administration or issuance of non-sanction rules in order to avoid the operating problems. But, the enforcement of law should be separated and be the sole duty of the SEC for efficacy of enforcement.

However, no matter it was seen, such behavior expressed the motivation and culture of competition leading to the established objective. Such behavior was also an important factor of white-collar crime theories because motivation and culture of competition have originated the white-collar crime within the Stock Exchange of Thailand. But, there have not been explicit researches supporting this theory. For the Matza's Delinquency and Drift Theory, it was supported by the research of Agnew (Agnew 1994) as presented earlier.

For this factor, the questionnaire respondents had the supplemental suggestion, either factor on legislation or enforcement. For the factor on legislation, it was presented above in part of factor on social structure and it would not be repeated here. Only the factor on enforcement would be mentioned as follows under 4 variables: 1) retail investors explicitly committed offences so other offences followed, but government officers had deficiency or no prosecution for influential persons; 2) offenders were not severely convicted so they dared to commit offences; 3) government officers who successfully prosecuted for offenders should be rewarded (motives for enforcers); and 4) enforcement of law was the most important since it could reduce the number of offences. These comments focused on the strict enforcement of law that was so critical. The punishment should be equal or fair, either

retail or major investors, in order to reduce crimes. Such opinions were obviously correlated and consistent to the factor on enforcement of law as per results of Factor Analysis, and it was sufficiently supported by theories and researches.

5.2.2.9 Factor on life and business goals

According to the results of Factor Analysis, the factor on life and business goals partly caused the white-collar crime within the SET. It consisted of 4 variables:

(1) The mass media regularly presented business operating results of securities business, either profits or losses, so the securities companies compete with each other to gain the highest profits.

(2) The control mechanism was unfair and inappropriate for the economic competition and free trade.

(3) Government officers sought for wealth as defined by capitalism no matter how they got it.

(4) Business competition might be illegal but its outcome was concrete in form of money; so it stimulated the imitation of offences. Other companies might comply with rules and regulations; although it was legal, they could not obtain the concrete result.

All 4 variables were results of the capitalistic trading by which everyone directed to the same target or material wealth. Even the state officers working in powerful positions could greatly support the formation of offences. The theories to be applied for this factor included the Marxist Theory, Maslow's Hierarchy of Needs, Towards an Integrated Theory of White-collar Crime, and Sutherland's Differential Associations of Theory. All variables reflected the culture of competition in which win or loss could be measured by the amount of profits and wealth in order to reach the life and business goals by different methods, either legal or illegal. The strong intent to reach the goals was more influential than the hindrance that was the social control mechanism; namely, law, ethics and rules. Thus, offenders used techniques of neutralization. The merit could not persuade corporations like money; so the motives should be offered in form of tax reduction or fee. Such motives

could balance the corporate expenses; meanwhile, the companies had no risk of tax evasion. This method was more useful than offering honorable shields or certificates, which was the abstract act. There have not been explicit researches based on the Marxist Theory, Maslow's Hierarchy of Needs, and Towards an Integrated Theory of White-collar Crime as presented above. For Sutherland's Differential Associations of Theory, Sutherland & Cressey (Sutherland & Cressey, 1979) found that content of what was learnt, e.g. special techniques of crime committing, appropriate motivation, rationalized explanation, attitude and persuading other persons to agree with violations of law was the concept or feeling, not acts and it was the process by which the learning took place. Furthermore, Sutherland proposed another 2 main factors, which made this theory clearer: 1) each individual saw the opportunity of crime differently depending on each person's ability. Thus, persons committing crime not only have learning, but they had to engage expertise in committing crime; and 2) other alternative behavior apart from criminal behavior that was up to learning process. If one had another better choice, he might decide not to commit crime after assessing risks and results (Pornchai Khunttee et al. (2000: 113).

In addition, there was the supplemental suggestion from questionnaire respondents for the factor on integrity. It consisted of 4 variables: 1) the management in any company might be in trouble, but its shareholders have never been aware of it like cases of Enron and WorldCom, etc.; 2) executives who claimed that they had acts for the company, but, in fact, they acted for their hidden personal benefits; 3) what was right remained right although none did it. What was wrong remained wrong although everyone did it; and 4) companies used to bribe government officers to get companies' documents back because those officers resisted that they could not find such documents. But, the documents were found suddenly after the companies bribe the officers although the companies did not break any law. These variables showed different methods of reaching life and business goals, which were correlated with such factors as supported by theories and researches. Therefore, the factor on life and business goals partly caused the white-collar crime within the Stock Exchange of Thailand.

5.2.2.10 Factor on impact by offences

According to the results of Factor Analysis, the factor on impact by offences partly caused the white-collar crime within the Stock Exchange of Thailand. It consisted of 2 variables:

(1) Businessmen had a belief that white-collar crime was victimless. No one got damages and such crime was not severe.

(2) There was a belief that offences of big corporations or rich business owners caused slight damages to those companies or owners.

Both variables could be viewed in 2 sides. One side related to the motivation of malfeasance under the Matzais Delinquency and Drift Theory that offenders usually use techniques of neutralization to excuse for their offences or they did not reject the social value or social rules. They used techniques to make themselves feel that they did not break the law or were evil, e.g. not intending, not harming anyone, no injured persons, blaming victims or being persecuted, or doing for others, etc. Another side related to the structure of opportunity under the Classical School Theory that humans are reasonable and seek for their best material benefits. They decide to act or omit to act by reasonably considering existing alternatives and calculating advantages and disadvantages. This side also related to the Rational Choice Theory that individuals had freedom to commit crimes and illegal behavior depended on individuals' satisfaction and best benefit. This theory viewed that crime was originated by 3 elements: criminals committing offences, suitable victims and lack of ability in protecting properties or physical body. Although the elements dealt with victims, but, in essence, they were offenders' excuses and motivation. In this case, the Motivation Theory should be applied by indicating that, in fact, it was not the damage cost as the offenders understood, but the destruction of moral system, integrity and future of offenders and their family as consequences of their offences. These reasons could curb the offenders to think carefully rather than their vague and one-sided excuses.

The researches supporting these factors were those of Sykes & Matza (Sykes & Matza, 1957) that "neutralization technique" is one behavior allowing

individuals to agree with violations of law instead of compliance with law. They also found that the freedom occurred in areas where the social structure and control mechanism became weak. The research of Agnew (Agnew, 1994) found that few youths accepted the violence. The techniques of neutralization also influenced the use of violence among youths, which supported the principle of the Matza's Delinquency and Drift Theory.

Moreover, from the suggestion of questionnaire respondents regarding the factor on grouping of investors, they viewed that the investors should be divided into big, medium and small investors in order to facilitate the inspection and control, and to prevent the victimization, especially retail investors who were the most risky. This matter supported and correlated with the factor on impact by offences with supporting theories and researches; so it partially caused the white-collar crime within the Stock Exchange of Thailand.

5.2.2.11 Factor on punishment

According to the results of Factor Analysis, the factor on punishment partially caused the white-collar crime within the Stock Exchange of Thailand. It consisted of 2 variables:

(1) No accurate criteria of guideline, for example, no ruling of the Supreme Court identified which offence deemed or deemed not the securities offence.

(2) Judgments on white-collar crimes in the SET started from agencies issuing related rules such as the SET or the Office of the SEC. This process was different from street crimes to which the judgment started from the police. In addition, white-collar offenders received few punishments or no imprisonment.

These two variables came from the concept about punishment. The related theories included the Social Control Theory on the principle that motivation of crimes is the personal nature. Individuals would commit crimes if there is no controlling mechanism. Law was a mechanism controlling human behavior. If the control law did not have the precise direction, it might affect offenders' behavior. The

Rational Choice Theory viewed that individuals had freedom to commit crimes and illegal behavior depended on individuals' satisfaction and best benefit. Moreover, the Economic Theory viewed that Individuals had the reasonable decision-making process of committing crime. It was the human nature desiring the highest profits and the fewest losses. Besides, the Deterrence Theory had the hypothesis about legal punishment efficacy that punishment severity, promptness and accuracy were the heart of criminal prevention, which dealt with individuals' decision on whether they would commit crime or not. Before doing any acts, they would compare between pleasure and pain. If the outcome would offer pleasure rather than pain, one would commit the crime. Individuals' thought has been influenced by their punishment experience or reaction or knowledge about legal penalties (Decker et al., 1993). These theories were supported by several researches; namely, Gribbs (Bribbs, 1968) that if law was accurate, severe and prompt, statistics on criminal cases in a society would be reducing, or Gary Jensen (Jensen, 1969) and Linda Anderson et al. (Anderson et al., 1977) as presented above. According to the research of Tunnell (Tunnell, 1990), the fear of punishment or arrest did not block or stop convicts to recommit crimes. There was also the research of Agnew (Agnew, 1994) regarding Youths' Use of Neutralization Techniques to Commit Offences as presented above.

Such factor was also correlated with the factor on legislation and supplemental suggestion of questionnaire respondents that laws were out-of-date; the State's rules and regulations were not precise, prompt and accurate; the SEC's regulations were not clear; current laws had many loopholes; offenders knew how to evade laws; offenders have known the punishment measurement of the SET; enforcers were not strict; more knowledgeable people committed crimes; and in case of sentences for punishing offenders, the violators would be lower as presented above.

Therefore, the factor on punishment was supported by theories and researches. It was also correlated with the supplemental suggestion of questionnaire respondents; so it partially caused the white-collar crime within the Stock Exchange of Thailand.

5.2.2.12 Factor on fairness in the society

According to the results of Factor Analysis, there was only one variable, that is, the employer's taking advantage made employees get unfair wages.

This variable came from 2 concepts: one concept about the Labeling Theory that found that crime was derived from criminal behavior, which not only involved criminals, but social reaction to such criminal behavior, reaction by government bodies to individuals and incidents prescribed by law as offences. This theory was influenced by the Symbolic Interactionism Theory that studies meanings of language or symbol used in the communication process in the society. This theory is based on the basic principle that one will construct the individual's identity and self-concept to particular persons, objects or incidents in the communication process in the society only (Akers, 1994). Arguing that the employers took advantage until employees got unfair wages was only an excuse to neutralize their offence, and threw such offence to the society because it failed to control sufficient wages for living. The Labeling theory is one of theories from the combination of Toward an Integrated Theory of White-collar Crime that found that crimes came from the conjunction of motivation, structure of opportunity and culture of competition. Such excuse was both motivation and culture of competition that led to crimes.

Furthermore, such variable was consistent to the Marxist Theory on the principle that, in capitalism, the strongest one is the survivor (Survival of the Fittest) or The Fittest Gobble up the Less Fit. A large portion of properties is belonged to a small group of people. More and more people become employees rather than creating their own work. Finally, people would be divided into 2 groups: owners of production tools, and owners of wages or labors. The principle of capitalism covered all economic system to make the highest profits, which led to lower wages as much as possible. In the meantime, the labor group would be the enemy to financial backers and it responded to employers in form of crimes finally. There has not been any researcher supporting this theory as presented above (Pornchai Khuntree et al. (2000: 177).

From the supplemental suggestion of questionnaire respondents, the factor on culture of competition, particularly variables on capitalism, was associated with this factor with some supporting theories and researches. So, the factor on fairness in the society partially caused the white-collar crime within the Stock Exchange of Thailand.

5.2.2.13 Factor on investment worthiness

According to the results of Factor Analysis, the factor on investment worthiness partially caused the white-collar crime within the Stock Exchange of Thailand with 1 supporting variable, that is, the average fine charged to a big corporation was only 300,000 Baht that was so little if compared with its profit at several hundreds of million.

Such variable came from the Economic Theory with a viewpoint that crime has been originated by the Utilitarian Philosophy on the principle that human nature desired the highest profits and the fewest losses. If there was no profit from the offence, one would not commit crime. This theory also believed that a criminal was a thinker with future plan. The research of Decker et al. (Decker et al., 1993) found that one would commit a crime within type of violence against properties when he saw that the property value obtained from that crime could be interpreted into much money until that offender did not fear the law. The research of Simpson & Koper (Simpson & Koper, 1992) showed that the increasing punishment set forth in the business law resulted to fewer business offences.

This factor was also associated with the supplemental suggestion of questionnaire respondents about the factors on enforcement and structure of opportunity, particularly the variable on lenient punishment as presented above.

Therefore, the factor on investment worthiness was supported by theories and researches. It was also associated with the supplemental suggestion of questionnaire respondents about the factor on investment worthiness; so it partially caused the white-collar crime within the Stock Exchange of Thailand.

5.2.2.14 Factor on dishonest officers

According to the results of Factor Analysis, the factor in dishonest officers partially caused the white-collar crime within the Stock Exchange of Thailand. Only one variable supporting these factors was that some government officers involved in white-collar crime within the SET received a large amount of money but they have never been arrested. This was one motive for other government officers.

Such variable came from the General Theories on White-collar Crime on the principle that low self-control was the origin of criminal behavior. The government officers close to inside information had more chance to commit crimes than other people who did not have any information. But, these officers had less chance to be arrested; particularly they used other people money (OPM) by backing behind, giving advice or information about offences, or evading laws. In addition, Maslow's Hierarchy of Needs viewed that the state officers wanted the physical survive up to the level of self-esteem. But, some officers might want to have self-actualization; they wanted much money as a tool to reach such goal by having illegal acts to achieve that tool. When other officers viewed this illegal behavior and agreed with it, they might want to imitate. This is in conjunction with the Differential Associations Theory that the techniques of evasion of law might be learnt with each other. This theory was partially supported by the research of Girsamick et al. (Girsamick et al., 1993) that one with low self-control was highly likely to be involved with crime. According to the research of Brownfield & Sorenson (Brownfield & Sorenson, 1993), the criminal behavior was correlated with the middle-level self-control. According to the research of Thornberry et al. (Thornberry et al., 1994), associations with criminal friends encouraged individuals to have more criminal behavior as they were supported by friends. Meanwhile, participating in such criminal behavior also allowed individuals to associate with criminal friends more. This interaction occurred all the time as long as those persons stayed in the criminal sphere ((Thornburry et al., 1994: 74). For Maslow's Hierarchy of Needs, no sociological research has been found as presented earlier.

The above variable was associated with variables obtained from the factor on integrity, particularly the variable on bribery for officers as presented earlier. Therefore, the factor on dishonest officers was supported by theories and researches, and it was also associated with opinions of questionnaire respondents. As a result, the factor on dishonest officers partially caused the white-collar crime within the Stock Exchange of Thailand.

In addition, according to answers of target populations in this Research, most factors were consistent to all aforesaid 14 factors, except 2 factors as listed below:

1. Mass media – This was supported by 2 variables: 1.1) mass media excessively directed securities investors and they did not have good securities analysis before presenting it; and 1.2) there should be penalties for any mass media presenting wrong news or rumors (untrue).

2. State's policies – This was supported by only on e1 variable or the SET and the SEC. The State should set up the following policies:

- Chinese wall policy
- Gift and take policy
- Appropriateness of transaction policy
- Anti money laundering policy (AML)
- Foreign Corrupt Practice Act

The above issues would be further presented in the next chapter.

According to the Factor Analysis that was compiled with related theories and researches as well as supplemental suggestions, various issues were then synthesized pursuant to the principles of criminology and justice and social administration procedure to find out causes of crimes, and to find out preventive means against possible white-collar crime within the Thai society. All viewpoints were divided into 3 parts from examining macro and micro studies or individuals or system or justice criminology in connection with enforcement for crime control or due process. Or, they might be divided into the policy and implementation. The following

viewpoints also included main theories used in this Research and other related criminological theories.

1. Viewpoint on individuals – It is viewed that individuals were the most important factor in the formation of white-collar crime, including motivation, personal goals, behavior and effect to people or criminal victims. Controlling people is to control living mechanism, which is much more difficult than controlling machinery system. Individuals in this research may be separated into 3 groups:

1.1 Group of offenders (criminals), e.g. investors. For this group, the issues to be examined were the origin of offences, how offenders thought about offences, how they made decisions, etc. According to this research, the partial cause was the motivation based on stimulus or motive. The motivation might come from internal needs of actor, motive or chance given by victims or worthiness when benefits received from committing offences were over penalties or the state officers were not strong enough or laws were not absolute, clear or severe enough or offenders had techniques of neutralization or offenders associated with criminal friends or offenders served their own needs or they committed crimes for survival or by social expectation and surrounding people. These were factors possibly forming the criminal behavior. The solutions must direct to causes of each case to hit to the point.

1.2 Group of regulators, e.g. officers of the SET, officer of the Office of the SEC, police, and officers of the Department of Special Investigation, Attorney General, and Court. These officers excluded those of the Penitentiary Department since they were so far from causes studied in the research. This group of people was so important for the prevention and control of white-collar crime. In practice, these people should be realized and value, especially tools, knowledge base, technologies, attitude, concepts and spirit in their sacrifice and contribution. There was also a motive suggested by questionnaire respondents, that is, some money reward should be given to officers who had achievements like the reward offered to the narcotics prevention and suppression officers or money laundering prevention and suppression officers. In particular, morals, ethics, and internal and external control systems should be emphasized. The regulators as insiders

and knowing many facts could be the double-edge knife. In practice, these officers should be offered sufficient compensation so that they and their family would not be in trouble. However, if they committed offences, they should be punished severely and helped by other officers as seen earlier. The quality of each regulator should be inspected. If any officers have deficiency, they should be reshuffled immediately. In this system, the working quality and standard are so essential. These officers should be young with knowledge, experience and skills in technologies equal to offenders; otherwise the operation will not be efficient. The working should be based on team working and unit under corporation with foreign networks to share advance knowledge and information at least twice a year. According to the research, dishonest officers were a minor variable. Monitoring the behavior of related officers should be highly regarded. If comparing laws as sword or weapon, the weapon holders will become important how they use that weapon usefully or harmfully.

1.3 Group of victims or injured persons – This group should be specifically concerned by the State. Since the society has been changing to the city community, people have to go out for working. The State should provide knowledge to the people so that injured persons can protect themselves in some extent or they can be careful if going into harmful places. The State may install sufficient electrical system in deserted areas, increase police patrol motorcycles, plainclothes police officers, community police, volunteers and publicity so that the people will not become victims. Especially retail investors, the State should increase the power of financial auditing and business inspection so that retail investors have special power as reasonable and necessary. The retail investors should be controlled under the operation of the SET. Finally, the SET should claim for retail investors in case of any offences such as class action or civil penalty or other measures.

The psychological and psycho-analysis theories should be used to stimulate their social responsibility rather than selfishness as stimulated by capitalism. The operation of the SET should be in accordance with the natural principle rather than being dictated as earlier.

2. Viewpoint on structure or system – If, in the criminal law, the viewpoint on individuals means the offenders, this viewpoint shall mean the offence. One cause of offence comes from the social structure or mechanism as per the Marxist Theory's attack that the social control mechanism is laws issued by the ruling class to determine that behavior of lower class is the offence. The laws are issued to protect benefits of ruling class. Some schools thought that law itself provoked crimes. Some schools stated that the structure of organization or industry could lead to more or less crime. For example, big corporations are likely to commit more crimes than small ones where the control system could cover universally, or persons close to inside information are likely to commit crime more than general people, etc. According to the supplemental suggestion, the investors were divided into 3 groups: major investors, medium investors, and retail investors. For the structure or system, tools of regulating and inspection could be divided into 3 parts:

2.1 Structure or system regarding offenders, e.g. practice guideline in self-regulating, company rules and practice, good practice, or compliance unit of each company that may be the soft law for self-regulating or auditing or independent auditors or independent directors, etc.

2.2 Structure of system regarding regulators prescribing investors, either offenders or victims, to comply with rules on securities trading properly and fairly in accordance with the securities trading system. For this structure, it may be divided into 2.2.1 rules or mechanism: 1) internal rules or employees' working regulations or professional ethics of securities officers, either SET, SEC or brokers of securities companies, should be in the same direction to prevent officers' frauds; 2) rules and regulations of the SET to be complied with by member companies (broker) e.g. submitting financial statements completely or timely, and other licenses such as asset appraisers, certified auditors, due diligence makers, or other persons under control; 3) securities law; and 4) other related laws.

2.3 The organization structure – The organization should not separate its operating units clearly in order to inspect and prevent frauds. The uncomplicated organization could partially help the working transparent, and help the enforcement of rules more flexible and efficient such as big, medium and small companies or major, medium and retail investors or big, medium and small

industries, etc. so that the enforcement intensity is different because the different chance of offences helps the inspection more efficient.

2.4 Other alternative measures – Apart from rules and organization structure, other alternative measures are also important in order to audit assets or liabilities, the actual existence of transaction as informed to the SET or informed to the public, the manipulation or spending as per the company plans after the initial public offering and the actual condition of the condition in conjunction with or similar to securities prices. These all can be consumer protection measures for investors or they may be measures watching for investors with manipulation behavior whether their acts should be interpreted as offences or not in order to prevent consequent bigger offences. In particular, monitoring the behavior of major investors such as George Soros or other Thai and foreign people has been done as actual information for investors for equality of information receipt, prompt responses to global situations and prevention of inequality for investors, etc.

3. Structure or system regarding injured persons or victims

The division of retail investor structure allows the State to arrange the intensity of care. Most retail investors have no negotiation power. They are weak and unable to prevent themselves from major investors' tricks or frauds. Setting up this system or structure enhances equality and balance system or this may be called the investment advantage. Either retail investors, major investors or medium investors, everyone is equally important because every investor may change his status in the capitalism. Setting up this system helps each element not disappear from the system too quickly. The system included: 1) warning system as seen in the SET's green and red trading board that tells about the trading status. Showing various signs also warn investors to be careful in trading or indicate harmful securities. This system could greatly help retail investors. 2) Information for retail investors – Movements of medium and major investors should be publicized for retail investors. This service has been provided by the SET without charging retail investors, but collecting fees from major members as an advantage of retail investors. 3) Association of Retail Investors is set up to group retail investors and to protect their rights. 4) protection law for retail investors in case of damages, for example, the State may claim for retail

investors or this group of investors should be remedied before major or medium investors, etc. as well as other regulations to protect retail investors as much as possible. 5) Supplemental measures to strengthen retail investors so that they have wise investment and are developed to be medium and major investors in the future. This will add more value for the SET and enhance sustainable long-term outcome. 6) The State arranges regulating officers to give advice to retail investors to enable them to compete with other investors (coach).

4. Viewpoint on environment – Apart from individuals and structure, the social, economic and political environment also affects the white-collar crime within the Stock Exchange of Thailand. In the viewpoint on enforcement of criminal law, this can be called the action outcome or impact by action or injured persons or victims. This viewpoint occurs because of deficiencies of the first and second viewpoints. If each viewpoint is strong, it is less likely that the third viewpoint will occur. If we compare the first viewpoint as mind and the second viewpoint as physical body, this third part shall be the spirit covering the body and mind, which gives direct effect to both body and mind, and it can curb offences. The Researcher would like to divide this viewpoint into 3 parts:

4.1 Social environment:

4.1.1 Life goals – The United States, European and western countries focus on happiness in the present world; they prefer materialism that originates the capitalism. But, oriental countries like China, India, Japan and Thailand, focus on happiness in the next world or spiritualism that originated doctrines, religions and seeking for deliverance. However, both doctrines have still contained many white-collar offences, but, due to stoppers and life goals, motivations of oriental countries were fewer. However, at present, countries believing in both doctrines are overcome by the globalization trend, computer technology and capitalistic trend until no country is differentiated from others. Making merit is only an abstract matter while violations of law give the concrete outcome in form of money. In addition, when law breakers are richer and not arrested, they stimulate others to break the law rather than to comply with law. The solution of this problem is that both principles should be combined together under a rule that anyone may

compete with each other for richness, but the whole community must not be harmed or get the least harm, especially public benefit and environment. This is like car racing that should be done in the car racing field, not on the road because it can make others in trouble and cause accidents. If anyone reaches his destination, he should make contributions to poor people or difficult people like Bill Gates, former richest man of the world and owner of Microsoft. Also, the direction of business operation should be turned from generating the highest interest for shareholders to caring for environment and social damages. It is true that taxes and damages of nature and environment are not balance or proportionate. The nature and environment cannot be healed if the waste water damages the ecological system. Taxes may be able to solve this problem slightly but money cannot heal the food cycle in the ecological system and it cannot buy the natural food cycle. Thus, the concept of Friedman cannot be used in the present world. The highest profit should belong to humans rather than a group of shareholders; otherwise humans will be extinct from this world finally.

4.1.2 Social structure – Apart from life goals, ethics, morals, law, regulations and practice are all important and essential as the practice guideline and they direct people to reach the right target, and to enhance humans' happiness, not for the sake of any nation. For example, Bill Gates gave his speech on the occasion of receiving his honorable doctorate degree at Harvard University, the United States that if one airplane crashed with death of passengers. We should not focus on damages of airplane or passengers of any airline, but we should consider how passengers around the world will do so that they will not die in their traveling rather than focusing on the airplane crash. This is a broad vision and this kind of attitude can solve global social problems. We should not concern about personal interest for our country only. The actual fair criteria should be prescribed, particularly preventive measures for intrusion to any country. Currency attack should be prescribed in the United Nations' convention as Adam Smith said that the world pretended to be blind; each country intended to strengthen its own security while destroying the world system and troubling humans. For example, Thailand's economic crisis in 1997 or Tom Yum Kung crisis has been spreading all over Asia, but the global community has not recognized this disaster. Therefore, the Researcher would like to present certain critical duties to be extremely recognized by the State: 1)

prevention of any forms of coercive intrusion either in the country or from other countries, as well as other non-violence attacks such as currency attack, real estate or other economic methods, e.g. oil, agricultural goods, culture, morals, religion, etc that should be protected as well; 2) protection to citizens from any unfairness done by other citizens or by other global citizens in order to avoid the oppression like humans' hunting community in the past; 3) construction of infrastructure under a condition that the national defence is a duly action (J.F. Hutjesson, 1980: 59) although we may have to lose some commercial freedom because the national defence or security is more important than the national wealth. The solution is the regional group formation for inter-prevention and protection such as currency attack against a small country that is unable to combat it alone like Thailand in 1997, etc.

4.1.3 Social impact – No matter how good the social system is; the violation of law may occur when greed influences over any control mechanism. The results will be the catastrophe of local culture, tradition, family succeeded for long. The national dressing will be out-of-fashion. The conservation of culture will be aroused. The conflicts will occur in the real world. Good value in the society will be affected by the white-collar crime. The social impact is interesting and should be concerned like other aspects.

4.2 Economic environment, e.g.

4.2.1 Business goals – Although money is critical, it is a tool leading to the life and business goals only. If life is not coupled with good health, money is meaningless. Like business, if it is not coupled with good health, money is meaningless as well. Business health is as important as human health. Human health covers good physical body, mind and spirit or environment. Except good nutrition, exercises, relaxation, sufficient sleep, good mental health, smiles and recreation, seeing other people free of distress is the spiritual health that helps enrich the perfect human. Business is the same to human. At present, business health covers the body health only, but mental health and spiritual health have been greatly losing from this world. Requesting the mental health and spiritual health of business, so, are critical for humans because business is a tool or it represents human being. This originates the business ethics to be mentioned further.

4.2.2 Business system and structure – After studying the ultimate goals, we studied the methods of reaching such goals; namely, tools and structure. The first tool is business ethics that is the mental and spiritual health of business. No-spirit business is not different from possessing a mad dog difficultly controlled. One day, this mad dog may bite its owner if it does not have good spirit such as rules, regulations, social structure, ethics and morals to enrich good life and prosperity for the business in the future.

4.2.3 Economic impact – Economic damage suffered by one country deems the economic damage of all humans because every country is connected in the economic chain like the ecological chain. This can be obviously seen in Thailand's 1997 economic crisis that has been spreading across Asia until there were many poor and unemployed people around the continent. Finally, this crisis gave impact to Europe and America. Even waving the mat to collapse a business or gambling, although the waver will get the most benefit, reliability and trust in that gambling are also recognized by other investors around the world. Thus, such method should not be the right solution, but it is a business lesson that the government official lottery is more sustainable than the illegal lottery. The impact by damages should be mutually shared by the global community, particularly by countries provoking the disaster, either offender or victim, weakness because of no knowledge or no self-prevention. This is the solution for the victim countries including Thailand that should be equipped with knowledge and strength for competition, self-reliance and self-prevention as per the results of Factor Analysis earlier.

4.3 Political environment, e.g.

4.3.1 Political idealism – It has been known that, at present, politics and business cannot be separated until it is widely called politic-based business or politics in the business sector. It is obviously seen that government officers, who are important political tools, link business to politics that leads to both good and bad cooperation for the society. For example, several critical national curriculums such as National Defence College of Thailand (NDC), which now becomes the collaboration between the state and the private sector (Certificate of Achievement, National Defence College of Thailand) or training courses for senior

justice administrators or training courses of King Prajadhipok's Institute. These show more combination between government officers and businessmen. Even politicians who were previously backed by businessman also become business-based politicians. The knowledge of 2 sectors has been combined and shared until both powerful centers are combined together. This combination sector is so powerful that none can fight against it except the public while, previously, the military held this power. When the money power is combined with the political power and the country is led by moral leaders like Singapore, that country will earn great growth. But, if the country is led by leaders concerning about their personal interest rather than the national interest, that country will suffer much greater damages, especially fiscal budget like Thailand's present situation. The political idealism must be precise, transparent and checkable under political morals. The internal inspection process includes the legislative power, administration power and judicial power. Meanwhile, the external inspection process includes the mass media and general people.

4.3.2 Political system and structure – Apart from the Constitution that is the supreme law, the justice administration, which is the judicial power, is one power curbing illegal acts of the administrators. The public politics and mass media are the external but powerful inspection process, but it can create the political balance finally. One important problem about Thailand's structure is that the administration and legislative power cannot be separated since most members of the legislative sector are members of the administration sector as well. The solution is to select or clearly separate political parties having administration duties and the government to balance the political power among political parties. There must be good governance in the political system and the political decentralization as well because the political centralization gives interest to few people while most people get disadvantages. The patronage system must be improved as well. This can be solved by amending the election system for more decentralization and efficiency by way of public involvement.

4.3.3 Political impact–Finally, when politicians' morals are equal to those of business and they are merged together, the political crisis and conflicts will follow. The people who get disadvantages will protest and commit political crimes as reactions pursuant to the Marxist Theory, the Labeling Theory and

other several sociological theories. This can be seen in the present formation of People's Alliance for Democracy (PAD) led by 5 persons. This formation directed to the collapse of Thaksin Government and Thaksin Shinawatra who is both businessman and politician. This situation results to amendments of political rules and conduct as well as the new political alignment. This new politics combines the age of knowledge, intelligence and news so that most people in the society who have weak knowledge will recognize, follow and inspect more intensively. Merging the business power and political power together without morals will not resist eventually. The consequent impact is the political instability, which further affects investment, education and economics, and causes social, criminal and political problems while every sector in the society gets damages. The solution is the new political alignment, including ideal, life goals, politics, political parties, election, independent organizations, justice administration, fairness and equality based on real situations via the legislative process, the Constitution, law, rules, ministerial regulations and other subordinate legislations, either inside or outside the system. These aspects are partially factors affecting the white-collar crime within the Stock Exchange of Thailand, particularly the variable relating to the cooperation between politicians and businessmen for securities frauds. This should be concerned and solved urgently to sustain the stability of trading system and good image of the SET and Thailand's capital market in the future.

From the results of this research, results of Factor Analysis, which were analyzed with the main theory, that is, Toward an Integrated Theory of White-collar Crime of James William Coleman, as well as other component criminological theories that were compared with supplemental suggestions of questionnaire respondents, it confirmed the hypothesis of Toward an Integrated Theory of White-collar Crime that the white-collar crime came from the conjunction of motivation, structure of opportunity and culture of competition. The hypothesis of this theory has also been supported by Thai and foreign researches, and it was associated with the supplemental suggestions of questionnaire respondents who were personnel involving in the process of securities enforcement in Thailand. Although there were 14 factors from the Factor Analysis, several factors could be grouped together. If the qualitative

research is conducted, the supplemental suggestions of questionnaire respondents will confirm such facts that will be more reliable.

However, from this research, Toward an Integrated Theory of White-collar Crime is a main theory to be significantly implemented for examining the causes of white-collar crime within the Stock Exchange of Thailand, especially in terms of motivation, structure of opportunity and culture of competition. Thus, these factors should be studied comprehensively. The research on these aspects should be also extended to cover all studied areas, pattern, content and environment so that the suitable policies and implementation can be placed in the future according to the intent of this research, which would be concluded and presented in the next chapter.

CHAPTER 6

CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

The concept of capitalism in western countries puts influence on Thailand and oriental countries. The globalization trend also results to the transfer, learning and improvement of white-collar offences within the stock exchange, particularly the concept about life and business success and goals aiming at individuals' ownership rather than public or social interest. Many tools or excuses have also been made up to avoid the allegation of offences, or offenders made the legitimacy to neutralize their offences.

The white-collar crime within the stock markets became more recognized and interesting since 1939 when Edwin H. Sutherland gave his chairman speech on crime at Philadelphia, the United States. This is the first time this issue was opened and studied broadly, especially by criminologists. At present, though the white-collar crime pattern and content has not yet been precise, separating studies on white-collar crime from studies on street crimes has been watched by the world in order to see its tendency.

In Thailand, it has been concerned by few people as textbooks and contents on white-collar crime are still rare. It was included in the economic crime, which is only one part of white-collar crime. However, white-collar crime has been more concerned, especially crimes committed by politicians and those dealing within the Stock Exchange of Thailand starting from the case of stock trading of Bangkok Bank of Commerce Plc. (BBC).

The research on Factors Affecting the White-collar Crime within the Stock Exchange of Thailand based on Toward an Integrated Theory of White-collar Crime

of James William Coleman as the main theory and other criminological theories was conducted to find out factors affecting such crime within the Thai society if compared with that of other countries. The results could be implemented as preventive measures and solutions, and policies and implementation of related agencies.

According to the research,

(1) Most questionnaire respondents were male whose ages were in the range of 46-55, completed the master degree, and married and Buddhist. Most target populations have never alleged for any offences and only 8.9% have been alleged for committing more than one offence and they were punished by form of fines only.

(2) There were the same 3 factors affecting the white-collar crime within Thailand and other countries: 1) motivation; 2) structure of opportunity; and 3) culture of competition. In addition, there were 11 different factors: 1) belief in capitalism; 2) businessmen's concept; 3) trading practice; 4) social structure; 5) enforcement; 6) life and business goals; 7) impact by offences; 8) punishment; 9) fairness in the society; 10) investment worthiness; and 11) dishonest officers

(3) Factors affecting white-collar crime within The Stock Exchange of Thailand may be caused by a single variable or by multiple variables.

(4) There were 14 factors affecting the white-collar crime within Thailand; some were different from and some were the same to those of other countries. But, all of them were supported by criminological theories and researches; so they were reliable.

6.2 Suggestion

Among 14 factors affecting the white-collar crime within Thailand, there were 4 main factors: motivation, structure of opportunity, culture of competition, and others such as policy setting, enforcement and punishment by implementing international practices that should be suitable for the Thai society. The following are suggestions to be possibly implemented in real situations. The suggestions consist of 2 parts: policies and implementation.

6.2.1 Policies

a) Motivation

1. To set up the policy of reducing securities trading fees for securities companies that have never broken securities rules and regulations for 1 year up. The fee reduction shall be based on the progressive rate on every 2 years until it reaches the minimum rate at 0.1% only as the motive for listed companies and member companies to comply with rules and regulations. In addition, to set up the criteria of delisting listed companies and revoke member companies frequently breaking securities rules and regulations.

2. To set up the policy of cooperation between securities companies and member companies in compliance with rules and regulations under measures of offence control and prevention. The compromise measures may be set up like other countries and the prosecution will be the final measure. But, in the state of prosecution, the punishment must be severe, prompt and precise for the efficiency of enforcement.

3. To set up the policy prescribing the corporate executives to inform of complete, true and updated information and they must not use techniques of neutralization for their offences. If such behavior is discovered, those executives must be prosecuted severely by revoking their membership in order to prevent subsequent severe damages.

4. To set up the policy of consistently and regularly providing updated knowledge about securities law and enforcement as well as new offences to related personnel.

5. To set up the policy of encouraging morals, ethics, value and good practice between member companies and listed companies, and promoting good family relationship as an indirect measure to prevent members from offences.

6. To set up the policy of promoting, assisting and advising the investment to all levels of investors to remedy them in case of mistakes in securities trading in order to prevent subsequent offences.

7. To set up the policy of creating good cooperation from all sectors, either domestic or international, to share information and to learn sciences or offences in order to prevent future offences.

b) Structure of opportunity

1. To set up the policy of prosecuting securities offenders fairly without caring about money or person in order to prevent any intervention from influential people or politicians.

2. To set up the policy of educating every investor so that they realize and are quick-witted to offenders.

3. To set up the policy of separating types of investor to facilitate the management and regulating.

4. To set up the policy of cancelling improper law or obligations or any of law forcing investors to break the law or be unable to comply with in real situations.

5. To set up the policy of setting up the internal and external audit systems that are transparent and fair, and such systems are undertaken by certified auditors and lawyers.

6. To set up the policy of publicizing securities offences as well as penalties for white-collar damages affecting investors.

7. To set up the policy of proactive information center to promptly publicize information and respond in case of false news presented by newspapers or executives of any listed companies or other news possibly affecting share prices. This information center should establish its own media or radio station.

c) Culture of competition

1. To set up the policy forcing top management of the Stock Exchange of Thailand and the Office of the SEC to show their personal accounts, assets and liabilities. These executives should be prohibited to be advisors to any member companies or limited companies that may lead to law breaking or knowing the government secret.

2. To set up the policy of not supporting dishonest companies although they have good operations, and of blaming defrauding companies and executives so that the investors will learn about them.

3. To set up the policy that the companies capable of earning profits and maintaining the environment or natural resources or social circumstances will be

offered the motives regarding the reduction of fees and annual membership fees, and fines in case of violations.

4. To set up the policy on the social best interest rather than the best interest of shareholders.

5. To set up the policy of fair trading competition with the pointing system so that small companies can compete with big companies and develop to be medium-sized and big-sized ones in the future.

6. To set up the policy of monitoring the formation or association of members to check their offences so that they do not imitate offences, especially politicians and businessmen.

7. To set up the policy of news presenting that should be neutral and fair depending on facts by placing the control measures and ordering new presentation, that is, the mass media must be licensed for news presentation and they must have actual ethics.

d) Others

1. To set up the policy of preventing the white-collar crime, e.g. Chinese wall, Give and take policy, Foreign Corrupt Practice Act or policy in accordance with the Sarbanes Oxley Act 2002 so that listed companies report their reliable activities to the public, etc.

2. To set up the policy of enforcement and punishment depending on the intensity and severity of each case. For the non-serious cases, the compromising policy and negotiation may be used. But, for severe cases, the punishment must be absolute, severe and prompt with a great amount of fines. The civil measures should be focused more than criminal measures, but the legal measures should be the final method.

6.2.2 Implementation

a) Motivation

1. To set up the policy of reducing securities trading fees for securities companies that have never broken securities rules and regulations for 1 year up. The fee reduction shall be based on the progressive rate on every 2 years until it

reaches the minimum rate at 0.1% only. This criterion should be responsible by the Stock Exchange of Thailand.

2. The offence or unfair trading with the punishment according to Section 296, 297 and 298 should be amended from the jail term not over than two years and fine not exceeding double times of interest that person receives or to be receivable due to such violation. The amount of fine should not be less than 500,000 baht or not over 500,000 baht or the additional fine on a daily basis for not over 10,000 baht on the period the offender has not yet complied with such rules completely or the punishment should be both as the case may be. The jail term should be amended to be a period of 3 years but the amount of fines should be unchanged so that this punishment is reasonable for the suspension of the execution of imprisonment. The offence under this chapter may be compromised. In addition, the period that the injured person may make a complaint should be extended from 3 months to be 1 year so that the period is equal to the prescription of prosecuting infringement cases in accordance with Civil and Commercial Code as chance to the injured person to consider, decide, and make the complaint against the offender. This measure also gives chance to the offender to remedy his offence. This measure should be carried out by the Office of the Securities and Exchange Commission.

3. To amend the criteria of delisting any listed companies whose executives give false or imprecise news so that these companies have higher responsibility? A specific unit should be established to follow up the facts announced by executives or companies, which result to share prices, to check whether such news is true or not before advising investors to avoid any possible mistakes. This measure should be carried out by the Office of the Securities and Exchange Commission.

4. The Securities Learning Center should be set up to provide information about unfair securities practice, related laws and enforcement as well as case studies to enhance precise and correct knowledge provided by the lecturers who have worked in the justice administration for general investors and people.

This measure should be carried out by the Office of the Securities and Exchange Commission.

5. The ethics promotion foundation for securities business should be set up. The first fund should be subsidized by the SET and member companies to

arranging moral and ethical promotion activities and any other activities for general people and investors; meanwhile, the personnel in the justice administration will realize the value of that moral, which is an indirect solution to offenders. Or, there should be a measure that executives or members must attend the Dharma courses at least 1 time or 1 project a year, etc.

This measure should be carried out by the Office of the Securities and Exchange Commission.

6. The Advisory and Assistance Center for Investors should be set up to initially resolve investors' problems, educate them about general knowledge and victimization so that they have strong knowledge and are able to protect their properties efficiently. Finally, these retail investors can be further developed to be medium-sized and major investors.

This measure should be carried out by the Stock Exchange of Thailand.

7. The information coordination center should be established to share knowledge between domestic and international agencies to promote knowledge and information technologies so that related agencies in Thailand learn new offences occurred in other networking countries, and share new knowledge and techniques about inspection methods. This is a channel to prevent problems and to promote knowledge of regulators or enforcers in response to offenders.

This measure should be carried out by the Stock Exchange of Thailand in collaboration with related agencies or this may be the multi-agency task force, etc.

b) Structure of opportunity

1. Securities offences should be classified as special cases. There should be laws on protection of witnesses and negotiations about confessions or with influential persons. The properties should be forfeited according to the anti money laundering law in order to prevent the politicians' intervention.

This matter should be carried out by the Department of Special Investigation and the Anti Money Laundering Office, Ministry of Justice.

2. The investment college should be established to systematically and officially educate general investors and people to upgrade this profession to meet the international standard until this college may be developed to be a specific university in the future. At the initial stage, the college may arrange the mobile investment course to give training to general investors around the country. The training course should be based on the proactive policy.

This measure should be carried out by the Stock Exchange of Thailand.

3. The credit rating institution of the Stock Exchange of Thailand should be set up to range types of investor, business and industry. The credit rating criteria should also cover offences and organization development. This institution will help promote and facilitate the management for more equitable competition. The comparison in the same level can encourage the internal competition in each organization that will lead to its self-development finally.

This measure should be carried out by the Stock Exchange of Thailand.

4. A task force should be set up to improve laws or regulations of the SET and the Office of the SEC every 5 years so that such laws and regulations are up-to-date and up to real situations in the investment or offences developed all the time.

This measure should be carried out by the Office of the Securities and Exchange Commission and the Stock Exchange of Thailand.

5. Every member company and securities company must have the central certified auditors and licensed lawyers to review all accounting system and transactions whether they are contrary to laws and accounting system or not. This is the same to auditing commercial banks by the auditing division of the Bank of Thailand. This measure can enhance the transparency and initial prevention of frauds.

This measure should be carried out by the Office of the Securities and Exchange Commission and the Stock Exchange of Thailand.

6. There should be the bulletin or magazine to educate investors about unfair trading practice and enforcement or new offences occurred in Thailand or other countries to remind investors. These matters should be the compulsory chapter in every securities bulletin or journal.

This measure should be carried out by the Office of the Securities and Exchange Commission, the Stock Exchange of Thailand, and securities companies or securities associations.

7. There should be an official center distributing accurate and true information via radio stations, newspapers and television stations on the real-time basis. This measure should be carried out by the Office of the Securities and Exchange Commission and the Stock Exchange of Thailand.

c) Culture of competition

1. There should be the amendment of law enforcing top management of the Stock Exchange of Thailand and the Office of the SEC, from the level of director, to submit details of their personal accounts, assets and liabilities to the Office of National Anti-Corruption Commission (NCCC). These executives shall be deemed competent officers by position. In case of offences, they must be punished more severely than other people to prevent frauds.

This measure should be carried out by the Stock Exchange of Thailand.

2. There should be the credit rating for companies that are dishonest or break the law as arranged annually by the financial magazine like the annual rating of outstanding companies done in other countries. This information can be an alternative for investors while defrauding companies will be in awe of it since it looks like the annual condemnation.

This measure should be carried out by the Office of the Securities and Exchange Commission.

3. There should be the criteria of praising companies whose operating results are not so excellent but they make great merit for the country and society as the Company of the Year. It is not necessary that the best company must be one earning many profits or having high share prices. The companies with social responsibilities should be granted some incentives regarding discounted fees so that they can compete with major companies as a competition strategy.

This measure should be carried out by the Office of the Securities and Exchange Commission.

4. There should be a plan in selecting the Outstanding Company of the Year based on the Company's clean policy, that is, the Company should earn good operating results and it is friendly to the natural environment and the entire society. This kind of companies should be supported and offered incentives by the Stock Exchange of Thailand. In case of any non-severe offence by negligence, fines may be exempted.

This measure should be carried out by the Office of the Securities and Exchange Commission and the Stock Exchange of Thailand.

5. The State should give cooperation and assistance in terms of information and technologies to medium and small companies; they may get the exemption of fee from using the information from libraries and other places so that these companies obtain more knowledge and bear lower costs to enable them to compete with large companies.

This measure should be carried out by the Stock Exchange of Thailand.

6. A ninja unit should be established to monitor any urgent information, rapidly scrutinize the information to respond to defrauding or offending investors as a way to stop offenders who stayed among general investors in many securities companies. This ninja unit will be like CIA of the National Security Council as the proactive strategy.

This measure should be carried out by the Office of the Securities and Exchange Commission.

7. There should be the licensed reporters who pass the SET's training course to have knowledge, morals and neutralization in news presentation. If these reporters intentionally commit serious offences, their license may be revoked and banned to be reporters in the Office of the Securities and Exchange Commission and the Stock Exchange of Thailand. This measure is to control the mass media not to present false information or be the tool of some investor groups because if their offences are discovered, they will lose their reporter status in the capital market field. Finally, the reporters will be more careful in their news presentation.

This measure should be carried out by the Office of the Securities and Exchange Commission and the Stock Exchange of Thailand.

d) Others

1. The strategic planning pursuant to established policies should be revised at every year or every 5 years. The strategic planning should be updated all the time to block offenders to be aware of it. The secret information of offenders may be sought and applied as the preventive strategy in order to avoid more damages.

This measure should be carried out by the Ministry of Finance, and the Office of the Securities and Exchange Commission.

2. The process of enforcement and punishment should be studied carefully by setting up a task force to conduct the feasibility study, and to arrange meetings to be attended by every related party in connection with the justice administration, enforcers, enforced persons and related persons to find out solutions and possible implementation. After that, the concrete planning for enforcement and punishment should be prepared to fit to the actual present conditions of the SET.

This measure should be carried out by the Office of the Securities and Exchange Commission, and the Stock Exchange of Thailand.

6.3 Recommendations for further study

This research was conducted to find out factors affecting the white-collar crime within the Stock Exchange of Thailand. Previously, the Criminal Institute of Thailand, the Office of Attorney General, as participated in the Researcher, conducted a research on “Development of Alternative Enforcement Measures for Offenders Relating to Unfair Securities Practice and Frauds under the Management of Juristic Persons in accordance with the Securities and Exchange Act, B.E. 2535. The research found that the civil penalties should be applied to the offences within the Stock Exchange of Thailand as done in other countries. To continue the research on white-collar crime within the SET and to find out the preventive guideline in the long term, the Researcher would like to propose following issues:

6.3.1 Measures of white-collar crime prevention and suppression in the Stock Exchange of Thailand.

6.3.2 Occupational crime: case study of executives of companies listed on the SET.

6.3.3 Capitalism and white-collar crime within the Stock Exchange of Thailand.

6.3.4 Business ethics and enforcement efficiency within the Stock Exchange of Thailand.

6.3.5 Impact to victims of white-collar crime within the Stock Exchange of Thailand.

BIBLIOGRAPHY

THAI

- Kanitha Rojduenduang. (2003). "Tools of Protecting Minor Shareholders in the Public Limited Company Act, B.E. 2535 and its Amendment B.E. 2544." Agudsuksa, Master Degree Curriculum, Master of Arts in the field of Economic Law, the Faculty of Law, Chulalongkorn University.
- Kamol Kamoltrakul. (2005). **Transnational Defrauding Companies**. Bangkok. Kor Kid Duay Khon.
- Kanya Leelalai. (1997). **Financial Crisis and Wreck of Thai Economics: Lesson to Survival in the Age of Borderless Capital**. August.
- Kriengsak Charoenwongsak. (1997). **Cultural Perspective Provoking the Economic Regression**. Lecture Document. Bangkok. Institute for Future Studies for Development.
- Kriengkrai Sutthichahi. (March 2005). "Strict Controls of Corporate Governance, Input 7,000 Executives to the SEC's Registration, Setting up "Disciplinary Task Force" to Monitor Behavior, Blacklist and Cutting the Management Right for 15 Years/ Delisting from the SET", **Econ News**, Year 15 Volume 455.
- Kiattisak Jirathiennart. (2005). **CEO/CFO: World Recognized Embezzling Duo**. Bangkok. Kor Kid Duay Khon.
- Jarin Tesvanich. **Development of Money, Financial Market and Financial Institutions**. Teaching materials for subjects of financial market, institutions and policies. Vol. 1, in the field of Management Science, Sukhothai Thammathirat University, Bangkok: Sukhothai Thammathirat University.
- Jirayuth Songnuan. (1998). "Suppression Measures for Stock Manipulation Offences." Thesis of the Faculty of Law, Thammasat University.
- Chatchavarn Sooksomjit, Pol.Maj.Gen. (1999). **Economic Crime and Enforcement**. Personal Academic Document, National Academy of Criminal Justice, The Judiciary of Thailand.

- Sydney M. Robbins. (1981). **Capital Market in Thailand**. (Tavee Viriyatoot, Translator). Bangkok. Charoenkit.
- Nongluck Viratchai. (1999). **LISREL Model: Analytical Statistics for Research**. Bangkok: Chulalongkorn University.
- Nuttawut Rungwong. (1996). **Styles of Stock Trading of Sia Song: Genghis Khan in Year 2000**. Book Bank Publishing House: Bangkok.
- Duangmanee Wongprateep. (1988). **Unorganized Financial Market**. Extracted from a book entitled "Finance, Banking and Implementation of National Economic Policy. Bangkok: Chulalongkorn University.
- David C. Korten. (2003). **When Corporations Overcome the World**. (Apichai Pantasen, Translator). Bangkok: Foundation for Children.
- The Stock Exchange of Thailand. (1997). **Stock Market in Thailand**. The Stock Exchange of Thailand. Bangkok.
- Taveekiat Meenakanit, Assoc.Prof. (2005). "Development of Laws on Transnational and Organized Crime Prevention and Suppression (Phase 2): Juristic Person' Liabilities in case of Involvement in Transnational Criminal Organizations." Research Paper of Thailand Criminal Law Institute.
- Banyong Vittayaveerasak. (2003). **Financial Cunning**. Bangkok: Nationmultimedia Group.
- Prachoke Chumporn. (1988). **Financial Institutions**. The Faculty of Economics and Business Administration, Kasetsart University, Bangkok, copied. Page 2.
- Pratharn Wattanapanich. **Economic Crime in the Thai Changing Society: Meaning, Scope and Solutions**. Lecture Document.
- Prasarn Triratvorakul. (1994). **Regulations of Stock Trading and Development of Stock Exchange**. Dulpaha, Vol. 5, Year 41, September-October, 84-89.
- Prasarn Triratvorakul. (January-March 1995). Prohibition on Stock Manipulation and Problems of Prosecution for Stock Manipulation. Dulpaha, Vol. 1, Year 42, Page 54-64.
- Prasarn Triratvorakul. (2003). **Necessity and Development Direction of Thai Capital Market**. Personal Academic Document, The National Defence College of Thailand, the Ministry of Defence.

- Paveena Pisanukosol. "Process before the Lawsuit for Securities Offences.". Thesis of the Faculty of Law, Chulalongkorn University.
- Paleerat Sriwannapreuk. (2003). "Protection to the Minority of Shareholders in accordance with the Public Limited Company Act (New)." Thesis for the Master Degree of Law, Chulalongkorn University.
- Piyapan Pingmuang. (2003). **Lecture Document for the Doctorate Degree in the subject of SHSS 544 Economics and Crime.** Criminology Justice Administration and Society. The Faculty of Sociology and Humanities, Mahidol University.
- Pornchai Khuntee. (2003). **Lecture Document for the Doctorate Degree in the subject of SHSS 544 Economics and Crime.** Criminology Justice Administration and Society. The Faculty of Sociology and Humanities, Mahidol University.
- Patanapong Jantranontawong. (2006). Prosecution for Securities Offences. Personal Academic Document, National Academy of Criminal Justice, The Judiciary of Thailand.
- Pises Sethasathien, Assoc.Prof. (2003). **Principle of Law on Public Limited Company.** Seventh printing. Bangkok.
- Raynu Sukharom. (1985). **Financial System in the teaching material for the subject of financial theory and policy.** Vol. 1, Field of Economics, Sukhothai Thammathirat University, Bangkok: Funny Publishing, Pages 264-265.
- Ruengchai Marakanond. (1988). **Some Stories about Financial Market and Financial Institutions.** Extracted from a book entitled "Finance, Banking and Implementation of National Economic Policy. Bangkok: Chulalongkorn University. Pages 195-197.
- Laddawan Sikakhaew. (February 2005). "Directors Embezzle, Companies Collapse. How Should Shareholders Do?" **New Law.** Year 2, Vol. 46.
- Vares Uppatik. (1990). **Economics, Finance and Banking.** Bangkok: Thammasat University. Page 104.
- Vikrom Kasemwut. (2003). **Wise Investors.** Bangkok. Boonsiri Printing.

- Veerapong Boonyopas. (2000). **Economic Crime**. The Faculty of Law, Chulalongkorn University. Bangkok.
- Thailand Criminal Law Institute, Office of Attorney General. (2006). **Development of Alternative Enforcement Measures to Offenders Involving Unfair Securities Trading Practice and Embezzlement in the Management of Juristic Persons in accordance with the Responsibilities Stated in the Securities and Exchange Act, B.E. 2535**. Bangkok. Project on the Development of Thai Justice Process and Problems of Economic Crime.
- Thailand Criminal Law Institute, Office of Attorney General. (2006). **10 Years of Prosecution in Thai Money Market and Capital Market: In Which Extent They Are Successful**. Bangkok. Project on the Development of Thai Justice Process and Problems of Economic Crime.
- Somjet Moosirilert. (2006). **Problems and Arguments in case of Securities Companies' Force Margin on Credit Balance**. Personal Academic Document, National Academy of Criminal Justice, The Judiciary of Thailand.
- Sorakol Adulyanond. (1993). **Background of Historical Case of Sia Song's Stock Manipulation**. Pikhane Printing Center.
- The Office of the Securities and Exchange Commission. (2002). **Decade of SEC**. Bangkok.
- The Office of the Securities and Exchange Commission. (2005). **Journey of Life: 30 Years of the Stock Exchange of Thailand**. Bangkok.
- The Office of the Securities and Exchange Commission. (1992). The Securities and Exchange Act, B.E. 2535. Bangkok. Pim Dee Co., Ltd.
- Sutthichai Jitravanich. (September 2004). "Legal Measures for the Promotion of Good Corporate Governance of Listed Companies in the Stock Exchange of Thailand." **Bod Bundit**. Vol. 60, Chapter 3.
- Supatra Suparb, Assoc. Prof. (1982). **Thai Society and Culture, Value, Family, Religion, Tradition**. Bangkok. Thai Wattanapanich.
- Surachet Chiravinich. Pol.Col. (2004). **Law on Securities and Stock Exchange**. First printed.

Surasak Ngarmsitthipongsa. (2003). "Corporate Governance: Case Study of Structure, Roles, Power, Duties and Autonomy of Directors of Companies Listed on the Stock Exchange of Thailand." Thesis. Agudsuksa, Master Degree Curriculum, Master of Arts in the field of Economic Law, the Faculty of Law, Chulalongkorn University.

Attachment to Order of the Public Prosecution Department No. 19/2534 dated 18 February 1991 re: Offences relating to Economics and Resources.

Anya Khunthavit. (2002). **Mechanism of Financial Market in Thai Economic System**. The Stock Exchange of Thailand. Bangkok. Amarin Printing & Publishing.

Ekkavit Na Thalang, Dr. (1992). Information, Ideas and New Problem Issues Presented to Ya Preak Club's Consideration. Bangkok. Wisdom Foundation.

Hazel Croall. (2001). **Understanding White Collar Crime**. (Kamol Supreyasunthorn, Translator). Bangkok.

OTHER DOCUMENTS

Ministry of Justice. "Thailand's Report on Corruption: The 11th Convention of the United Nations on the Prevention of Crime and Criminal Justice Procedure." Bangkok. 18-21 April 2005. (Convention Document).

Duanden Nikomborirak and Rajitkanok Jitmonnaitham. (2000). "Transparent and No-Dishonesty Society, Group 5: Good Corporate Governance: Corruption in the Business Sector and Good Corporate Governance in Thailand." Chonburi, Ambassador City Hotel: Thailand Development Research Institute. 18-19 November 2000. (Document for Academic Seminar).

Rapee Sucharitakul, Sirivipa Supanthanes and Rachamarn Suchitjorn. (2000). "Transparent and No-Dishonesty Society, Group 5: Good Corporate Governance: Corruption in the Business Sector and Good Corporate Governance in Thailand." Chonburi, Ambassador City Hotel: Thailand Development Research Institute. 18-19 November 2000. (Document for Academic Seminar).

Vasant Thienhom. (2004). "Gathering Evidence on Securities Offences: Seminar Project for the Development of Collection and Admissibility of Evidence for Prosecution: Collection of Evidence from Economic Crimes." Bangkok. Miracle Grand Hotel. 17 March 2004. (Document for Academic Seminar).

Institute for Justice Research and Development, Office of Justice Affairs, Ministry of Justice. (2005). "Formation of Criminal Offences in Thai Law: Unsolved Problems." Bangkok. Siam City Hotel. 15 March 2005. (Document for Academic Seminar).

ENGLISH

Akers, Ronald L. (1994). **Criminological Theories: Introduction and Evaluation:** Library Publishing Company California U.S.A.

Bank of Thailand. (1999). **Financial Institutions and Markets in Thailand.** Manuscript. Bangkok.

Barber, David H. Gilbert. (1987). **Law Summaries.** Harcourt Brace Jovanovich and Professional Publications. Inc.

Burton, Maureen and Ray Lombra. (2000). **The Financial System and the Economy.** 2nd ed. South-Western. Ohio.

Campbell, Tim S. (1982). **Financial Institutions. Markets and Economic Activity.** McGraw-Hill. new York.

Coffee, John C. JR. and Seligman, Joel. (2003). **Securities Regulation Class and Materials.** Ninth Edition. New York: Foundation Press.

Coleman, James William (2006). **The Criminal Elite Understanding White Collar Crime,** Worth Publishers. New York.

Croall, Hazel. (2001) **Understanding White-Collar Crime.** Buckingham, United Kingdom.

Edward B. Tylow. (1871). **Primitive culture : Researches into the development of Hythology.** Philosophy Religion art and custom. John Murray. London.

Fabozzi, Frank. and Franco Modigliani. (1996). **Capital Markets.** 2nd ed. Prentice Hall. New Jersey.

- Geis, Gelbert; Meier, Robert F.; and Salinger, Lawrence M. (editor). (1995). **White-Collar Crime : Classic and Contemporary Views**. New York: United State of America
- Goyne, Eugene. (1990). **Fairer markets: the SFO and more effective market misconduct laws**.
- Hazen, Thomas Lee. **The Law of Securities Regulation**. West Publishing Company.
- Henning, Charles C. William Pigott. and Robert H. Scott. **Financial Markets and The Economics**. 4th ed. Prentice Hall. New Jersey.
- Jennings, Richard W. et al. (1992). **Securities Regulation Case and Materials**. 7th edition. the Foundation Press. Inc.
- Jonathan Fisher Q.C. Jane Bewsey Malcolm Waters Q.C. and Elizabeth Over. (2003). **The Law of Investor Protection**. Second Edition. London: Sweet & Maxwell.
- Langevoort, Donald C. (1996). **Insider Trading: Regulation. Enforcement. and Prevention** Volume 18. Clark Boardman: Callaghan.
- Loss, Louis & Seligman. Joel. (1995). **Fundamentals of Securities Regulation**. Little: Brown & Company.
- Lu Shen-Shin. Dr. (1994). **Insider Trading and the Twenty-Four Hour Securities Market: A Case Study of Leal Regulation in the Emerging Global Economy**. The Christopher Publishing House.
- Pilbeam, Keith. (1998). **Finance and Financial Markets**. Macmillan. London.
- Ratner, David L. (1991). **Securities Regulation in a Nutshell**. West Publishing Company.
- Robinson, Roland I. and Wrightsman, Dwayne. (1980). **Financial Markets: The Accumulation and Allocation of Wealth**. 2nd ed. McGraw-Hill. New York.
- Rose, Peter S. (1997). **Money and Capital Markets: Financial Institutions and Instruments in a Global Marketplace**. 6th ed. Irwin. Chicago.
- Santamero, Anthony M. and Babbel, David F. (1998). **Financial Markets. Instruments. and Institutions**. McGraw-Hill. New York.

- Securities and Futures Commission. (2005). **Disciplinary Proceeding at a Glance**.
- Sutherland, Edwin Hardin. (1983-1950). **White collar crime**, Vail-Ballou Press, Binghamton, New York.
- Strader, J. Kelly. (2002). **Understanding White-Collar Crime**. Matthew Bender & Company, Inc., Mass.
- Strader, J. Kelly. (2002). **Understanding White-Collar Crime**. South Western University School of Law, U.S.A.
- Thomas Lee Hazen David L. Ratner. “**Securities Regulation Classes and Materials**”. sixth Edition. American Casebook Series.
- Vold, George B. and Bernard, Thomas J. (1986). **Theoretical Criminology**, Oxford library Press Inc. New York.

ARTICLES

- Alan Cameron. OECD. The Second International Roundtable on Securities Markets in China. Effective Enforcement. Shanghai. (June 2002)
www.oecd.org/dataoecd/22/16/2755991.pdf
- Croall, H. (1998a) Business, crime and the community, *International Journal of Risk, Security and Crime Prevention*, 3(4): 281-92.
- Croall, H. (198b) Protecting us from powerful interests, *Criminal Justice Matters*, 33(autumn): 23-4.
- Friedrichs, D. O (1996) *Trusted Criminals: White Collar Crime in Contemporary Society*. Belmont: Wadsworth.
- George C. Nnona. “International Insider Trading: Reassessing The Propriety And Feasibility of The U.S. Regulatory Approach.” **North Carolina Journal of International Law and Commercial** (Winter 2001)
- Herld (1996) <http://www.theherald.co.uk>,
- Janet Cooper Alexander. “Rethinking Damages in Securities Class Action” **Stanford Law Review** (July 1996):1487.
- John M. Holcomb. “Corporate Governance: Sarbanes-Oxley Act. Related Legal Issues. And Global Comparisons.” **Denver Journal of International Law and Policy** (Spring 2004):175.

- John Fagan. "The Role of Securities Regulation in the Development of the Thai Stock Market." <http://www.Thailawforum.com/articles/faganstock.html>
- Jonathan Mok. "The SFC's Expanded Powers under the New Securities & Futures Ordinance." (Oct 2002)
- Levi, M. (1995) Serious fraud in Britain, in F. Pearce and L. Snider (eds.) *Corporate Crime: Contemporary Debates*. Toronto: University of Toronto Press.
- Levi, M. (1999a) The regulation of fraud revisited, in P. Davies, P. Francis and V. Jupp (eds.) *Invisible Crimes: Their Victims and their Regulation*. London: Macmillan.
- Levi, M. (1999b) The impact of fraud, *Criminal Justice Matters*, 36(summer): 5-7.
- Levi, M. and Pithouse, A. (1992) The victims of fraud, in D. Downes (ed.) *Unraveling Criminal Justice*. London: Macmillan.
- Levi, M. and Pithouse, A. (forthcoming) *The Victims of Fraud*. Oxford: Oxford University Press.
- Marc I. Steinberg. "The Securities And Exchange Commission's Administrative. Enforcement. And Legislative Programs and Policies-Their Influence on Corporate Internal Affairs." **Notre Dame Law Review** (December 1982)
- Philip F.S. Berg. "Unfit To Serve: Permanently Barring People from Serving As Officers And Directors Of Publicly Traded Companies After The Sarbanes-Oxley Act" **Vanderbilt Law Review** (November 2003):1871.
- Robert Prentice. "Whither Securities Regulation? Some Behavioral Observations Regarding Proposals For Its Future" **Duke Law Journal** (March 2002):1397.
- Ruggiero, V. (1994) Corruption in Italy: an attempt to identify the victims, *Howard Journal of Criminal Justice*, 33(4): 319-38.
- S. H. Goo. "Corporate Dimension of the Securities and Futures Ordinance" **Hong Kong Law Journal** (2003)
- Slapper, G. and Tombs, S. (199) *Corporate Crime*. London: Addison Wesley Longman.
- "The Government's Consultation Document on the Securities and Futures Bill." Part XI. (April 2000)

Thad A. Davis. "A New Model of Securities Law Enforcement" **Cumberland Law Review** (2001-2002):69.

Xueming Jimmy Cheng. Ryan Harrington. Rodolfo A. Ruiz II. "SECURITIES FRAUD." **American Criminal Law Review** (Spring 2004):1079.

Walklate, S. (1999) Can there be a meaningful victimology?, *Criminal Justice Matters*, 35(spring): 5-6.

Wells, C. (1995) *Negotiating Tragedy: Law and Disasters*. London: Sweet & Maxwell.

APPENDIX

No. Special/ 2007

The Supreme Court
6 Rajdamnern Nai Road
Khwaeng Borom Maha Rajchawang
Khet Phra Nakhon, Bangkok

November 2007

Re: Cooperation for answering the research questionnaire

Attn:

Encl: sets of research questionnaire

I, Mr. Kamol Supreyasunthorn, Judge of the Supreme Court, have been studying for the doctorate degree in the area of Criminology Justice Administration and Society, Class 4, the Faculty of Social Science and Humanities, Mahidol University. I, now, conduct a research on “Factors Affecting White-collar crime with the Stock Exchange of Thailand”, which is the partial fulfillment of the requirements of such degree. This research must be based on knowledge, experience and opinions of personnel and persons who have enforced or have been enforced by laws, rules and regulations of the Stock Exchange of Thailand according to the questionnaire attached herewith. All information and answers given to this research will be specifically used for the education and they will be kept confidential without any effect to you and your organization.

Please be informed for cooperation from you and your organization as you have engaged knowledge, specialty and experience in such matter. Please answer each and every question most relevant to your knowledge, experience and opinions. I will highly appreciate it if you complete the questionnaire and return it to me by 31 July 2007. By this occasion, I would like to extend my gratitude for your cooperation.

Sincerely Yours,

(Mr. Kamol Supreyasunthorn)

Judge of court of first instance

Associate research judge of the Supreme Court

Tel. 02-224-5138, 084-085-4000

RESEARCH QUESTIONNAIRE
“Factors Affecting White-Collar Crime within
the Stock Exchange of Thailand”

To: All questionnaire respondents

Instruction:

1. White-collar crime is a kind of crime committed by honorable and respectable persons who stay in a high status in their occupations and society; namely, stock manipulation, insider trading, false accounting, violations of law and regulations of the Stock Exchange of Thailand, and the Office of the SEC, etc. that have been gradually important problems of our country.

2. The research could enrich knowledge, facts and opinions provided by related persons and agencies that enable us to recognize the factors affecting white - collar crime within the Stock Exchange of Thailand. This information is useful for education, which gives further effect to the establishment of criminal policies, justice administration and prevention of white-collar crime of our country in the future.

3. This questionnaire is the partial fulfillment of the requirements of doctorate degree in the field of Criminology Justice Administration and Society, the Faculty of Social Science and Humanities, Mahidol University. All information will be specifically used for the education and they will be kept confidential without any effect to you and your organization. Please answer each and every question most relevant to your experience and facts. Please also show your independent opinion.

4. This questionnaire consists of 2 parts. Please fill in the information or mark ✓ or show your supplemental opinions in provided blanks or any free space in the questionnaire.

I highly appreciate your kind support for answering this questionnaire and show your opinions.

(Mr. Kamol Supreyasunthorn)

Judge of court of first instance

Associate research judge of the Supreme Court

Part 1: Qualifications and status of questionnaire respondents

1.1 Gender ☐ 1) Female ☐ 2) Male

1.2 Age ☐ 1) Younger than 25 years old ☐ 2) 25-35 years old
☐ 3) 36-45 years old ☐ 4) 46-55 years old
☐ 5) 56-60 years old

1.3 Education ☐ 1) Lower than bachelor degree,
☐ 2) Bachelor degree
☐ 3) Master degree
☐ 4) Doctorate degree

1.4 Status ☐ 1) Single ☐ 2) Married
 ☐ 3) Divorced ☐ 4) Separate

1.5 Religion ☐ 1) Buddhist ☐ 2) Christ
 ☐ 3) Islam ☐ 4) Other,

1.6 Occupation

☐ 1) Politician

☐ 1.1) Government Part, Party

☐ 1.2) Opposition Part, Party

❑ 2) Government officer

❑ 2.1) Ministry of Finance

❑ 2.2) The Office of the Securities and Exchange Commission (“SEC”)

❑ 2.3) The Stock Exchange of Thailand (“SET”)

□ 2.4) The Department of Special Investigation (DSI),
Ministry of Justice

- ☐ 2.5) Department of Economic Crime Litigation,
the Office of Attorney General
- ☐ 2.6) Department of Special Litigation,
The Office of Attorney General
- ☐ 2.7) Court of Justice
- ☐ 2.8) Anti Money Laundering Office (AMLO)
- ☐ 2.9) The Office of National Anti-Corruption Commission (NCCC)
- ☐ 2.10) Scholars
 - ☐ 2.10.1) Teacher
 - ☐ 2.10.2) Scholars
 - ☐ 2.10.3) Researcher
- ☐ 2.11) The Office of the Auditor General

- ☐ 3) State enterprise/ public enterprise/ non-government organization/ public organization
 - ☐ 3.1) The Ombudsman of Thailand
 - ☐ 3.2) The National Human Rights Commission of Thailand
 - ☐ 3.3) PTT Public Company Limited
 - ☐ 3.4) The Electricity Generating Authority of Thailand
 - ☐ 3.5) MCOT Public Company Limited
 - ☐ 3.6) Others

- ☐ 4) Private sector
 - ☐ 4.1) Partnership
 - ☐ 4.2) Limited company
 - ☐ 4.3) Public limited company
 - ☐ 4.4) Shop
 - ☐ 4.5) Personal business
 - ☐ 4.6) Thai or foreign investor
 - ☐ 4.7) Freelance
 - ☐ 4.8) Mass media, radio, television, newspaper, etc.
 - ☐ 4.9) NGO

☐ 4.10) Foundation/ association/ club

☐ 4.11) Lawyer

☐ 4.12) Auditor

1.7 Offence background

☐ 1) No offence record

☐ 2) Offence record (in accordance with the Securities and Exchange Act and other rules and regulations)

☐ 2.1) One offence

☐ 2.2) More than one offence

☐ 2.3) Never being punished

☐ 3) In case of punishment

☐ 3.1) Fine in the amount of Baht

☐ 3.2) Imprisonment for years

☐ 3.3) Others

Part 2: Factors affecting white-collar crime within the Stock Exchange of Thailand

Instruction:

- ❖ White-collar crime was defined by Sutherland (1941), American criminologist, as crimes committed by honorable and respectable persons with high social status in relation to their occupations and professions such as frauds, stock manipulation, insider trading, frauds in the government sector, public health, pensions, false financial statements or creative accounting for tax evasion, etc.
- ❖ Later, James William Coleman, English criminologist, discovered Toward an Integrated Theory of White-Collar Crime under a hypothesis that white-collar crime was the conjunction of motivation, culture of competition and opportunity of offence. James William Coleman's hypothesis was testified by the Researcher within the Stock Exchange of Thailand. Some examples of factors affecting the white-collar crime within other countries were improved as the inquiries for your opinions. You are one of important persons participating in our research to find out causes and solutions of this problem.
- ❖ Please take into account the following statements and mark ✓ to show your opinions toward factors affecting the white-collar crime within the Stock Exchange of Thailand as well as your suggestions (if any).
- ❖ The opinions are divided into 5 levels: 5 = most strongly agree, 4 = strongly agree, 3 = fairly agree, 2 = disagree, 1 = most strongly disagree, and 0 = no comment or there is no that matter.

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
1.	The SET prescribes too many and unfair laws, criteria, conditions and procedure as notified by the Office of the SEC.	
2.	Enforcement of law is too strict.	
3.	Executives or business owners have ability in justifying their offences until such offences are acceptable, e.g. business survival, maintaining the status of the company or factory, helping employees not to be unemployed.	
4.	Investors or executives have abilities in exercising techniques of neutralization; for example, they excuse that they do not harm anyone, do not do anything wrong or if their actions are illegal, they are not criminals, etc.	
5.	Executives' self-justification for any offence that it should not be illegal. For example, they have meeting to manipulate their share prices to resolve terrible situations in the Company; executives do not have any personal interest; and the Company do not deceive anyone, etc.	
6.	The society expects that after university graduates will get good job and high salary although they may work in corporations with illegal behavior.	
7.	The family's security in the city society where city people can continue living by salary. If they do not break the law, others will do while they may be moved out or fired.	
8.	Executives mention about business necessities done by everyone. For example, in the initial public offering, the Company's shares may be sold in a low price (offence) to patrons. This is commonly done by every securities company and we've not done in what 'others do not do'.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
9.	No accurate criteria of guideline, for example, no ruling of the Supreme Court identify which offence deems or deems not the securities offence.	
10.	There is a belief among businessmen that integrity, fair game, business ethics and corporate governance are only theories or idealism that can not be done in real practices and they are opposite always.	
11.	Offenders get enormous benefits, which are worthwhile to break securities law. Particularly, if considering statistics of offences and punishment and long period of prosecution, the offenders have much more chance to be released.	
12.	Although certain criteria, conditions and methods of government bodies; for example, charges for securities trading fee lower than the fee amount set up by the SET make securities companies get the big sharing of trading fee. This act is much worthwhile if compared with a little amount of fine if they are arrested.	
13.	The employer's taking advantage makes employees get unfair wages.	
14.	Businessmen have a belief that white-collar crime is victimless. No one gets damages and such crime is not severe.	
15.	There is a belief that offences of big corporations or rich business owners cause slight damages to those companies or owners.	
16.	Investors have a belief in offences relating to manipulation and insider trading that they are not serious or not offences, but they are like borrowing others' money temporarily and it will be paid back later.	
17.	Business culture is more important than the influence of law; so businessmen do not fear the power of law.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
18.	There are conspiracies between politicians and businessmen in securities trading.	
19.	Need to be respected by securities people that he/she is the God of Stocks or value investor.	
20.	In the stock market, there are certain retail investors who are weak, have no good knowledge and efficient control, and certain investors who are ready to commit offences.	
21.	Securities law aims at protecting the securities business, especially major investors, but not retail investors.	
22.	Severity of punishment depends on power and influence of offenders. For example, street criminals have been usually punished more severely than white-collar offenders in the SET.	
23.	The average fine charged to a big corporation is only 300,000 Baht that is so little if compared with its profit at several hundreds of million.	
24.	There is a belief among investors in the securities business that, violations of law, criteria and conditions and procedure of the Office of the SEC are common in the securities business.	
25.	There are a lot of white-collar victims in the SET but each victim gets few damages. Some do not pay attention to it. Some don't know that they are victimized.	
26.	The mass media regularly present business operating results of securities business, either profits or losses, so the securities companies compete with each other to gain the highest profits.	
27.	The highest profit is the main target of every securities company, which is deemed successful, without paying attention to methods or law.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
28.	General people pay respect and praise to businessmen in the stock market who are successful in their work without paying attention to their financial sources if they come from frauds.	
29.	Holding certain positions, power and duties, responsibilities of some occupations such as SET directors and officers, SEC, presidents of securities associations, accountants, executives, securities regulating and inspecting officers, brokers, marketing officers, business owners who are insiders and close to confidential information, etc.	
30.	Business monopoly (concession) and no price competition cause the salary payment in the international pattern (installment bribery) to government officers who regulate businesses.	
31.	In some cases, securities companies and listed companies on the SET push their employees to be involved in breaking securities law.	
32.	Laws, criteria, conditions and methods of the SET indirectly force investors to commit offences or this might be called “coercive crime”.	
33.	There is an unofficial setting of company ranking in the securities business. Few top securities companies possibly have the opportunity of business conspiracy. For example, they set up, through several securities associations, high fees for member companies; as a result, small securities companies cannot compete with giant securities ones and they have to break laws finally.	
34.	When any competitive securities companies gain more profits by employing illegal methods, other securities companies usually have imitation actions and break the law if they have chance.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
35.	Company's competitiveness in profit making; for example, the company with less competitiveness in profit making (loss) is more likely to break the law than one with more competitiveness in profit making (gain).	
36.	Some government officers involved in white-collar crime within the SET receive a large amount of money but they have never been arrested. This is one motive for other government officers.	
37.	The inaccurate and unclear criteria of securities trading practice cause the difficulties of identifying which behavior is legal or illegal.	
38.	Policies and instructions of executives in some securities companies' force the middle-level manages to break the law for benefits of the companies and their shareholders.	
39.	Diagnosis of white-collar offences in the SET starts from the agencies issuing particular regulations, e.g. SET or SEC. This is different from street crimes that the diagnosis starts from the police officer. As a result, white-collar offenders are punished by a little amount of fine or rarely punished by imprisonment.	
40.	Fear of unemployment, family trouble, especially children who have to leave their school, are important factors forcing certain executives to be honest to their supervisors and to agree to commit white-collar crime with the SET although such acts contradict to their feeling and ethics.	
41.	Economic competition in capitalism causes inequality, and advantages and disadvantages.	
42.	Executives or business owners do not have competitiveness.	
43.	There is the accumulation of excessive wealth, growth of exchange market or use of money as exchange medium.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
44.	Wealth, progress or job security leading to higher salary and better social status are targets of workers' life without any concerns about the acquisition method.	
45.	There is a belief among investors and executives in securities companies that just capitalism can make their companies secure and survive.	
46.	There is a belief that making the highest profits for shareholders without any concerns about securities trading system, rules and regulations or other social problems because they are duties of the government who collects taxes from the companies already. So, the Companies will be responsible for their shareholders only.	
47.	Social moral and belief that, for any corporation generating enormous profits, if it breaks the law, it is still a good company like a hero.	
48.	For anyone knowing much loophole of law, it deems that he is so clever, gets high salary and will be highly demanded by many companies, for example, the counsel in some cases who claims that the offenders make honest mistakes until those offenders are released from being offenders and respected in the society.	
49.	In business circumstances where the competition is so high, if our company does not bribe government officers, other companies will do and they will get that job. Bribing authorities is common in the securities business, and it seems a part of investment cost.	
50.	Regular offering expensive gifts to government inspectors will help the company operation smoother. This behavior has been done until it becomes the organizational culture.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
51.	Companies have tried in every way to get commercial advantages such as fighting for the customer base, fighting for executives, fighting for excellent employees, and strengthening relationship with government officers, which are common ways of securities business, and such attempt has been motivated by huge bonus.	
52.	Corporate executives have a belief that when they have inside information, they have to purchase or sell their securities before general investors in order to take profits. This behavior is common and like a duly bonus to executives. Any executive avoiding this act will be like a foul.	
53.	Government officers give advice and prepare official forms or accounts for private companies to evade the law.	
54.	Associations with other persons until the evasion of law has been learnt and transferred between those securities associations. In addition, alleged members are also helped by these associations.	
55.	Physical needs, security and safety, social needs, self-esteem or self-actualization are targets of all businessmen without paying attention to the acquisition methods whether they are legal or not.	
56.	There is a belief among investors that laws, criteria, conditions and methods issued by the State to regulate, control or intervene, even the corporate governance obstruct the free competition and business progress.	
57.	The mass media regularly present business operating results of securities business, either profits or losses, so the securities companies compete with each other to gain the highest profits.	
58.	The control mechanism is unfair and inappropriate for the economic competition and free trade.	
59.	Government officers seek for wealth as defined by capitalism no matter how they get it.	

No.	Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand(SET)	
60.	Business competition may be illegal but its outcome is concrete in form of money; so it stimulates the imitation of offences. Other companies may comply with rules and regulations; although it is legal, they cannot obtain the concrete result.	

Note: The above questions are supposed situations set up to testify the criminological theory to be useful for education. There is no intent to refer to or accuse of any natural person or juristic person until it suffers damages.

Supplemental Suggestions
Factors/ Causes of White-Collar Crime within
the Stock Exchange of Thailand

- 1)
- 2)
- 3)
- 4)
- 5)
- 6)
- 7)
- 8)
- 9)
- 10)

Thank you

Supplemental Suggestions

Factors/ Causes of White-Collar Crime within the Stock Exchange of Thailand

Motivation

1. Retail investors committed offences clearly that were followed by other offences due to the negligence or no brave to take legal actions against influential persons.

2. Many cases have occurred, but the offenders are not convicted due to the shortage of evidence, officers' ignorance or no seriousness to prosecute dishonest, corrupt and defrauding persons.

3. Offenders have not been punished severely; they may be fined for a little amount, so they dare to commit offences.

4. Everyone has greed and lust, so one will take whatever he can grab.

5. Bad examples and friends may persuade others to follow defrauding behavior, particularly persons who commit offences but become rich.

6. Imitation behavior after seeing other persons to have illegal actions and become rich.

7. Executives have never thought that the costs paid for concealment are more expensive than those paid for the compliance with law (for example, using the illegal software and fines if being arrested, etc.).

8. Companies regularly complying with good governance should be promoted and rewarded.

9. Investors should be provided more knowledge and understanding about the information and news analysis.

10. The agencies issuing regulations normally have sentenced the cases, settled the fines, which are so few if compared with the expenses in prosecution.

11. The organization executives require building up the good image for creditability of mobilization in the SET.

12. There should be some rewards for officers who are successful to prosecute offenders (motivation for enforcers).

13. One does not know his own middle way.

14. Criteria must be clear, fair, suitable and sufficient, and there should not be too many criteria.

15. The enforcement is the most important since it helps reduce offences.

Structure of Opportunities

1. The punishment measures to the companies/ officers in the SET/ executives of listed companies, member companies who do not comply with rules or obligations of the SET are not under the same standard.

2. Rulings to provisions, rules or the Securities and Exchange Act, in practice, are not confirmed in writing for their accuracy (such as the Department of Revenue – Ruling).

3. The purchase of securities by member companies is normally scrippless; the securities registration is not changed promptly.

4. Clarity of rules and regulations and punishment intensity are the first important factors.

5. Integrity and ethics of leaders determine this culture.

6. Morals must be seriously rooted since childhood and be continued until those children graduate. Morals should be re-emphasized before they start working.

7. Lack of prompt and efficient enforcement process.

8. For the structure of investors, many retail investors lack the civil proceedings to claim for damages against offenders.

9. Offences have been derived from the shortage of good quality of life, good attitude, morals, ethics as well as education. During the childhood, children should be taught about morals and ethics so that they have good immunity and attitude to be good adults and be ready to good leaders with good quality and morals in every section.

10. Due to the familiarity between offenders and government officers, the offenders are not punished or receive the lenient punishment.

11. In the research, companies listed on the SET should be divided into 3 groups: 1) companies whose securities trading value and amount are high; 2) companies whose securities trading value and amount are medium; and 3) companies

whose securities trading value and amount are law. **Group 1** usually consists of public organizations monopolizing certain products and being back up by politicians or political potential. This group always has the stock manipulation. **Group 2** consists of companies with consistent operating results and good intent but lack of supports. This group is highly likely to commit crimes since they must struggle for survival. **Group 3** is the channel of manipulators since the trading volume can be done easily and no so much money is required but it may last a long period. Sometimes, the SET Board or SEC Board comes from these listed companies.

12. Clear criteria or rules and severe penalties help reduce offences.
13. Government officers or enforces are important for supporting and encouraging more offences. If the government officers are honest, serious and sincere, there will be fewer offences.
14. Rules and regulations have been well placed, but related enforcers at all levels do not have the same standard and they also have conflicts of interest.
15. Government tax system and inspection are not good and efficient to enhance the transparency in the system.
16. Executives hold the temptation as their religion and use it in their business management (business management and gambling).
17. Morals and ethics of general people are dropping.
18. There should be more intense inspection standard and behavior control.
19. There should be more penalties for offenders.
20. There should be more publicity measures to make the public aware of this problem.
21. There should be the punishment for the mass media presenting the wrong news or rumors (untrue news).
22. The SET may issue quicker halt trading measures for any securities whose prices are manipulated.
23. The mass media direct the investors too much and the mass media should have the careful analysis before presenting any information.
24. Some analysts have conflicts of interest.
25. Thai people, now, lack ethics and morals because the society promotes the materialism too much.

26. The SET and the SEC should carry out the following policies:

- Chinese wall policy
- Gift policy (give and take by setting up the gift value and disclosing the information about givers and takers)
- Appropriateness of transaction policy
- Anti money laundering policy (AML)
- Foreign Corrupt Practice Act

27. It is difficult to inspect stocks held by nominees and the inspection takes so long period.

28. Securities trading instructions are deceitful and some instructions are cancelled to distort the trading volume or to make the trading go the determined direction.

29. From the expansion of macro economics, many projects have been created to respond to the Government's policy.

30. The organization management is not secure.

31. The criteria of approving the companies to be listed on the SET are not strict.

32. Laws should be updated and relevant to facts.

33. Enforcement must be serious and fair.

34. Offender names must be disclosed to the mass media (public).

35. There is the inequality in the society.

36. Executives holding the majority of shares lack the corporate governance in their management.

37. The SEC's rules are unclear or can take legal actions against offenders.

38. Thai stock market is small; so the manipulation can be done easily because it requires not so much money.

39. The present applicable laws contain some loopholes that make major investors take advantage on retail investors.

40. In the past, although the offenders were recognized, they were not punished.

41. Agencies involving the enforcement do not have good knowledge and understanding about offences. The enforcement involves only the criminal law; the economic offences are not considered.

42. Offenders have more complicated offences.

43. Offenders know the direction of punishment by the SET; so they have good evasion/preparation.

44. The penalties are so lenient and not responding to changing circumstances.

45. The governments have had good intent to issue each rule and law. But, when any offence occurs, the regulators, either the SEC or judges, are not single-minded and they argue that laws are unclear with many loopholes.

46. At present, due to intensive rules of the SET and the SEC, securities companies have committed fewer offences, but major investors and executives of listed companies have committed more offences.

47. Offenders have believed that the Securities and Exchange Act cannot charge them of doing wrong. But, if considering the case of PTIPOLENE, people may think over and fear the punishment of law more.

Culture of Competition

1. Thai society respected rich people without concerns about sources of wealth.

2. The society respected rich and good-financial status people, which stimulated illegal wealth.

3. Culture of competition depends on the awareness and environment.

4. Social value (believing in the Sufficiency Economy, this problem may be less).

5. Competition and ostentation stimulate the negative thinking.

6. Capitalism (focusing on materials, not morals).

7. Management in companies may be in trouble, but the minority of shareholders is not aware of it.

8. The right thing is right although none does it. The wrong thing is wrong although everyone does it.

9. Although the executives claim that they perform for the company, but most actions contain their personal profit.

10. The companies used to bribe government officers to get companies' documents back because those officers resisted that they could not find such documents. But, the documents were found suddenly after the companies bribe the officers although the companies did not break any law.

BIOGRAPHY

NAME	Mr. Kamol Supreyasunthorn
DATE OF BIRTH	December 4, 1961.
PLACE OF BIRTH	Nakornsrihammarat, Thailand
INSTITUTES ATTENDED	<ul style="list-style-type: none"> - Thammasat University, 1980-1983: Bachelor of Law, Bangkok, Thailand - Chulalongkorn University, 1986-1990: Master of Law, Bangkok, Thailand - Institute of Legal Education of The Thai Bar, Thai Barrister – at – Law 1992-1993: - Chulalongkorn University, 1995: Modern Managers Program (MMP – mini MBA)
POSITION AND OFFICE	<p>1985-1994- Bangkok Bank Public Company Limited -Lawyer</p> <p>1994-1998- The Stock Exchange of Thailand -Legal Manager</p> <p>1998-2000- Office of the Attorney general -Senior State Attorney</p> <p>2000-2007- Office of the Judiciary -Judge of Central Bankruptcy Court -Judge of Trat Provincial Court -Judge of court of first instance associate research judge of the Supreme Court</p> <p>Present -Judge of The Dusit Kvang Court</p>