

# Thriving with integrity in the new normal

Forensic Outlook 2021





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# Introduction

The world has gone through over a year of brutal upheaval with the onslaught of the COVID-19 pandemic. While the business environment has been altered in several ways, organizations and their leaders have showed tenacity, agility and explored practical and sustainable ways to adapt to the new normal. However, the chaos stemming from the crisis has not only given rise to a whole new realm of risk but also forced organizations to look at threats in a new light as they maneuver cautiously amid an uncertain economic climate. According to EY's Global Integrity Report<sup>1</sup>, 98% of respondents surveyed in India stated that the disruption caused by COVID-19 poses a critical risk to ethical business conduct. Over one third believed that unethical behavior will increase further because of the crisis.

Ethical, integrity and compliance challenges are likely to spiral upward in volatile times like these. Compliance, risk and legal departments will transform with the adoption of emerging technologies such as artificial intelligence (AI), machine learning (ML) and robotic process automation (RPA) to remain agile, manage risks and fulfill regulatory mandates. The shift to remote investigations that started last year will further increase, supplemented by technology-based solutions. With remote working becoming the new norm in most organizations, financial statement frauds and document fraud are expected to soar. Organizations will need to take concerted steps to manage virtual workforces through e-learning programs and deploy digital verification techniques during employee background checks when onboarding new talent.

Issues around contract breaches, disputes and Intellectual Property Rights (IPR) infringements may cast a dark shadow on companies unless they have a holistic risk management strategy which supports business continuity plans. Rising expectations from different stakeholder groups around environmental, social and governance (ESG) issues will accelerate the pace for ESG compliance, compelling corporates to proactively approach and manage ESG risks as part of their growth strategies. As businesses continue to face the strains and challenges, EY's Forensic Outlook 2021 highlights key considerations for organizations to confront the complex and integrated risks of today as they strive to thrive with integrity.



**Arpinder Singh**

Global Markets and India Leader  
Forensic & Integrity Services, EY

<sup>1</sup> [https://assets.ey.com/content/dam/ey-sites/ey-com/ja\\_jp/news/2020/pdf/ey-global-integrity-report-2020-en.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/ja_jp/news/2020/pdf/ey-global-integrity-report-2020-en.pdf)



## Fraud and corruption trends in a socially distanced world

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In-house and external teams will have to explore revamping their investigative frameworks further to supplement it with the right technology-based solutions.



**Sandeep Baldava**  
Partner  
Forensic & Integrity Services, EY



## Remote investigations in the new normal

The COVID-19 pandemic saw many organizations faced with increased financial pressures and uncertainties in an anxiety riddled environment, leaving them struggling to cope with a surge in fraud and non-compliance risks. As the size and scale of the electronic data increased with remote working and in-person investigation methods were no longer a viable option, digital forensic reviews and remote investigations became essential. In 2021, organizations will continue the digital transformation of compliance and opt for remote investigation procedures and interviews as preferred avenues.

In-house and external teams will have to explore revamping their investigative frameworks further to supplement it with the right technology-based solutions. In addition, organizations will have to stress-test their current controls and implement AI and ML technologies for real-time forensic data analytics (FDA). Senior management will need to set the tone and communicate the significance of ethical behavior through digital trainings and compliance initiatives.

Remote evidence acquisition, analysis of the digital trail and virtual interviews are likely to become the new norm of investigations.

## Deterring the menace of document fraud

The increased reliance on digital formats has resulted in fraudsters using fake documents to substantiate false claims either to the companies, regulators, banks or other stakeholders. As the acceptance of online document submissions and availability of editing tools rises, instances of document forgery or fraud are likely to increase proportionately. In 2021, organizations will need to deploy a combination of several techniques to detect and mitigate document fraud.

Traditionally, the review of such fake documents was done manually but with the increased volumes, it is essential to use the power of technology. Editing soft copies of documents leaves a trail and forensic technology can highlight edits or changes. Some examples here can be to check for consistency of spaces being used in a document, looking at changes at a pixel level, reviewing properties of files, alignment of lines, changes in font, etc.

## Emerging technologies to drive compliance transformation

Using modern technologies such as AI, ML and RPA has become an enabler to remodel compliance programs, manage potential risks and meet regulatory requirements in this digital age. 2021 will see an uptick in emerging technologies, with RPA becoming one of the top priorities of legal, compliance, finance and technology leaders.

With the power of automation, organizations will provide guidance to their partner ecosystem on compliance, run vendor audits with ease, bring a safer approach to data privacy and compliance risks, and manage the intake from ethics hotline and whistleblowing systems. It will also equip them to better manage regulatory and management reporting by capturing and cleansing data to generate automated regulatory reports, pre-populate complex annual reporting; support contract management analysis and overcome compliance and legal challenges around collecting, categorizing, summarizing and analyzing data.

Emerging technologies will also be deployed for compliance, risk and legal intelligence, with AI and ML leveraged to capture, analyze and filter dozens of data elements for contract reviewing. AI along with big data and public and private databases will assist performing Know Your Customer (KYC) checks, and AI and Natural Language Processing (NLP) will enable organizations to build a digital library of documents (contracts, etc.), reducing significant time and effort for legal teams.

## Financial statement fraud to be a major concern

The financial pressures faced by global organizations are enormous as they step into the second year of the pandemic.

As the crisis ensues this year, financial statement frauds such as overstatement of assets, revenues and profits is one key risk that is likely to emerge. This would be for stakeholder management and demonstrate strong performance in adverse situations or understating liabilities, expenses and losses to minimize any impact on the bottom line. Another challenge that companies may face is employees exploiting the disruption and using modes of exceptional approvals for personal profiteering or siphoning of funds. It may compel senior executives to offset the volatility by manipulating the valuation of assets to portray a positive position.

ACFE's COVID-19 Benchmarking Report<sup>2</sup> further corroborates it, highlighting that 68% of respondents expect a further increase in financial statement fraud over the next year. The extended remote working environment in 2021 will make the detection and prevention of these frauds more complex. Close analysis of financial statements and records will be critical and could include performing trend analysis for key areas such as sales, expenses, inventory, borrowings, receivables, payables; analysis of fraud indicating ratios to identify signs of misstatement; and benchmarking analysis and comparison with competitors' performance. Data analytics can assist in focusing efforts on high-risk transactions and use of AI and ML reduce false positives.

Enhanced procedures can be planned for key foreign branches or subsidiaries in absence of physical visits, so locations are adequately monitored. Whistleblowing or vigil mechanisms will serve as an important detective tool to identify any manipulation of books of accounts.



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**Vinay Garodiya**  
Partner  
Forensic & Integrity Services, EY

<sup>2</sup> [https://www.acfe.com/uploadedFiles/ACFE\\_Website/Content/covid19/Covid-19%20Benchmarking%20Report%20December%20Edition.pdf](https://www.acfe.com/uploadedFiles/ACFE_Website/Content/covid19/Covid-19%20Benchmarking%20Report%20December%20Edition.pdf)



## Managing remote workforces in the new normal

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Integrating advanced technologies within the employee background checks process can make the laborious method of authenticating a candidate's background faster, cost-efficient and help minimize errors.



**Vivek Aggarwal**  
Partner  
Forensic & Integrity Services, EY



## e-learning and virtual trainings set to transform learning and development programs

Corporate learning and development (L&D) has come to the forefront of driving change management and mitigating risks from being a mere tick in the box. 2020 saw many businesses limiting in-person activities due to the pandemic and exploring new models for L&D.

Digital learning or e-learning capsules became the preferable mode for remote set-ups and will see continued proliferation in 2021 as well and beyond. These programs tend to be scalable, innovative, easy to understand, backed by practical insights and key to building organizational readiness around compliance. As organizational risks transform and grow in response to the pandemic, the importance of virtual, eLearning as well as micro-learning will skyrocket in areas such as anti-bribery and anti-corruption (ABAC), Conflict of Interest, Code of Conduct as well as rapidly evolving risk areas such as social media, data privacy and data security.

## Digitalizing background checks in the new normal

The background check process for potential employees has been adversely impacted over the last year because of restrictions in movement. This led to organizations to either conducting only a preliminary level of verifications or sidestep the process altogether.

This year will see organizations incorporating digital verification techniques and technology solutions in their background screening processes, especially as India battles the second wave of COVID-19. These proprietary tools and solutions will leverage advanced technologies such as API Integration, ML, cognitive solutions and data mining and analytics to automate various elements of the screening process.

Organizations will also have to consider automating the process of employee data collection, analysis and workflow to deal with the overload of data. Integrating advanced technologies within the screening process can make the time consuming and laborious process of authenticating a candidate's background (education, past employment, address, court records and examining government records) faster, cost-efficient and help minimize errors.



## Safeguarding data from potential leakage and insider trading

The global shift to remote or hybrid working environments has been a bane as well as a boon for corporations.

The risks around data leakage and insider trading increased manifold as it is relatively easier to upload sensitive official data on public clouds; personal devices with limited or inadequate IT security firewalls may be used to email company information; confidential corporate information could be stored on electronic devices instead of company servers; trade or IP secrets could be leaked and information could be shared through social media. With the hybrid model expected to continue this year as well, organizations will have to adopt a stronger and practical approach to safeguard confidential data and adhere with applicable laws. Data privacy and information governance are now more important than ever to safeguard critical digital assets, so it is not shared externally or misused.

The proliferation of technologies such as Data Classification and Redundant Obsolete and Trivial (ROT) Data Analysis, Cloud Data Protection, Big Data and Application Encryption, Data Privacy Management Solutions and Data Access Governance can help address these growing challenges.

## Cybercrime and ransomware attacks will continue making global headlines

2020 was a tough year for the C-suite as mega data breaches and ransomware attacks were rampant and were further amplified because of remote working pressures. The trend of cybercriminals exploiting new means to endpoint vulnerabilities - personal computers, laptops and other handheld devices - in an attempt to gain access to corporate networks saw a steep rise. In 2021, cybercrime, ransomware and social engineering (spoofing and phishing) attacks will remain primary risks.

Companies will need to regularly and systematically inspect capabilities and speed of response on multiple parameters such as logging, incident response, security monitoring, business continuity planning and disaster recovery, and threat intelligence. They will also have to define the right set of security metrics, conduct periodic awareness and build secure reporting mechanisms to be better prepared to counter cybercrime and ransomware. The year will also see organizations embracing digital transformation with a zero-trust network and improved readiness for cybercrime incidents. Cyber insurance will become paramount and see widespread industry acceptance from many organizations along with ransomware coverage.

Privacy and cybersecurity are converging. As the threat of unauthorized access looms large, companies will need to go all out to mitigate cybercriminals from attempting to steal and exploit critical business data. The challenges of navigating a converging world in a hybrid working environment and maintaining resilience will demand a strong security regime, with robust data privacy practices, promoting a culture of zero tolerance and full disclosure.

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**Harshavardhan Godugula**  
Partner  
Forensic & Integrity Services, EY



## Claims and disputes amid the pandemic

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The absence of case precedence on commercial losses may bring unusual and interesting outcomes to the litigations.



**Yogen Vaidya**

Partner

Forensic & Integrity Services, EY



## Implications of contract breaches

The overwhelming impact of the pandemic has significantly changed the way contracts were framed and enforced by businesses. Many industries accumulated financial losses as a result of lost working time, prompting businesses to choose between renegotiations and going for a dispute, seeking compensation. In 2021, the overall decay along the value chain may not result in win-win negotiations for businesses.

Additionally, the absence of case precedence on commercial losses may bring unusual and interesting outcomes to the litigations. Businesses that were protected against unprecedented losses either through insurance covers or under the aegis of flexible contractual terms are likely to survive. However, those operating without a holistic risk management strategy may face challenges on business continuity plans and face financial/ legal implications.

## IPR infringements: what lies ahead?

The global debate on suspending IPR of life saving vaccines, drugs and medical equipment to curb COVID-19 has heated up. The year started with discussions at the first India-EU IPR meet between Department for Promotion of Industry and Internal Trade (DPIIT) and EU Commission India's enforcement initiatives around safeguarding rights of the owners. These included development work done to foster the objectives of National IPR Policy 2016, reduced pendency on trademarks and further process improvements and plant proctual property rights and farmer's rights. Several countries including India and South Africa are impelling the World Trade Organization (WTO) to temporarily forgo IP and patent rights around vaccines under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council. Under consideration, and if accepted, this can have a far-reaching impact on the future of IP disputes and resolution.

Additionally, adjudicating authorities in India (including the High Court) are likely to continue virtual hearings. With a rise in IPR disputes around counterfeit drugs and health products, the focus would be greater toward resolution of urgent cases soon.

## Resolving disputes in construction and infrastructure projects

In the last few years, claims have become an accepted norm in most high value and complex construction projects. This is mostly when the trade-off among the three principle project parameters - scope, time and cost gets unbalanced, and one of the parameters gets compromised. Claims can morph into disputes when the contracting parties have either different interpretation of the issue or different computation of the compensation for the compromise(s). The current year is expected to see greater growth of the construction and infrastructure sector, led by favourable reforms and schemes under the Union Budget. Consequentially, the sector is also likely to witness an uptick in potential disputes and litigation.

Redressal measures for disputes are usually well outlined in most contracts. The settlement of disputes generally takes the route of conciliation or arbitration after the attempt for amicable settlement fails. Arbitration has emerged as a preferred from of Alternate Dispute Resolution (ADR) in recent times and the trend is foreseen to continue this year as well. Earlier this year, The Arbitration and Conciliation (Amendment) Act, 2021 was notified and received the President's assent. Arbitration offers parties to settle their dispute privately and gives the parties involved power to choose the arbitrator.





## Integrating ESG in compliance and governance frameworks

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As global social and environmental challenges become more intense, increased stakeholder awareness is making organizations consider the need to have robust ESG compliance programmes.



**Yogen Vaidya**  
Partner  
Forensic & Integrity Services, EY



## ESG regulations to gain momentum

Global regulators are rapidly setting the pace to institute global standards of measurement of organizational ESG performance. Today, organizations and their stakeholders are considering ESG concerns as a critical part of the its corporate compliance and governance frameworks. In the coming year, discussions on compliance, ethics and governance are set to gain more prominence around ESG frameworks. One of the key drivers here is the recent announcements by the US Securities and Exchange Commission (SEC) on creating a Climate and ESG Task Force in the Division of Enforcement Division to proactively identify ESG-related misconduct.

The International Financial Reporting Standards (IFRS) Foundation is pushing forward on a proposal to set up an international sustainability standards board that it would oversee, alongside the International Accounting Standards Board (IASB). Earlier this year, the World Economic Forum's (WEF) Davos Agenda 2021<sup>3</sup> also launched a report outlining how to create governance frameworks for ESG standards that aim to strengthen the ability of companies and investors to benchmark progress on sustainability matters, thereby improving decision making and enhancing transparency and accountability. Another key trend is how financial investors are setting up ESG funds, and ESG compliant companies have access to ESG bonds and funds at reduced rates as compared to other companies. In India too, SEBI has made it mandatory for the top 1,000 listed companies to adopt an ESG model, known as Business Responsibility and Sustainability Reporting (BRSR), beginning 2022.

## Societal pressure to heighten ESG awareness

As global social and environmental challenges become more intense, increased stakeholder awareness is making organizations consider the need to have robust ESG compliance programmes. In 2021, societal consciousness around issues such as carbon footprints, zero tolerance toward racial biases and gender equality, safe factory working conditions, and inclusive and ethical cultures will rise further, impacting a wide range of industries. Public participation in these causes and debates will become even more prevalent through the use of social media and other communication platforms.

The repercussions here can be significant and may lead organizations to conduct investigations or proactive reviews to assess its ESG performance. There has already been a spate of recent stories on companies that disregarded health and safety considerations toward their employees and faced reputational and financial damage along with legal actions. This year will also see organizations becoming increasingly familiar with the available tools through which they can engage with their stakeholders and advocate its stance on ESG.

<sup>3</sup><https://www.weforum.org/agenda/2021/01/how-corporate-boards-can-lead-on-esg>

## The link between ethics and ESG programmes

With environmental and social causes gathering steam, companies are embracing ESG initiatives through well-defined ethics and governance policies and procedures. A robust ethics and governance program can also open access to large pools of capital, build a stronger corporate brand and promote sustainable long-term growth which will eventually benefit all stakeholders. In the coming year, organizations are expected to integrate ESG issues with their risk, compliance and integrity programs. Boards will also need to do more and have a proactive approach to keep a check on ESG policies and issues. Organizations would need to stop seeing ESG as a trade-off or a tick in the box exercise, but rather than see how it can serve the needs of the whole ecosystem.

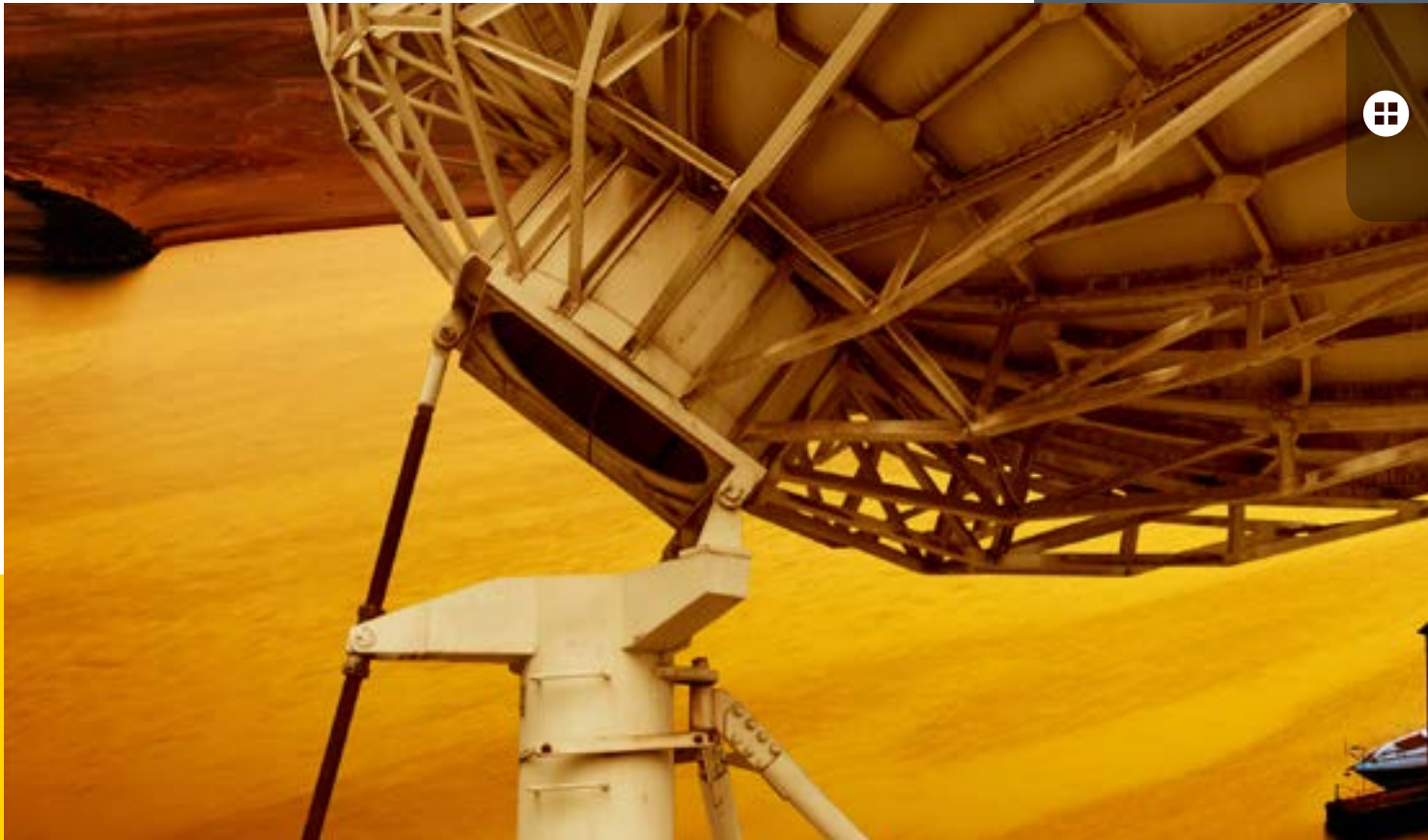
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**Saguna Sodhi**  
Partner  
Forensic & Integrity Services, EY





## Emerging trends

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Digital content will be increasingly exploited by digital “pirates” through many ways and OTT platforms will need can take proactive steps and measure to safeguard revenue and IP.



**Mukul Shrivastava**

Partner

Forensic & Integrity Services, EY





## OTTs and the mammoth digital piracy challenge ahead

As per an EY- FICCI report, “The era of consumer A.R.T. - Acquisition Retention and Transaction”<sup>4</sup>, digital media overtook filmed entertainment in 2019 to become the third largest segment of the media and entertainment (M&E) sector.

Challenges around digital piracy have been plaguing global media companies for several years and over-the-top (OTT) media providers are being increasingly targeted by digital pirates. Last year, work from home saw a spike in mobile and OTT consumption among households. With the trend expected to continue this year, the risk of piracy has multiplied especially as new shows, movies and other content are launched exclusively on OTTs.

Amid the restrictions in the second wave of the pandemic, digital content consumption will soar, and piracy can result in substantial revenue losses for streaming platforms and content companies. Piracy curbs full content monetization and large-scale use of subscription based on demand video services. In the coming months, digital content will be increasingly exploited by digital pirates through many ways such as illegal streaming boxes, peer to peer file-sharing platforms, social engineering attacks as well as exploiting the dark web to share and sell stolen credentials of subscribers. Content companies and OTT platforms will need can take proactive steps and measure to safeguard revenue and IP. This includes building effective anti-piracy monitoring and takedown on the web and digital platforms. They will also need to proactively assess cybersecurity risks at organizational level as well as for external vendors or partners, who are part of the supply chain process of content development.

## Transforming compliance through a Managed Services model

Rising fraud, corruption, anti-trust risks and varied compliance standards across the world can be a challenging ordeal. While some organizations may be agile or possess the requisite skills to overcome these hurdles, many companies are still grappling with the pressing requirements of increased regulatory scrutiny and cost pressure. 2021 will see many organizations turning toward differentiated buying behaviours where they will explore managed services. Compliance, ethics and legal departments will see a shift in mindset and seek to accelerate technology adoption. Organizations will also increasingly turn to differentiated models to bridge gaps in internal capabilities and adopt a more holistic and value-based approach to outsourcing relationships by using managed services. There will be a stronger outlook to derive greater benefits through technology adoption, transformation, centralization and cost control.

<sup>4</sup><https://ficci.in/spdocument/23200/FICCI-EY-Report-media-and-entertainment-2020.pdf>

## Understanding the risk outlook for small businesses

Small and medium enterprises (SMEs) play an important role in most economies and are important contributors to job creation, self-employment and opportunity creation for the new generation. They also play a very important role in sustaining the economy of tier 2 and 3 cities and towns. However, a lot of them lack developed systems, technology, financial backing and skilled manpower; particularly the reason why the impact of COVID-19 has been harsh on SMEs. In their quest to overcome the pandemic induced challenges and strive for growth, risk management and compliance may be overlooked. 2021 should have SMEs refocus on the big picture to not only bridge compliance gaps but also address risks around credit, supply chain, cash flow and cyber-attacks. They should particularly look at managing a healthy cash flow by implementing cost saving measures, curbing revenue leakage, receivables collection, and an overall corporate governance framework. With government tightening the enforcement on lending and non-performing assets (NPA) management, and banks tightening credit policies, the erstwhile methods of window dressing of books for raising finances should be strictly avoided.

Since there are multiple opportunities opening for foreign funding into the SME sector, they should strive to demonstrate efforts around these governance areas in order to be ready to undergo screening and due diligence when required.

## Elevating the integrity of online examinations

The pandemic saw a rapid shift toward digital in the Indian education sector, affecting everything from online classes to examinations. As critical examinations (including recruitment and entrance) were conducted online, institutions and exam conducting agencies were faced with several risks jeopardizing the integrity of exams. In 2021, institutions and exam conducting agencies will have to gear up and outwit fraudsters indulging in malpractices such as candidate impersonation, cheating, collusion (with exam centres), and using unethical agents who offer shortcuts.

The adoption of technology enabled solutions as digital alternatives and stringent measures during the examination process will be a priority this year to curb these rising threats. With digital learning, classrooms and examinations anticipated to continue in the near future, the use of modern technologies such as computer vision, ML, forensic analytics and periodic audits of the security mechanisms can mitigate malpractices during the examination process.

Tech-based tools and solutions can help reduce human involvement and biases, minimize errors in the process and proactively detect instances of unethical practices.



# About EY's Forensic & Integrity Services

Embedding integrity into an organization's strategic vision and day-to-day operations is critical when managing complex issues of fraud, regulatory compliance, investigations and business disputes. Our international team of more than 4,000 forensic and technology professionals helps leaders balance business objectives and risks, build data-centric ethics and compliance programs, and ultimately develop a culture of integrity. We consider your distinct circumstances and needs to assemble the right multidisciplinary and culturally aligned team for you and your legal advisors. We strive to bring you the benefits of our leading technology, deep subject-matter knowledge and broad global sector experience.



## Let's talk

For help and more information, please contact one of EY Forensic & Integrity Services' leaders.

### Arpinder Singh

Global Markets and India Leader  
Email: arpinder.singh@in.ey.com



### Yogen Vaidya

Partner  
Email: yogen.vaidya@in.ey.com



### Vinay Garodiya

Partner  
Email: vinay.garodiya@in.ey.com



### Sandeep Baldava

Partner  
Email: sandeep.baldava@in.ey.com



### Dinesh Moudgil

Partner  
Email: dinesh.moudgil@in.ey.com



### Saguna Sodhi

Partner  
Email: saguna.sodhi@in.ey.com



### Vivek Aggarwal

Partner  
Email: vivek.aggarwal@in.ey.com



### Jagdeep Singh

Partner  
Email: jagdeep.singh@in.ey.com



### Prashant Behl

Partner  
Email: prashant.behl@in.ey.com



### Mukul Shrivastava

Partner  
Email: mukul.shrivastava@in.ey.com



### Amit Rahane

Partner  
Email: amit.rahane@in.ey.com



### Kulbir Kaur

Partner  
Email: kulbir.kaur@in.ey.com



### Anurag Kashyap

Partner  
Email: anurag.kashyap@in.ey.com



### Vikram Babbar

Partner  
Email: vikram.babbar@in.ey.com



### Avantika Ghildyal

Vice President - Marketing & Communications  
Email: avantika.ghildyal@in.ey.com



### Rajiv Joshi

Partner  
Email: rajiv.joshi@in.ey.com



### Harshavardhan Godugula

Partner  
Email: harshavardhan.g@in.ey.com



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