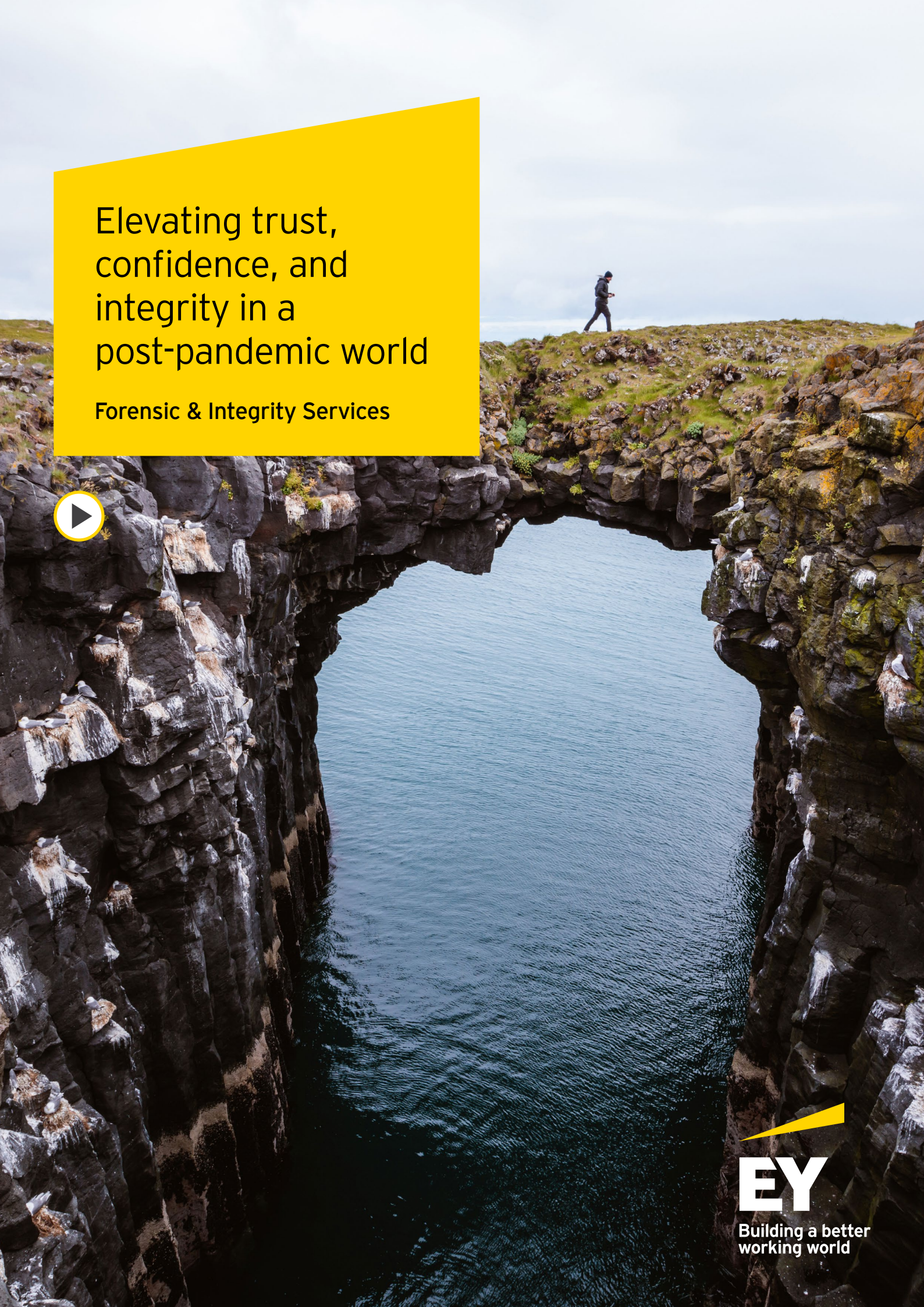
Elevating trust, confidence, and integrity in a post-pandemic world

Forensic & Integrity Services



EY

Building a better working world

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Introduction

India's economic climate remained largely unpredictable in the second year of the pandemic as mutant strains of the rogue virus continued to impact businesses that were only beginning to recover after the initial disruption. Even as companies put up a brave front in the face of adversity, an upheaval in the work environment was further complicated by an already precarious risk landscape, leading to increased fraud and compliance concerns. According to EY's Global Integrity Report 2022, 55% of global respondents believed that standards of integrity had either stayed the same or worsened over the last 18 months.

As companies eke out the beginnings of a better working world, they will be looking at investing in building a robust ethical and risk management framework to reap long-term business benefits. A renewed focus on the Environmental Social and Governance (ESG) agenda will become a major differentiator as organizations strive to align their vision, values, obligations, and expectations across all three parameters. With stakeholders and investors demanding more transparency, and regulatory bodies ramping up enforcement action, achieving good corporate governance will take precedence. Independent Directors will shoulder additional responsibilities to improve companies' integrity standards. Organizations will continue to accelerate their digitization journey to enable business and compliance transformation. The space of cryptocurrency and non-fungible tokens (NFTs), though a booming area, should be approached with caution, considering the associated risks, volatility, and regulatory apprehensions.

With the fintech space growing by leaps and bounds and the use of digital assets gaining traction, new age technologies such as automation, artificial intelligence (AI) and machine learning (ML) will be leveraged to a develop strong financial crime (FinCrime) compliance programs and Know Your Customer (KYC) programs. Cyber risks are also expected to escalate, and greater efforts should be made toward enterprise security frameworks and educating the C-suite on improved cyber hygiene. The e-commerce sector, too, will witness concentrated efforts to protect the data of consumers.

As businesses continue navigating choppy post-pandemic waters, EY's Forensic Outlook 2022 takes note of significant factors that will shape the way organizations function in a rapidly changing compliance and regulatory landscape.

Arpinder Singh
Global Markets and India Leader
Forensic & Integrity Services, EY

Corporate ethics and governance at the forefront in India Inc.

Ethical leadership can pave the way for start-ups and family-led businesses

The astronomical rise of start-ups, and founder and promoter-led businesses in India, has the potential to chart a trajectory of exponential growth over the next few years. Start-ups and family-led businesses that pride themselves on the trust capital they have accumulated, or those trying to build a robust one, will benefit from formulating an ethical leadership strategy and roadmap to assure stakeholders of their commitment toward the company. Recognizing the heightened integrity challenges that are being faced today, these companies stand to gain from investing in forging good business ethics and governance framework. Leaders will have to cultivate a culture of integrity, drive transparency in operations and processes, and proactively engage with all stakeholders, particularly their investors.

In 2022, founders, promoters as well as board members may focus on sound corporate governance and ethical practices by leading from the front, especially in the face of crisis. They can also consider implementing strong risk management frameworks encompassing internal controls and anti-fraud reviews, mitigate conflict of interest scenarios and third-party risks, and develop stronger privacy and cyber response to achieve regulatory and ESG compliance. At the same time, investors will seek to increase shareholder confidence by overseeing both financial and non-financial aspects of the organization, including the management's track record, and demand greater accountability and ownership.

Transforming compliance and ethics with Managed Services

A flurry of improved global and local regulations is increasing the pressure on companies, with operational requirements going up manifold. For example, the European Union's (EU) Whistleblowing directive outlines strengthening measures to protect whistleblowers against retaliation and fostering a culture of transparency by facilitating internal and external reporting of wrongdoings. The International Financial Reporting Standards issued by the US banking regulators on the financial statements of public companies are intended to bring uniformity and consistency. In the year ahead, organizations will have to explore new and pioneering business models to stay abreast of these developments, resolve key business issues, improve regulatory compliance, and implement and monitor policies.

Companies will look at a Managed Services model to tackle complex legal, regulatory, privacy, and compliance concerns; enhance litigation preparedness and automate and digitize processes for better insights into data. This way, compliance, legal and ethics teams can continue to focus on their core and strategic objectives while centralizing day-to-day operations through external teams in areas such as compliance operations, eDiscovery, whistleblowing, anti-money laundering (AML), third party due diligence, and investigations for higher efficiency and create greater value.

> "A Managed Services model will help companies address various challenges, navigate the choppy regulatory waters as organizations operate in an increasingly hybrid working world with mounting cost burdens.

Amit Rahane

Partner
Forensic & Integrity Services, EY

Reimagining the workplace culture in Global Capability Centers (GCCs)

GCCs in India have been a remarkable force in driving innovation and operational efficiency. A GCC model brings together several people, from different organizations, departments and processes, and outlook, under one umbrella. There is tremendous collaboration and coordination required to achieve business success. However, the absence of an integrated and purpose-driven culture can emerge as a major impediment for organizations and potentially lead to ethical lapses or even misconduct. This is particularly concerning as the churn rate of GCCs has climbed up over the years, with the pandemic providing it another boost as the distinction between onshore and offshore rapidly diminishes. In 2022, it will be imperative for GCCs to nurture a uniform culture within that focuses on ethics and is in line with their organizational vision.

> The cultural alignment will help foster a holistic, inclusive, and sustainable workplace and help raise integrity standards.

ArunBalaji A

Partner
Forensic & Integrity Services, EY

Interestingly, EY's GCC Pulse Survey 2021 highlights that 76% of GCC leaders believe they need to improve their ability to attract and retain talent. Tackling culture imbalance can be a strong enabler to arrest attrition rates, promote good workplace ethos, create an environment of trust, and draw new and skilled talent that would be with the organization for the long haul.

Ramping governance before the initial public offering (IPO) journey

The number of companies taking the IPO route to raise fresh funds has seen an explosive rise in India, with a substantial amount of investment being pumped into promising ventures. Data presented by The Economic Survey pegs it at INR 89,066 crore –a record high for this decade. With the growth trajectory expected to remain on an upswing this year, it will be critical for companies to embrace and implement good corporate governance practices ahead of launching an IPO.

Enhanced mandatory corporate governance policies encompass a Code of Conduct, whistleblowing framework (or vigil mechanism), Director's Independence Policy, corporate social responsibility (CSR) policy, grievance redressal mechanism, anti-fraud as well as anti-bribery and anti-corruption (ABAC) policies. Adhering to these regulatory requirements has become pivotal to successful IPOs and will not only help build faith in prospective investors but also in existing stakeholders within the organization. Strong governance, transparency in operations, and ethical leadership can positively impact organizational growth and increase the bottom line, investor confidence, share prices, and valuations.

Independent directors to steer organizational integrity and sustainability

Independent directors are duty-bound to ensure transparency in a company's financial statements and operations by virtue of their appointment on key Board Committees such as the Audit Committee, CSR Committee, Remuneration Committee, and others. A string of regulatory changes, including stringent fraud reporting and an emphasis on compliance with ESG norms has catapulted independent directors' role to new heights.

As ESG becomes of the essence, many organizations will form specific committees of the board, whose responsibility will be not just to tick the box of regulatory compliance but also to enhance value and transparency, drive governance, and monitor the impact for its stakeholders.

Going forward, independent directors may also have to oversee timely and accurate disclosures as per the Securities and Exchange Board of India's (SEBI) new ESG reporting norms proposed in the Business Responsibility and Sustainability Report (BRSR). This would entail having deeper knowledge of the key developments in a company and questioning the conduct of the management on appropriate issues, such as whistleblowing, fraud reporting, anti-corruption initiatives, cybersecurity, and anti-trust, among others.

> "In 2022, good corporate governance and risk mitigation will be key parameters in the sustainability agenda, making the role of independent directors even more crucial now.

Sandeep Baldava

Partner
Forensic & Integrity Services, EY

Shaping a resilient ESG strategy through disclosures, compliance and reporting

Bolstered regulatory enforcement

ESG compliance has been climbing up the list of priorities in organizations' board agenda. Over the past two years, the ESG regulatory landscape has undergone a major overhaul. The introduction of the Securities and Exchange Commission's (SEC) Climate and ESG task force to proactively identify ESG-related misconduct, and its statement this year in the Examination Priorities report reiterates the need for a measured approach around ESG claims, and other disclosures. The implementation of SEBI's mandate to listed companies to include the BRSR in their annual reports on the stock exchange from 1 April indicates the regulatory body's commitment toward the formal implementation of ESG programs. SEBI requires companies to not only identify ESG risks, but also detail their mitigation strategy and contingency plans.

The year ahead will witness more oversight and stringent enforcement measures being taken against companies that fail to comply with these standardized as well as comprehensive disclosure requirements. Instances of misconduct, likely to be highlighted through whistleblower complaints, will lead to evaluation and pursual of tips to undertake corrective measures and stay on course. Going forward, penalties may be levied on the breach of ESG norms, and misconduct will be fined, as disclosure and reporting become mandatory across the globe. The streamlining of regulations will help the swifter integration of ESG principles into the investment process and further the sustainability agenda.

Rethinking corporate governance in ESG

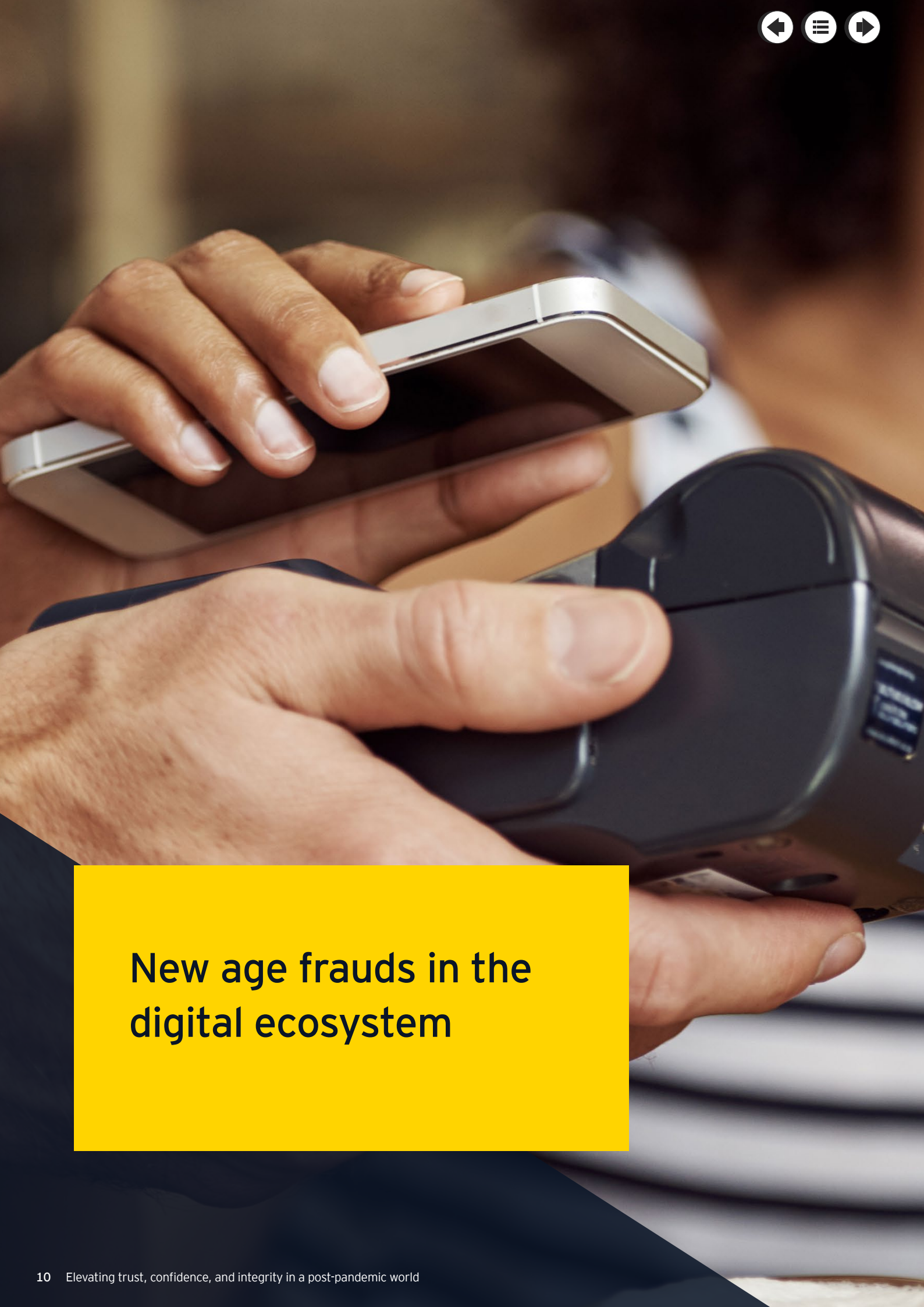
According to the World Economic Forum's (WEF) Global Risks Report 2020, the top five global risks have shifted dramatically from economics to environmental and societal both in terms of likelihood and impact over the last decade. The future will witness boards coming together to identify global compliance parameters according to three of the United Nations' 17 Sustainable Development Goals that are aligned to the principles of governance as invoked by the WEF's International Business Council. In the coming months, good corporate governance, and ethics in ESG practices will be characterized by incorporating measures to ensure compliance voluntarily instead of being pressured into it by regulatory bodies and stakeholders.

> Some of the key elements of good governance will be setting up separate ESG teams that will go beyond just meeting regulatory compliances, by understanding business mechanisms, identifying hurdles in the implementation of good ESG practices, and empowering whistleblowers.

Yogen Vaidya

Partner
Forensic & Integrity Services, EY

According to an EY survey, 98% of investors surveyed evaluate non-financial disclosures, either formally or informally, and company boards are already discussing ESG as a marker of progress in their meetings. A major differentiator and true indicator of success will be an organization's capability to focus on developing all three elements of the ESG agenda simultaneously, which can be achieved by adopting good governance practices.



New age frauds in the digital ecosystem

Improving security in NFTs

The world's curiosity and attention toward NFTs or non-fungible tokens intensified over the last year, making them increasingly popular with consumers, influencers, and companies alike. 2022 will see a rise in NFT-led transactions because of the uniqueness and exclusivity of these digital assets. With more exposure and exploration of the metaverse, NFTs are also likely to witness a significantly higher acceptance and usage. At the same time, cybercriminals are increasingly looking at NFTs as a lucrative option and are likely to target them. Other potential challenges that users can face include the sale of fake items, unauthorized sale by agents through fake websites, phishing, networks facilitating the sale of NFTs being hacked, KYC non-compliance, and money laundering.

The year ahead will see a greater emphasis on improving the security of these smart contracts and presenting solutions to vet the authenticity of the product and seller's reputation. Governments across the world are also likely to introduce specific regulations, directives and guidelines that will bring greater clarity on operating in NFT marketplaces and protecting consumer interests.

> "In the coming year, the crypto crime graph will continue to climb due to the sheer number of transactions conducted, and the probability of funds being used for terrorism, ransomware attacks, fuel tax evasion, and cybercrimes around the world.

Mukul Shrivastava

Partner
Forensic & Integrity Services, EY

Unraveling the risks behind cryptocurrency

Over the past few years, cryptocurrency has found growing acceptance among those seeking non-traditional investments. A digital economy and millennial mindset have spurred even cautious investors to test the highly volatile and largely unregulated space of cryptocurrency. The taxation of crypto transactions, announced in the budget earlier this year, is being read as a move toward acceptance, but the bill regulating it is yet to be tabled in the Indian Parliament. Lacking the safety net of regulatory actions, cryptos continue to be a risky proposition. In the past year itself, a multitude of crypto crimes hit headlines. Be it in the form of Ponzi money doubling schemes, mining schemes, fake wallets, or duplicitous Initial Coin Offerings (ICO)—several unsuspecting victims have fallen prey and lost their cryptos to fraudulent ploys.

There is a pressing need to create higher consumer awareness when considering a cryptocurrency investment. On the other hand, organizations looking at cryptocurrency as an option for digital transactions should also recognize the risks it comes with. While reduced transaction fees and convenience will be attractive factors, organizations – whether large or micro, small and medium enterprises (MSME) will have to become smarter in using crypto wallets. They will have to train staff when implementing it as an accepted means of payment, watch out for AML and KYC concerns, security, massive market volatility as well as the fact that it is it not regulated.

Neutralizing cyber-attacks in a hybrid digital world

In the past year, an alarmingly large number of cyber-attacks such as ransomware attacks, phishing, smishing, and business email compromise have threatened companies and their management. Remote working also saw cybercriminals targeting the C-suite due to weak IT controls over personal devices that were used. The year ahead will witness a rise in bad actors continuing to target the C-suite considering the prominence, responsibility, access to confidential information, and decision-making authority that the senior management of an organization holds. IT and security teams will have to educate the C-suite about the potential risks emanating through their personal devices and accounts in a hybrid working world and set up robust cyber defenses to identify potential breaches and nip it in the bud. For instance, there should be strong technological safeguards in email and other accounts with multiple firewalls and security layers as well as protected work profiles to minimize business email compromises where the information could end up being sold on the dark web.

> "The potential compromise of data on the cloud as companies continue their journey toward digitalization is another threat that CISOs and CIOs would need to proactively address.

Harshavardhan Godugula
Partner
Forensic & Integrity Services, EY

Implementation of data loss prevention solutions can be a proactive step towards averting possible breaches. The industry can also expect more action on the regulatory front, starting with the National Security Council Secretariat (NSCS) drafting a comprehensive national cybersecurity strategy to mitigate cyber risks.

Averting data leaks in e-commerce companies

Prioritizing data security, protection, and privacy is key to a thriving economy. Given the sensitive nature and risks involved in data collection, storage, processing, and disposal, several countries around the world have already introduced stringent laws to protect private or sensitive public data from commercialization and misuse. The e-commerce industry that has been riding the digitization wave is at an increased risk of data leak due to high demand of such information for phishing scams, ransomware, and sell-out to competition. Scamsters and cyber fraudsters operating in this space may siphon off intimate details of consumers including their personal identifiable information (PII), and transaction details from multiple sources including, but not limited to, unethical employees, compromised or weak systems, and cyber-attacks.

Maintaining a data inventory, isolating sensitive data, encrypting personal information, implementing a comprehensive cyber framework to secure all assets across all locations, regular checks, along with a two-factor authentication and password-less operations are some steps that e-commerce companies would want to take to secure their data ecosystem. Taking proactive measures such as identifying possible vulnerabilities in IT infrastructure and addressing them, constant monitoring of audit logs, and comprehensive analysis of the records of those accessing the database including employees and third parties are among many steps that will help e-commerce companies avoid risking reputation and financial loss in the event of a breach or a leak. This would help companies assure customers of their commitment to the safety of customer's information.

> In 2022, e-commerce companies should consider implementing controls and systems to account for the complete lifecycle of all the information in their possession.

Prashant Behl

Partner
Forensic & Integrity Services, EY

Dispute resolution and Competition law hurdles

Fast-tracking dispute resolution in the infrastructure sector

The growth of India's infrastructure sector over the years has often led to an influx of investment opportunities. However, this has also been impacted by potential litigations due to the inherent nature of the infrastructure sector which involves complex engineering projects, long project lifecycles, difference in planned and actual scenarios, delay in approvals, acquisition of land, etc., along with disputes, and claims that are already running into crores. One of the imperatives this year would be to make adequate changes not only in the structure of contracts but also reforms in legal frameworks to avoid stifling any growth opportunities in the sector at this time of rapid infrastructure development. This will positively impact the sustainability of the infrastructure companies from profitability, financial liquidity, and health standpoint. Another important step would be resolving disputes out of court—a growing norm of late. This will call for both parties to play on equal grounds. Since the infrastructure industry relies on speed, dispute resolution will have to catch up and fast. The year ahead will witness initiatives toward reducing the time taken to resolve these disputes.

Overcoming anti-trust and competition law hurdles

Recent enforcement actions by the Competition Commission in India (CCI) have reinstated that India Inc. requires an understanding of the distinction between trade practices and a competitive, compliant way of trade. Educating management as well as employees to avoid any anti-competitive behavior is crucial. Issues such as price-fixing, bid-rigging, antitrust risks, supply chain relationships, fines, and penalties need to be explained to employees across levels. Multiple checkpoints/controls will make it easier for the company to ensure compliance instead of relying on a single person or a special committee in charge of compliance. Organizations will want to inculcate a sense of responsibility in every employee such that they contribute to the strengthening of the compliance framework. Creating awareness of relevant laws and regulations among the workforce will also enhance the governance framework where employees can report or raise concerns in case of breaches or non-compliance.

Sectoral outlook

Automotive sector

Easing operational pressures

The Indian automotive (or auto) sector was faced with several unique challenges last year as a result of modified business models, including shared mobility, focus on electric vehicles (EV), supply chain disruptions, availability of skilled labor and the speed needed to adopt technology. This further had a cascading effect on the complete automotive value chain system, including the original equipment manufacturers (OEMs), component manufacturers, and tiered level vendors.

> “2022 will have the automotive industry focusing on tiding some key challenges that includes sourcing credible data and information related to third parties, and thereby focusing on enhanced and far stronger risk mitigation plan based on vulnerability and capability assessments.

Saguna Sodhi

Partner
Forensic & Integrity Services, EY

Additionally, the sector has been increasingly questioned on the resilience of the ecosystem, with many companies re-looking the process of prioritizing and quantifying the risks faced.

The automotive industry in the following years will also continue to see cyclical pressures on sales while the regulatory scrutiny will gain momentum. In such times, the focus on keeping compliance at the zenith of doing business is going to throw challenges for the industry to embrace and address proactively.

Gaming sector

Battling bots and cyber risks

Currently valued at $1.8 billion, the Indian online gaming sector is expected to become a $5 billion industry over the next three fiscal years, according to a report by Sequoia India and Boston Consulting Group. The growth and employment opportunities in animation, visual effects, gaming, and comics (AVGC) are expected to soar this year. The announcement of a task force being set up to promote the sector is likely to further give it a fillip and pave the way for more regulatory reforms.

The year ahead will also see investors pouring in more funds into the sunrise sector as it looks poised to proliferate and mitigating threat factors will be vital. The online gaming sector will have to implement security measures—right from the coding level which should be done using global leading practices, to authentication mechanisms, and even user endpoint protection—to thwart rising cyber and bot attacks, improve AML and KYC compliance and protect user data. This year, gaming companies and associations may benefit from adopting self-regulation measures to boost the confidence of gamers and other stakeholders. This will mean adopting more technology-based, secure, and extended reality solutions, streaming services, blockchain technology, and NFTs.

Fintech sector

Digital validation and verification for KYC compliance to be a top priority

Emerging technologies such as AI, ML, blockchain, and the rise of digital assets are shifting the tides in favor of digital transactions over traditional ones. The pandemic has accelerated this further. As customers diversify their investment portfolios, regulators are striving to stay abreast with the newest technological breakthroughs to modify and develop a sound and sufficient fintech legislation. In the coming year, the fintech space will be characterized by the integration of emerging technologies and processes through automation as KYC compliance will be imperative. Since KYC is the first step in building a robust FinCrime compliance program, automating the process will not only reduce the scope of errors, but also help in identifying rogue customers providing manipulated information.

It will also result in methodical record-keeping for a smooth audit and help educate employees on updated policies. An efficient KYC program, when in line with the law and empowered by the latest technology for fraud management, compliance frameworks, customer care, and loan decision-making to manage and control risks, can prove to be a competitive differentiator for fintech start-ups. The interdependence of KYC and fraud prevention measures will drive fintech to build strong identification and background check procedures. The fintech sector can also implement comprehensive risk management practices internally to address the potential issues emerging from the automation of processes.

> “A swift, diligent, and mechanized KYC process will facilitate constant monitoring and due diligence, with the provision to raise an alarm and report suspicious customers internally and to regulators in a timely manner.

Vikram Babbar

Partner
Forensic & Integrity Services, EY

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

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

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

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

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

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

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

Arunbalaji A
Partner
Email: arunbalaji.a@in.ey.com

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

Avantika Ghildyal
Associate Director – Marketing & Communications
Email: avantika.ghildyal@in.ey.com

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

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