



Grant Thornton

An instinct for growth™

# Compliance Connect

Forensic & Investigation game  
changers, 2017

December 2017





# Editor's desk

This is a special issue where we walk you through significant developments of 2017 in the forensic & investigation industry and observe how these may potentially shape up in the coming months.



Dear Readers,

We are happy to bring you the latest edition of Compliance Connect, our periodic newsletter focused on providing insights and expert opinion in the compliance domain.

This is a special issue where we walk you through significant developments of 2017 in the forensic & investigation industry and observe how these may potentially shape up in the coming months. We have focused on industry activity which has been most pressing, in our attempt to wrap 2017 up for you and provide an outlook for the coming year.

While it is our endeavor to assist you in fulfilling your vision towards being compliant, we always look forward to engage

better with you. Do share your valuable feedback. In case you want us to address any specific area in compliance, feel free to write to us.

We hope you find information in this newsletter useful!

**Vidya Rajarao**

Partner  
Grant Thornton India LLP

# Experts speak

## Background

**The year buzzed with excitement as government's extensive reforms to boost business climate mirrored in significant milestones, moving the country ahead in its transformative journey, one step at a time. While India jumped up 30 places on World Bank's ease of doing business ranking, credit rating agency Moody's upgraded the country's rating after a gap of 14 years.**

Greater transparency, compliance and better governance practices were highlighted as reforms in these areas continued to be proposed or implemented. At the same time, threats posed by increasingly convoluted risk environment is a reminder for corporates to take a closer look at their risk strategy in view of not only micro, but the global risk environment.

We take a look at key industry takeaways of 2017, below.



**Rethink & redo  
Corporate Governance**



**GDPR gains momentum, takes  
data compliance a notch higher**



**Spotlight on shell as drive to  
clean money continues**



**Good times ahead for  
Institutional Arbitration**



**IT function emerges as the sweet  
spot for fraudsters**



# 30

India jumped up 30 places on World Bank's ease of doing business ranking.



# 14

Moody's upgraded the country's rating after a gap of 14 years.



## Rethink & redo Corporate Governance

Corporate governance was flavour of the season, as the need for boards to be more transparent, compliant and embrace stakeholder democracy reverberated from all quarters. Issues relating to differences with senior management, clash of opinion, unwarranted intervention by the Board or lack of communication by the CEO, if not addressed timely and judiciously, may lead to situation getting out of hand in future. As the purview of risks increases for companies, so does the accountability of the Board to its employees, investors, clients and other stakeholders. Strategic role of the Board in Crisis Management is another tectonic shift, especially, given that events like cyber fraud, regulator investigations, technical outage etc. have the potential to threaten business continuity.

Further, the recent development signaling increased liability of independent directors towards the financial performance and operations of the company has elicited a mixed industry response and will be a crucial factor in the way companies charter their governance strategy.

### We are saying

Companies will need to earnestly reconsider their Board's role in managing risks. The risk environment has taken a paradigm shift and a single incident of fraud, data breach, Intellectual Property infringement, and developments like market fluctuations or natural disasters are capable of affecting business continuity. With heightened regulatory pressure, Board oversight to mitigate risks in line with the strategic vision and risk appetite of their business is crucial. Secondly, the approach Board adopts to deal with quintessential governance challenges; corporate disclosures, family owned enterprises, audit committee, executive compensation, diversity in Board composition etc. will serve as an enabler or inhibitor in organisation's effective corporate governance strategy and long term sustainability. Progress of recommendations proposed by the SEBI panel will be an exciting watch in the coming year.



## GDPR gains momentum, takes data compliance a notch higher

Though General Data Protection Regulation (GDPR) was approved and adopted by the EU in April 2016, it gained significant momentum during the year as organisations contemplated its impact and the desired approach to achieve this compliance by May 2018.

With the aim to protect EU citizens from data and privacy breaches, the regulation introduced a host of changes around extended jurisdiction and data subject rights, which necessitated organisations to radically change their outlook of approaching personal data<sup>1</sup>. Non-compliance attracts heavy penalties and litigation costs and therefore organisations must incur the cost to being compliant now.

### We are saying

Companies will need to adopt a holistic approach to achieve compliance, while being cognizant of the ecosystem of risks. The exercise would entail investment in data protection technologies, educating and training employees, creating accountability, reviewing third-party risks vigilantly and securing personal devices, to name a few. Regardless of their operations in Europe or industry of operation, companies dealing with data of European businesses or citizens, will have to relook at their data protection strategy and ensure GDPR compliance. It will be crucial to address multiple levels of risk in the IT environment. For instance, the regulation has implications for data stored in the cloud as well. Therefore, the compliance strategy will need to be carefully devised keeping in mind finer requirements of the regulation. Coming months will be defining to understand how the journey progresses for companies to being GDPR compliant.

1. EU GDPR



## Spotlight on shell as drive to clean money continues

Government's fight against black money post demonetisation gained further momentum with sweeping regulatory reforms like the Goods and Services Tax Act, Real Estate (Regulation and Development) Act, Monetary Policy Committee (setting up), and Insolvency and Bankruptcy Code. SEBI with its directive on banning shell companies sent a strong message to entities who evaded the law; falsified their accounts, or flouted legal and regulatory system to launder money<sup>2</sup>.

The vigil continued over the year with IT department conducting investigation against benami properties, created through shell entities along with a check on directors and shell companies whose operations were disqualified by the government. More recently, positive results were further visible in the form of increased variables by way of Aadhar number, PAN number, etc., at the access of regulatory authorities to identify anomalies.

### We are saying

While the fight against black money has intensified, it may be prudent to continue deploying rigorous and advanced analytics and leverage technology to addressing these indicators, which, at the very outset, may help obstruct the inception of such firms.



## Good times ahead for Institutional Arbitration

India's reputation has been rather blemished when one refers to institutional arbitration due to lack of robust facilities and adhoc arbitration still being the preferred mode. The situation though is improving. With corporates increasingly favoring institutional arbitration and acknowledging its vital role in enforcing contracts and subsequently promoting ease of doing business, the year saw positive advances in the direction, groundwork for which was laid by the government in 2016.

A high-level committee constituted in the beginning of the year submitted its report in August 2017 and suggested reforms towards speedy resolution of commercial disputes. Recommendations included, amongst others, setting up an autonomous body for grading arbitral institutions in India, and creation of a specialist Arbitration Bench to deal with Commercial disputes, in the domain of the Courts<sup>3</sup>. Icing on the cake was the draft act passed on 14 November 2017, for forming Indian Arbitration Council, which will be regarded as a flagship institution to conduct international and domestic arbitration<sup>4</sup>.

### We are saying

While several bold steps have been taken by the government in this direction, 2018 will be decisive to test their adequate implementation, and hopefully, bring augmented services to facilitate institutional arbitration, particularly needed for high value, commercial and complex disputes.

2. The making and breaking of Shell companies, Grant Thornton India LLP

3. Press Information Bureau, Govt of India, 2017

4. Economic Times, Nov 2017



## IT function emerged as the sweet spot for fraudsters

Indian Computer Emergency Response Team reported at least one cyber-attack every 10 minutes in the first six months of 2017. What is potentially more worrisome is attacks becoming complex and varied, to comprise, ransomware, phishing, CEO email fraud, wire transfer fraud, to cite a few.

Digital transactions witnessed an upsurge, especially post demonetisation, but security protocols weren't as resilient. With global attacks like Wanna Cry causing havoc, monitoring online threats became a pressing need, more than ever before. Immediate distress for corporates post any such attack, is denial of service, but repercussions that follow can be severe and may include, amongst others, maligned reputation, legal and regulatory costs or senior leadership having to step down.

### We are saying

The role of IT function has elevated to be the “newest” mascot of combating fraud as weaknesses in internal controls and security protocols, especially with the volume of data transacted on digital platforms, has propelled cyber fraud. Companies will have to monitor their IT function vigilantly, invest heavily in employee training and education, and integrate adequate controls and procedures seamlessly to evade insider threat and frauds emerging from digital, an exciting watch for 2018.





# Top 5 predictions, 2018

Cognitive approach to drive compliance blueprint and battle against changing fraud theatre.

Businesses which challenge their behaviour constantly and consistently to meet expectations of their stakeholders will address corporate governance challenges most competently

While data privacy and security will gain precedence, a multi-pronged, risk-based and all-inclusive approach is the best bet for “early detection”

Responding to mounting global regulations would entail deploying right combination of resources, technology and insight to stay ahead of the curve

With reforms to the Arbitration and Conciliation Act, 1966, and added impetus to bolster arbitration, the upwards trend in settling disputes via arbitration will continue, in the classic, infrastructure, oil and gas sectors as well as Banking & Finance and Information Technology

## Conclusion

While 2017 witnessed noteworthy developments for the industry, it is a wait and watch game to see how businesses respond to these in their efforts to become more compliant and better equipped in embarking upon risks.

## Samir Paranjpe

Partner

Grant Thornton India LLP



# News snippets

## DOJ announces a “Revised FCPA corporate enforcement policy”

One of the best things ever written about the FCPA was penned nearly 35 years ago by Robert Primoff who stated: “The government has the option of deciding whether or not to prosecute. For practitioners, however, the situation is intolerable. We must be able to advise our clients as to whether their conduct violates the law, not whether this year’s crop of administrators is likely to enforce a particular alleged violation. That would produce, in effect, a government of men and women rather than a government of law.”

Source: [fcpaprofessor.com](http://fcpaprofessor.com)

## Canada bans ‘grease payments’ to foreign officials

As of tomorrow, it will become illegal for Canadian businesses to grease the palms of foreign government officials to speed up or facilitate routine transactions such as permits, Global Affairs Canada announced today.

The government said that it is repealing the so-called “facilitation payments” exception from the Corruption of Foreign Public Officials Act (CFPOA).

Source: [www.rcinet.ca](http://www.rcinet.ca)

## SEBI plans automated disclosure mechanism to boost ease of doing business

A new system which would automatically capture and disclose changes in shareholding for listed companies is underway for markets regulator Securities and Exchange Board of India (SEBI).

According to a LiveMint report, a system-driven disclosure is being developed to eliminate additional reporting and enhance the ease of doing business. India leapfrogged 30 spots to 100 on the World Bank’s ‘Ease of Doing Business 2018’ report.

Source: [www.moneycontrol.com](http://www.moneycontrol.com)

## 83 per cent of money-laundering cases since note ban related to shell firms, realty

The Enforcement Directive (ED), after investigating 3,700 cases of money laundering involving tainted assets worth Rs 9,935 crore, found that the Indian economy faces a bigger threat from cheating and corruption than it does from drugs and arms smuggling.

ED conducted a risk assessment exercise of these cases to show the number and type of cases booked after Narendra Modi-led demonetisation drive. Surprisingly, 83 per cent of the cases registered by the ED in the past one year related to financial institutions and real estate, reported The Times of India.

Source: [www.business-standard.com](http://www.business-standard.com)

# Acknowledgements

**Contributors**

---

Geetanjali Singh

**Design**

---

Gurpreet Singh

**For media queries, please contact:**

**Spriha Jayati**

E: [Spriha.Jayati@in.gt.com](mailto:Spriha.Jayati@in.gt.com)

M: +91 93237 44249

---



# Contact us

To know more, please visit [www.grantthornton.in](http://www.grantthornton.in) or contact any of our offices as mentioned below:

## NEW DELHI

National Office  
Outer Circle  
L 41 Connaught Circus  
New Delhi 110001  
T +91 11 4278 7070

## AHMEDABAD

7th Floor,  
Heritage Chambers,  
Nr. Azad Society,  
Nehru Nagar,  
Ahmedabad - 380015

## BENGALURU

5th Floor, 65/2, Block A,  
Bagmane Tridib,  
Bagmane Tech Park,  
C V Raman Nagar,  
Bengaluru - 560093  
T +91 80 4243 0700

## CHANDIGARH

B-406A, 4th Floor  
L&T Elante Office Building  
Industrial Area Phase I  
Chandigarh 160002  
T +91 172 4338 000

## CHENNAI

7th Floor, Prestige Polygon  
471, Anna Salai, Teynampet  
Chennai - 600 018  
T +91 44 4294 0000

## GURGAON

21st Floor, DLF Square  
Jacaranda Marg  
DLF Phase II  
Gurgaon 122002  
T +91 124 462 8000

## HYDERABAD

7th Floor, Block III  
White House  
Kundan Bagh, Begumpet  
Hyderabad 500016  
T +91 40 6630 8200

## KOCHI

6th Floor,  
Modayil Centre point  
Warriam road junction  
M. G. Road  
Kochi 682016  
T +91 484 406 4541

## KOLKATA

10C Hungerford Street  
5th Floor  
Kolkata 700017  
T +91 33 4050 8000

## MUMBAI

16th Floor, Tower II  
Indiabulls Finance Centre  
SB Marg, Elphinstone (W)  
Mumbai 400013  
T +91 22 6626 2600

## MUMBAI

9th Floor, Classic Pentagon  
Nr Bisleri factory,  
Western Express Highway  
Andheri (E)  
Mumbai 400099  
T +91 22 6176 7800

## NOIDA

Plot No. 19A, 7th Floor  
Sector - 16A  
Noida 201301  
T +91 120 7109 001

## PUNE

3rd Floor, Unit No 309 to 312  
West Wing, Nyati Unitree  
Nagar Road, Yerwada  
Pune- 411006  
T +91 20 6744 8800

For more information or for any queries, write to us at [contact@in.gt.com](mailto:contact@in.gt.com)



Follow us @GrantThorntonIN



**Grant Thornton**

**An instinct for growth™**

---

**grantthornton.in**

© 2017 Grant Thornton India LLP. All rights reserved.

"Grant Thornton in India" means Grant Thornton India LLP, a member firm within Grant Thornton International Ltd, and those legal entities which are its related parties as defined by the Companies Act, 2013.

Grant Thornton India LLP is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001.

References to Grant Thornton are to Grant Thornton International Ltd (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.