

Revisiting the choice model of Ponzi and Pyramid schemes: analysis of case law

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Abstract This exploratory study operationalizes the variables comprising the choice model of white collar crime through analyzing cases decided by federal courts, the Securities and Exchange Commission (SEC), and the Federal Trade Commission (FTC). Cases were extracted from the LEXIS-NEXIS, WESTLAW, and the NERA Economic Consulting databases and categorized according to the indicators of the choice model: size of pool of criminally predisposed, supply of lure, prevailing beliefs about credibility of external oversight, internal oversight and self-restraint, and supply of criminal opportunities. The findings show that unequal access to information among the investors and misuse of trust and affinity relationships affected the size of the pool of criminally tempted individuals. Supply of lure was affected through advances in modern technology and promises of wealth and material success at low costs and risks. Prevailing beliefs about the credibility of external oversight and internal corporate regulatory controls were affected by the efficiency and effectiveness of enforcement authorities. Variables described by the choice model of white collar crime can be operationalized through analysis of existing case law.

Introduction

During the last decade alone, misappropriation of investor funds through fraudulent activities has reached alarming proportions [37]. The Ponzi schemes

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