The Foreign Corrupt Practices Act in India: Preventing Violations

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Introduction

- India's risk profile — some key factors
- A comparative view — India versus other big emerging market countries

Three Key Areas

- Non-equity third-party relationships
- Mergers, acquisitions, joint ventures and portfolio investments
- Operational issues

Third-Party Relationships (Non-Equity)

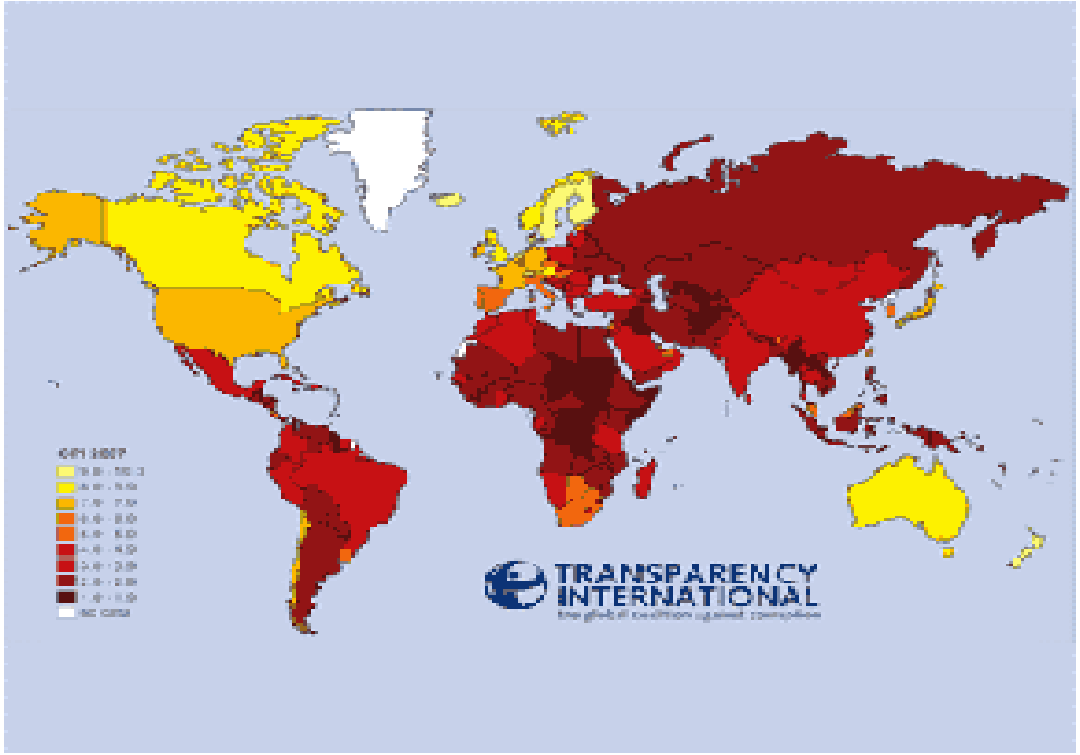
- Agents, consultants, representatives, distributors, resellers
- The FCPA's third-party liability standard: knowledge, authorization, furtherance
- Compliance obligations:
  - Preventive measures at the engagement stage
    - Due diligence
    - Contractual safeguards and training
  - Post-engagement oversight
  - Best practice implications of recent enforcement actions

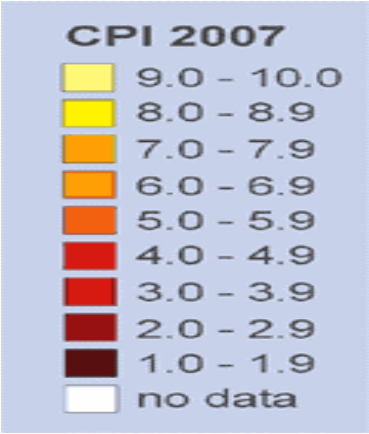
Equity Transactions

- M&A Transactions and successor liability risks: the *Baker Hughes* example
- Joint ventures: of local partners, consortia, and majority versus minority investments
- Portfolio investments

The Continuing Challenges

Transparency International 2007 Corruption Perceptions Index





Operational Issues

- Third parties, again: lawyers and other professionals, customs brokers, tax advisors
- Dealing with regulatory bodies
- Dealing with the courts and legislators

Conclusions

- When not if as the likely scenario
- Direct and indirect liability risks abound
- Standards, training and oversight — keys to an effective compliance