

# Forensic Outlook 2017

Driving compliance in the  
era of corruption



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# Introduction

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The launch of numerous Government initiatives, strong domestic demand and rapid inflow of foreign direct investment have led India on an upward growth trajectory, making 2016 a transformative year. Introduction of new regulations such as the Insolvency & Bankruptcy Code, amendments made to existing laws such as the Benami Transactions (Prohibition) Amendment Act and the Prevention of Corruption Amendment Bill, and initiatives such as Income Declaration Scheme and demonetization have had a profound impact on businesses and consumers.

India's score in Transparency International's Corruption Perception Index 2016 improved marginally, from 38 to 40, which it shared with two other BRICS nations Brazil and China. This indicates that combating corruption has become an important aspect for developing nations to contemplate in their growth aspirations. The ripples of the crackdown on black money were seen across nations, with countries such as Australia, Pakistan and Venezuela following suit to demonetize large denomination notes in an effort to curtail illicit wealth. This indicates that nations worldwide are leaving no stone unturned to fight global fraud and corruption.

The US Department of Justice recently released a note in the Fraud section of their website on "Evaluation of Corporate Compliance Programs," which outlined key considerations for companies to rethink, reinforce and maybe even reinvent their compliance frameworks. This shows that with cases of corporate misconduct on the rise worldwide, companies need to enhance the state of compliance through robust controls, due diligence processes and ethics trainings for internal and external stakeholders. The use of technology has turned out to be a key factor to strengthen internal frameworks. While the growth, profitability and sustainability of businesses depend on many factors, compliance needs to be seen as a critical component in corporate India's success matrix more than ever before.

The short-term impact of any change could prove challenging, but recognizing gaps and raising the governance bar can enable companies to mitigate fraud, waste and abuse; focus on individual accountability; and increase investor confidence in the long run.

In line with this, EY Forensic & Integrity Services has highlighted the key trends in its Forensic Outlook 2017, which will enable companies to enhance compliance, stimulate business growth and redefine the Indian business diaspora.



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# Curbing financial crime in the banking and financial services sector

The banking and financial services sector has seen immense volatility because of rising financial crime, money laundering, non-performing assets and cybercrime. Building robust systems, conducting proactive checks and adopting technology-led transaction monitoring methods have turned out to be the need of the hour.



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## Strengthening anti-money laundering action

India has seen a number of developments in the anti-money laundering (AML) space in the last decade, with increasing penalties and regulatory action. However, there is still a significant scope for improvement through the implementation of robust AML programs and imposition of heftier fines as deterrents. Going forward, it is expected that the AML and counter financing of terrorism (CFT) regime will be tackled through extensive use of next-generation technologies such as Big Data Analytics, robotics, artificial intelligence and blockchain. Following the demonetization movement, areas of governance, accountability and sustenance will also see greater attention. Focus and effort on developing human capital, financial technology and regulatory technology (reg.tech) solutions along with fortifying internal policies, procedures and controls will be key to reinforcing India's stance on AML.



## Ongoing regulatory scrutiny

A focused approach toward tracking the ultimate source of funds within the banking system will continue to be on the core agenda for regulators this year. Recent guidance notes released such as requirement to document PAN or Form 60 on all accounts, request for data points pertaining to cash deposits between 1 April and 9 November 2016 and reporting of cash deposits beyond certain thresholds would lay greater onus on bankers to proactively monitor and track inherent vulnerabilities. The demonetization drive last year also had the Government, regulators and financial institutions joining hands to combat the problem of unaccounted black money, with raids and covert operations being conducted, which further detected over INR4,000 crore<sup>1</sup> (till the end of December 2016).

<sup>1</sup> Business Standard 'Demonetisation: Over Rs 4,313 cr black income detected in 1,061 raids: I-T'



In 2017, the industry will have to enhance its financial crimes compliance programs or possibly face the ire of regulators. Technology enablers to support specific data requirements, peer group analytics within customer clusters and automated remediation of Know Your Customer (KYC) or customer due diligence gaps may further enable financial institutions to address current and future regulatory requirements.



### Technological enrichments

The banking sector was hit with a flurry of ATM frauds last year, leading to the compromise of customer data and increased costs. While many such institutions would have already invested in modernizing their infrastructure as well as focusing on delivery systems through digital channels, there would be a notable rise in the near future. Going forward, deploying nimble and agnostic tools could enable high-end analytics to support regulatory assessments and identify integrally related transactions across the customer base. Additionally, with increased cost of compliance, financial institutions will be looking for enhanced automation within their processes through robotics and usage of Lean Six Sigma principles to improve process efficiencies and reduce in costs. Offshoring of processes to centers of excellence or hubs may also see an uptick.



### Rising financial crime in the insurance sector

The growth of the Indian life insurance sector has led to a subsequent increase in the amount of financial crime prevalent in it. After demonetization, the single premium market grew by almost 506% (Y-o-Y) whereas the non-single market merely grew by around 22% (Y-o-Y)<sup>2</sup>. However, as large sums of money will continue to flow through these channels, the fraud vulnerability quotient is expected to rise. In 2017, life insurers should take a page out of the demonetization book to drive

digitization. This would help curb premium payment in cash or cash equivalents, thereby mitigating money laundering risks. There should be emphasis on conducting enhanced due diligence and taking appropriate measures to ascertain the ultimate beneficiaries of the policies taken. Life insurers should also revisit legacy processes and build robust controls around customer due diligence and transaction monitoring.



### Concerns around corporate lending

The Indian economy continues to grapple with the issue of non-performing assets (NPAs) even today. This has raised multiple questions on the due diligence conducted and the measures undertaken while sanctioning loans. The problem of NPAs could be resolved through building robust systems, conducting proactive checks using various technology-based tools during customer onboarding, and conducting transaction monitoring to enhance efficiency. In 2017, continued efforts to bring down the level of fraudulent defaulters through consistent monitoring, keeping in consideration the Reserve Bank of India guidelines, will be instrumental. Analytics-based customer due diligence, tracking of earning warning signals (EWS) and setting up of a centralized public asset management company (PAMC) or bad banks will see momentum this year to identify and curb NPA issues.

## Conclusion

In 2017, deploying detection measures to address potential financial crime risks at the systemic as well as organization levels will be imperative. The priority areas include identification of early warning signals through innovative dashboards and stronger controls to mitigate data leakage. There will also be a focus on newer solutions such as robotics and automation within lesser-explored areas such as KYC during customer onboarding and transaction monitoring to enhance efficiency.

<sup>2</sup>Mint 'Life insurers get demonetisation bonus'

# Driving compliance and defying risks through technology

The widespread use of and dependence on technology are transforming the compliance landscape. The C-suite will increasingly integrate high-end robotics with artificial intelligence to provide them with real-time interactive dashboards, which would be crucial in decision-making.



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## Adopting Forensic Data Analytics in compliance programs

Leading companies are steadily recognizing the use of technology for automation and monitoring of controls to detect and mitigate fraud, before an incident occurs. The use of Forensic Data Analytics (FDA) as a key component in compliance programs is witnessing an uptick. FDA tools can analyze and decrypt large volumes of information with ease, and their “high value at a low cost” model is driving their adoption. The adverse effects of fraud on businesses will only rise, and in 2017 the deployment of real-time, proactive FDA monitoring mechanisms would act as a catalyst for deterring internal or external fraudsters. Such proactive compliance monitoring would further lower anti-fraud audit costs.



## Rising use of interactive dashboards by the C-suite

The traditional method to identify trends involved manually running through various datasets, which was a tedious and time-consuming process with a high probability of errors due to the human involvement. The use of Big Data Analytics is therefore crucial in identifying compliance risks and suspicious patterns. These are further demystified through the use of sophisticated applications and dashboards offering a dynamic and visual analysis, which is intelligent and interactive. With increasing involvement of the C-suite in driving compliance, the use of customizable dashboards is set to augment significantly, especially since they present a holistic view on a single interface with multiple metrics. These dashboards can facilitate the entire fraud-screening process, track compliance, investigate threats, identify potential data exfiltration and reveal dubious activities.



## Turbocharging compliance with robotics

“Disruption innovation” is becoming a common term, prompting companies to adopt the path of robotics process automation (RPA) to minimize operational costs and improve productivity. While automation of processes existed earlier, it is seeing increased usage and recognition because of two main factors – a significantly lower cost of compliance per transaction and the detection of the risk at an early stage. Today, RPA can show results in most functional areas with seamless integration and greater consistency. IT-intensive sectors (such as banks, insurance companies, IT/ITES and telecom) are already in the process of deploying RPA for high-volume, transactional and repetitive tasks. In 2017, RPA could turn out to be a game-changer and a one-stop solution for all other sectors or companies as they automate processes, monitor behavior and identify major deviations.



## Addressing vulnerabilities in digital transactions

The acceptability of cards and digital wallets in the country has increased significantly and India has seen a shift from offline modes of payments to online modes following demonetization. There is also a significant push by the Government to fuel a digitally driven economy through various measures, such as the recent order to amend the Allocation of Business Rules, 1961 and delegation of the work of “Promotion of Digital Transactions including Digital Payments.”<sup>3</sup> The 2017 Union Budget has also listed reforms for promoting digital payments, proposed for a payment regulatory board to be set up and announced the launch of various schemes to promote the Bharat Interface for Money (BHIM) app. As the volume of digital transactions continues to grow, the associated vulnerabilities will also increase. It is imperative that the consumers understand the risks associated with such transactions and secure their devices.

<sup>3</sup>Business Standard ‘IT ministry to promote digital transactions’

The companies in this ecosystem will have to monitor the transaction patterns and deploy analytics to safeguard against fraud risks.



## Dealing with data breaches

Breach of confidential and sensitive data can be a death knell for most companies. Last year saw numerous cases reported worldwide on data breaches, leading to substantial financial and reputational damage. Perpetrators included company employees, vendors as well as cyber criminals, devising a targeted approach to run mayhem. Going forward, advanced social engineering fraud and malwares directed at critical IT infrastructure are expected to be used extensively to target companies and consumers alike. Increasing investments in cyber solutions and programs, and training and educating staff regularly will enable the creation of a vigil society to mitigate threats around data breaches.

## Conclusion

As large volumes of information continue to be exchanged over networks, the risk of data leakage, data theft and cyber-attacks will escalate. In 2017, the use of technology to fuel compliance and combat risks will be instrumental. FDA will play a critical role in identifying early warning signals and spotting unusual and potentially dubious patterns in transactions. The adoption of innovative and sophisticated technologies is crucial as India moves toward a digitally driven economy.

# Continued crackdown on bribery and corruption

The focus on bribery and corruption risks has seen an upswing, fueled by international scrutiny and public awareness. Improved regulations, enforcement actions by accountability watchdogs and greater transnational collaboration would help establish resilient anti-bribery and anti-corruption mechanisms, deter potential risks and echo companies' commitment in driving transparency.



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## Upcoming regulations to combat graft

Over the last few years, there has been a positive shift in building a strong anti-corruption regime and tax structures and enhancing anti-money laundering efforts. India has thrown down the gauntlet on bribery and corruption through reforms such as proposed amendments to the Prevention of Corruption Act, 1988, the Income Disclosure Scheme, the Real Estate (Regulation and Development) Act, 2016 and demonetization. In 2017, the upcoming Goods and Services Tax (GST) could be a game-changer in the anti-graft battle and enabling ease of doing business. GST is expected to incorporate most of the indirect taxes, which would lead to fewer cash transactions, especially those that may be "outside the books."

The Government is further looking to make the tax administration fairer, set limitations on cash expenditure for deductions and limit cash transactions to INR 3 lakh, as mentioned during the Union Budget 2017. These initiatives can potentially transform India's anti-corruption landscape and raise a sharp sense of culpability among errant individuals as well as companies.



## Matching up to global anti-corruption standards

The global battle against financial crime will continue with a number of countries such as India, Brazil, Canada, France, Russia and Spain introducing new legislations, monitoring compliance and widening jurisdictions. Rapid globalization has led most Governments and companies to put equal emphasis on local as well as international laws to encourage compliance and minimize any penalties and fines. In 2017, benchmarking against global standards will see immense uptick. ISO 37001, the first international standard on anti-bribery management systems, will see interest from corporates as it is expected to provide a directed approach to solidify anti-bribery and anti-corruption frameworks. France's SAPIN II Bill will also have



a far-reaching impact on curbing corruption, as the legislation extends to foreign jurisdictions; it calls for prosecution of foreign companies whose entities may have only a part of their operations in France, which may include Indian enterprises as well.



### Empowering investigation and enforcement agencies

The role of investigation and enforcement agencies in India has evolved, with the Government empowering them with a wider mandate. The last few years have seen a phenomenal rise in cases handled by agencies such as the Central Bureau of Investigation, Serious Fraud Investigation Office, the Enforcement Directorate and Economic Offences Wing. Media reports have highlighted that there were 6,533 corruption cases prepared by the CBI in the last 10 years, of which 516 were in the last two years with a conviction rate of 62%<sup>4</sup>. With corruption being an endemic global problem, the Government is further expected to give teeth to these agencies. Building capabilities in terms of technology, especially around cybercrime and digital forensics, fostering greater collaboration with private companies, and cross-border sharing of information by global regulatory agencies with a common goal to nab perpetrators would redefine the enforcement landscape in 2017.



### Globalization of enforcement

Global trend shows an accelerated focus around enforcement on matters related to financial misconduct, fraud, bribery and corruption. The US Foreign Corrupt Practices Act (FCPA) 1977 saw its biggest enforcement year, with 27 companies paying up to US\$2.5 billion in settlements<sup>5</sup>. Many companies also faced penalties, with a large proportion of enforcement actions relating to activities in China, Latin America, Africa, Commonwealth of Independent States (CIS) and India. In 2017, the enforcement level will continue with force and there will be a heightened

confidence on whistle-blowers to step up and flag wrongdoings. The trend of self-disclosure or self-reporting of violations in lieu of lower penalties will also increase. Another emerging trend would be global enforcement agencies collaborating and aiming to arrive at the “consolidated cost of corruption.” Here, the cost of violation could be divided between the agencies on the basis of the location of the corrupt activity or the appropriate jurisdiction of nations.

## Conclusion

Transparency International’s latest Corruption Perception Index ranks India at 79, jointly with two other developing countries Brazil and China. Russia ranks much lower on the index at rank 131, while South Africa fares moderately better at 64. The collective force of fraud and corruption has the power to cripple nations, but there has been significant headway made to raise enforcement standards by empowering agencies and benchmarking against global anti-corruption standards. Going forward, corporate India will not only have to work in tandem with the Government but also focus on individual accountability to uproot corruption.

<sup>4</sup>Data released by Lok Sabha

<sup>5</sup>The FCPA Blog

# Re-engineering the CFO

The role of the new age CFO is unique and has transformed to become disruptive over the years. Going beyond sustaining the financial health of the company, CFOs will now be expected to don multiple hats to monitor changing global regulations, drive technology adoption, manage emerging risks and become custodians of sound governance practices.



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## Changing role to drive disruption

The role of CFOs has seen a tectonic shift over the last few years, becoming more strategic than just a custodian of numbers. In addition to leading the company's finance, accounting, M&A and other functions, a CFO's decision-making has become all-encompassing to cover people, technology as well as operations. In 2017, the CFO's mandate will likely diversify to drive innovation, intrapreneurship and digital disruption. They will also have to deal with global regulations in a VUCA<sup>6</sup> world, with a growing circle of demanding stakeholders. Managing internal as well as external risks around fraud, bribery and corruption through technology will be even more critical. This comes at a time of amplified media and public scrutiny that can throw the spotlight on unethical practices and lead to severe repercussions.



## Battle of cost vs. compliance

As per a study conducted by the Association of Certified Fraud Examiners (ACFE) in 2016, a typical organization loses 5% of its revenues in a given year due to fraud. Adding the possible reputational loss to it, the actual number could be much higher. With the costs associated with non-compliance in the form of penalties, fines and legal fees constantly rising, CFOs need to proactively strengthen the compliance backbone and not have a reactive approach. In 2017, CFOs would look to make significant investments in areas of compliance, including proactive risk assessment, testing, monitoring, deploying dashboards to track early warning signals, analytics and predictive modeling. There would also be enhanced emphasis given to building teams with the right skill-sets, as well as trainings to proactively address emerging fraud risks.

<sup>6</sup>Volatility, Uncertainty, Complexity and Ambiguity



### Dealing with employee fraud

The core of every organization is its employees, but they have emerged as a key risk area in recent times. Employee fraud could cover diversion of the company's funds, kickbacks from vendors, forgery, falsifying reimbursements and many others. Such acts could impact a company's bottom line, but increasing complexities can make it difficult to uncover unethical conduct; therefore, it is important for CFOs to get involved. Going forward, formulating an "insider threat program" to mitigate risks, setting the right tone at the top, and training and monitoring would help in employee motivation and fostering an ethical work environment.



### Compliance as an enabler of profitability

The success of any company can be easily quantified by its profitability. But the journey to maximize revenue could be laced by employees resorting to shortcuts or unethical practices in order to achieve the high growth targets. In such a case, rather than compliance becoming a barrier, it could be turned into a powerful tool to enhance profitability. CFOs will need to be cognizant and promote sound governance, as ethical companies tend to see lesser penalties, sustained revenue growth, and greater employee retention and customer satisfaction and build sustainable business models. Their role will prove critical in driving transparency and ethics in a seamless manner.



### Shifting toward an automated environment

Finance functions across industries are under significant pressure to shrink costs and support decreasing margins; improve the speed, volumes and quality of information provided; and focus on delivering value and adding insights to the business. As a result, the role of CFOs will get increasingly dependent on automation and analytics. A robot or digibot learns how to handle different tasks through trial and error, and this could potentially have knock-on effects that the company may have not yet prepared for. Going forward, CFOs need to be cautious about the fact that the success of the finance program depends largely on the sanctity of the data input.

## Conclusion

2017 will usher in a new wave of transformation for the modern day CFO through greater focus on bringing in reforms, managing fraud and corruption risks, and building formidable businesses. Managing disruptions, compliance, ethics and transparency will take the front seat, and these will become the four key pillars to control costs and sustain profits.

# Raising standards of food safety compliance in India

India has seen a paradigm shift in the production and consumption of food products, with amplified emphasis on quality and safety. Regulatory changes, increasing consumer awareness and a shift in the mindset toward healthier living will be instrumental for organizations in the food industry to embrace food safety compliance in a holistic manner.



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## Regulatory initiatives on the anvil

The regulatory body Food Safety and Standards Authority of India (FSSAI) was established in 2008 with an intent to provide safe and wholesome food for human consumption. Since then, the regulator has taken significant steps to facilitate compliance with food safety norms, amended existing laws, and taken action against errant food business operators (FBOs). In 2017, the regulator is expected to roll out many new regulatory initiatives such as revising the existing food labeling norms and establishing fortification standards for packaged products in certain parts of the country.

FSSAI's inclination to mandate independent third-party food safety compliance audits of FBOs would drive them to augment their own monitoring programs and auger well for the industry at large. In addition, the Ministry of Consumer Affairs is planning to standardize e-commerce players in the food space by proposing a new consumer protection law. Provisions under this law, when accepted and implemented, are further expected to invoke a sense of awareness on the need for safe food in India.



## Impact of product recalls

India has probably the lowest number of reported cases of food safety violations as compared to actual incidences<sup>7</sup>, and voluntary food recalls tend to go unreported despite regulatory requirements outlined by the FSSAI. As a result, food-related recalls have been minimal compared to both global numbers and to non-food products. However, the last few years saw some brands in the spotlight due to alleged adulteration of products, deficiencies in the food production cycle, failure to maintain adequate food processing facilities and equipment and inability to preserve the sanctity of the supply chain. The year could see more such cases surfacing, with FSSAI having already

<sup>7</sup>Data from National Journal of Community Medicine [http://njcmindia.org/uploads/6-2\\_286-288.pdf](http://njcmindia.org/uploads/6-2_286-288.pdf)



released a gazetted notification in January 2017 outlining the procedure for food recall, which is applicable for the entire food chain. FBOs will now be expected to be more vigilant considering that mandated product recalls can raise production costs, affect brand reputation and lower consumer confidence.



### Quality of food products under the scanner

The quality of food products in India has been under the scanner, with questions raised around sub-standard production, non-compliance with quality norms, counterfeit products, mislabeling and even misleading advertising and promotions. The regulator has taken a number of steps to standardize products, conducted surveillance for potential gaps, taken action to ban certain harmful or risky ingredients and announced fortifications of key products. In 2017, it will be critical to drive greater enforceability of the laws on quality foods, taking strict action through penalties or recalls in case of food fraud or negligence. Provision of complete and correct product information on the label (ingredients, manufacturing date and expiry date) will turn out to be an important consideration that FBOs could look into in an effort to help the consumers make informed decisions when purchasing products.



### Maintaining food safety compliance at workplace

With ambience and aesthetics of workplace canteens and cafeterias given preference, food safety is often put on the back burner. Important safety parameters such as good manufacturing practices, layout considerations, personal hygiene and training of food handlers tend to be ignored. Leading organizations are likely to put in an effort to have high-quality food products served to their employees in a clean environment. This year, workplace safety will see precedence with rising awareness among the educated working class.

Companies will look to proactively address and inculcate safety measures, conduct regular trainings on personal hygiene and handling of food, and engage trained “food safety supervisors” who can oversee the quality of food served.

## Conclusion

In 2017, enforcement of regulations, improvements in provisions, and notification of standards to cover more food categories will likely be the priorities for the regulator. In January 2017, regulations on standards for nutraceuticals received a gazette notification, clearing the ambiguity on regulatory requirements. The draft regulations outlining the procedure for approval of non-specified foods are expected to clear hurdles for non-standard foods that do not qualify under the proprietary food definition.

New regulations around mandatory third-party food safety audits of FBOs, corporates taking responsibility to highlight awareness around food safety at the workplace, increased thrust on laboratory infrastructure and testing protocols at the FBO's end and establishment of robust consumer complaint redressal forums will steadily drive all stakeholders in the food ecosystem to contribute toward sharing the responsibility of food safety compliance. The logical progression of the food industry would be to move toward instituting and documenting proactive and self-compliant measures of food safety.

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