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INDO-US ECONOMIC RELATIONSHIP: EXPECTATIONS, APPREHENSIONS & SOLUTIONS

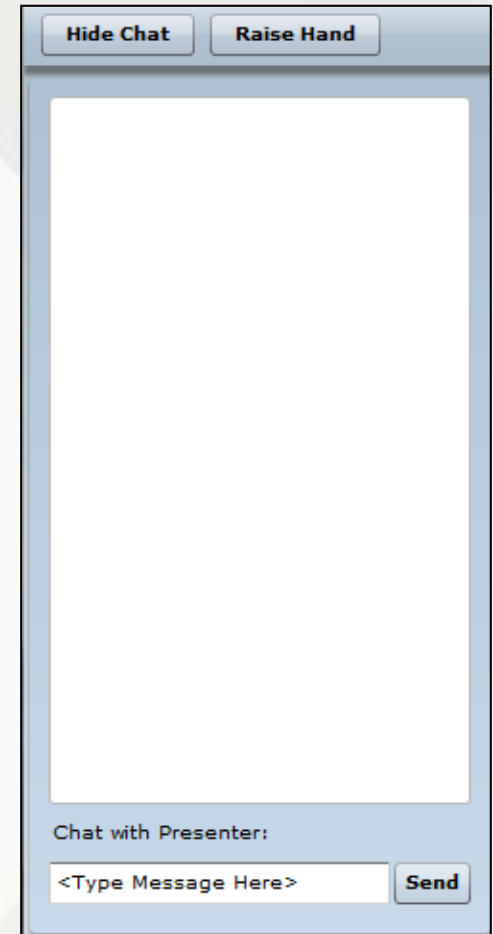
KHAITAN & CO | 21 OCTOBER 2015

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Decrypting the India opportunity

Bengaluru

Kolkata

Mumbai

New Delhi



India today

- World's #1 FDI destination
- Annual growth projected to overtake China by 2016
- Improving macro-economics, ongoing liberalization
- Carte blanche for a majority government
- Streamlined policy framework to simplify 'ease of doing business'
- Increasing alignment with global standards



Past growth has transcended defining phases

Phase I	Phase II	Phase III	Phase IV
Technology	Manufacturing	Infrastructure	Consumerism
			
			



Driving the next phase of growth

Flagship programs launched by government creating a host of opportunities

Make in India

- Promote local manufacturing across specific industry sectors
- Simplify existing regulations
- Reform existing labour laws

Digital India

- Provide nationwide digital access
- Develop India's e-governance systems
- Investment: \$70 billion over next 5-10 years

Smart Cities

- Develop 100 Smart Cities by 2020 under PPP model
- Key features – Digital infrastructure, best urban planning
- Investment: \$30 billion over the next 5 years

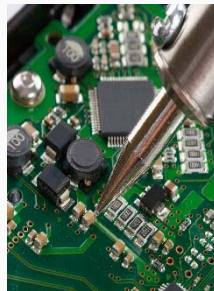
The 'sunrise' sectors



Defence



Pharma



Technology



Energy



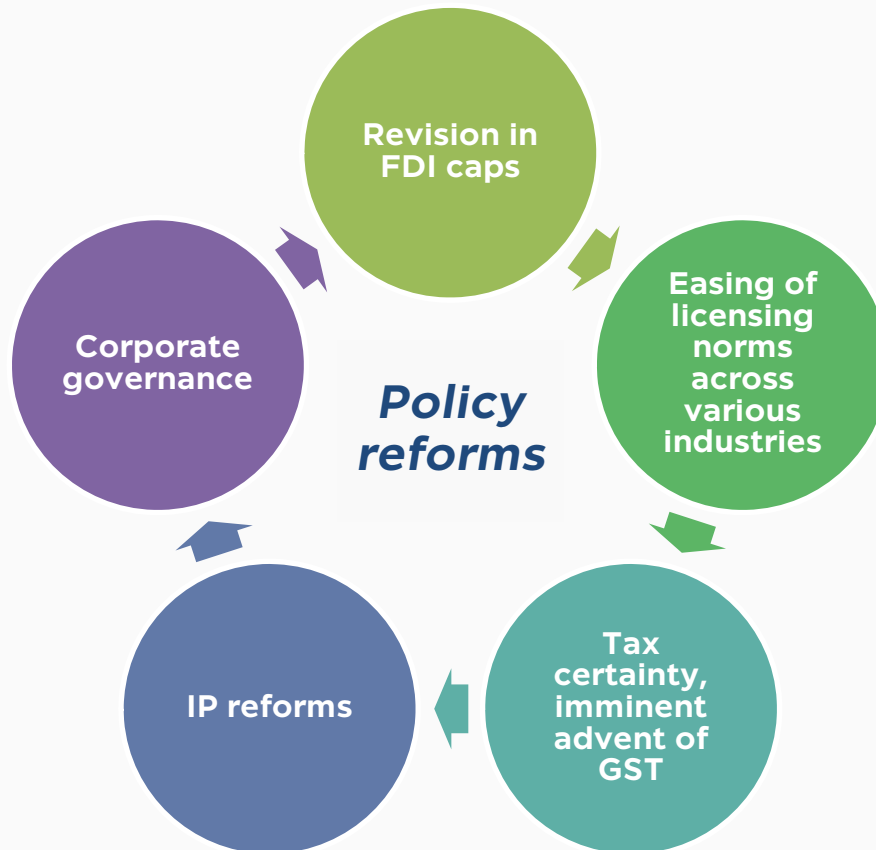
FMCG



Private Equity



Policy reforms complementing economic growth



Key challenges

- 1 Corruption and white collar crimes
- 2 Compulsory licenses and patent infringements
- 3 Labour Reforms
- 4 Transfer pricing and tax issues
- 5 Litigation and dispute resolution



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M&A Outlook

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Mumbai

New Delhi



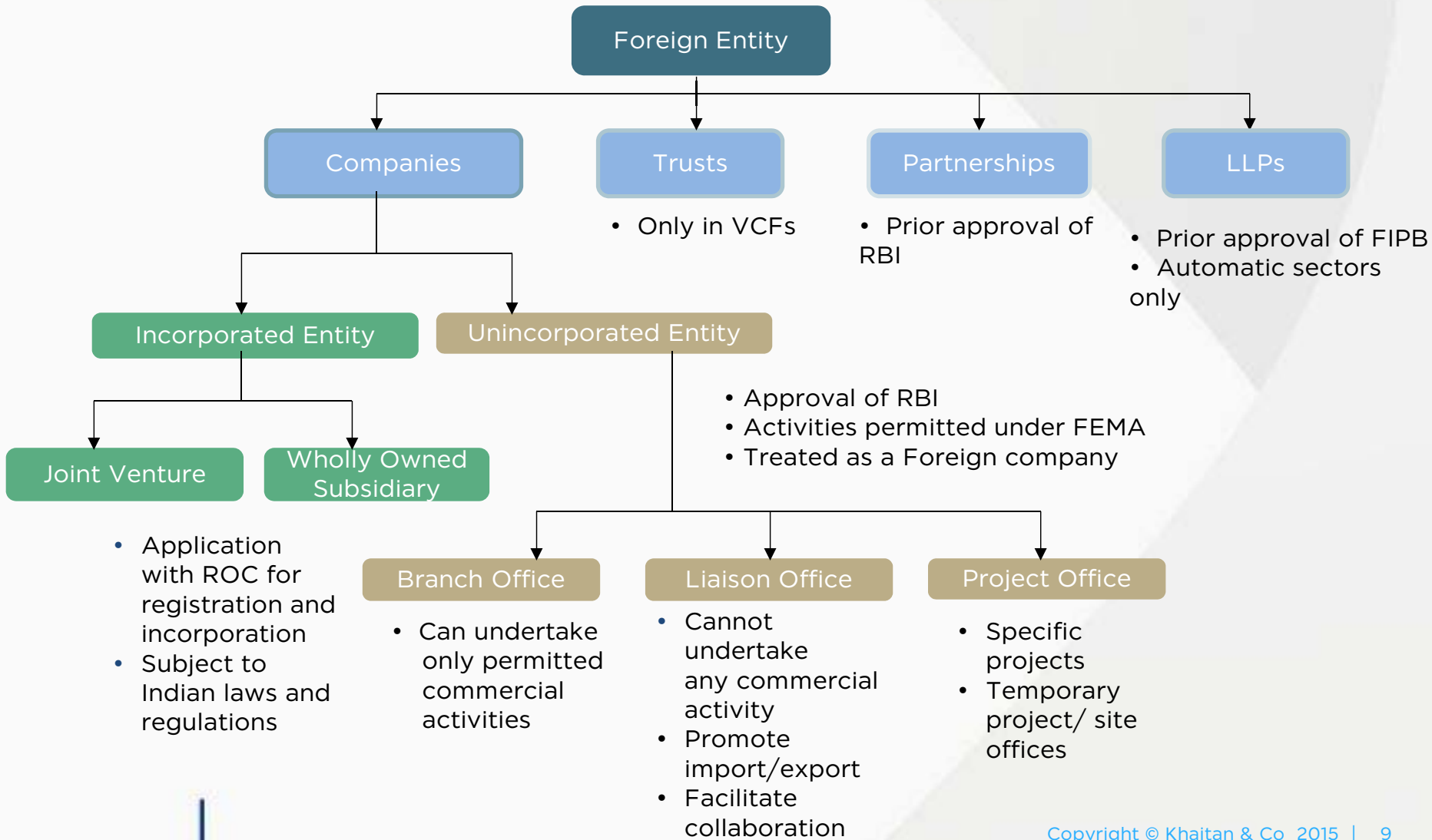
Foreign investment regime

- 100% FDI is permitted in all sectors, except:
 - Prohibited sectors where no foreign participation is allowed; and
 - Certain sensitive sectors which have caps on the percentage of foreign ownership.
- FDI in sectors which have caps can be made under:
 - Automatic route; or
 - Approval route.
- Non-residents are permitted to invest both in equity and debt. Capital instruments that can be issued to a non-resident under the FDI route are:
 - Equity Shares;
 - Compulsory Convertible Preference Shares (CCPS); and
 - Compulsory Convertible Debentures (CCDS).
- All other capital instruments are considered as debt and are governed by the ECB guidelines.



India entry options

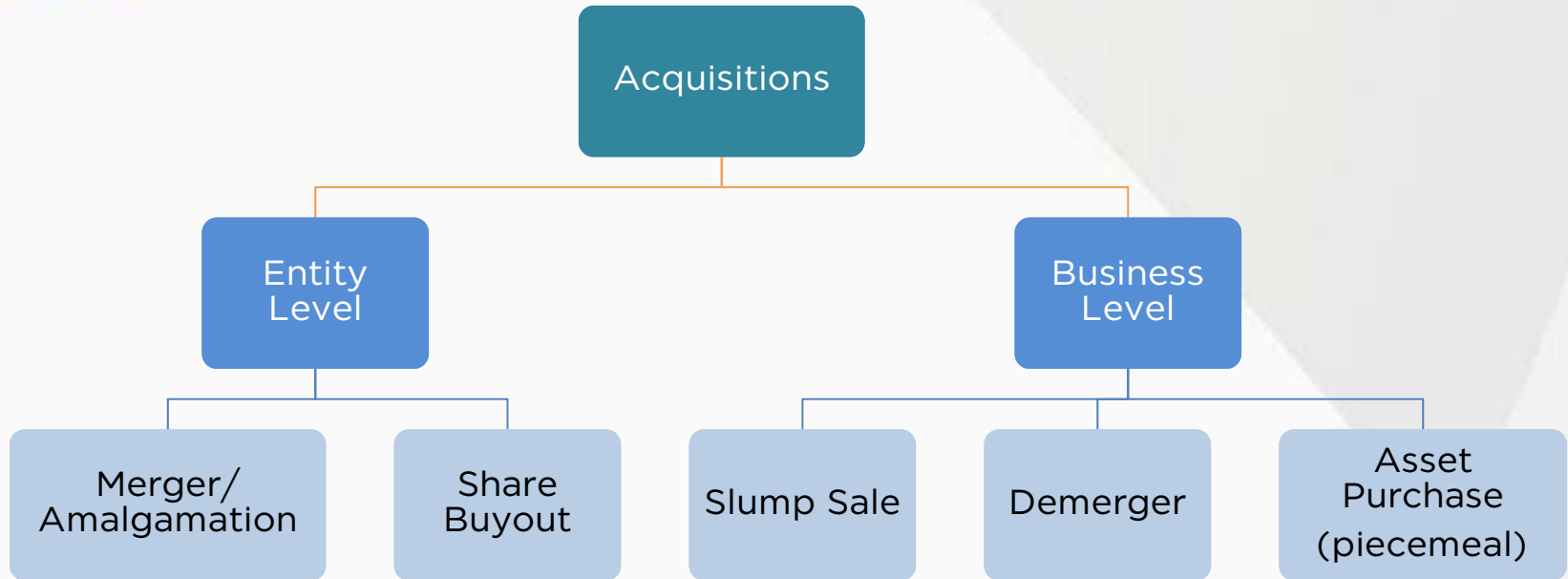
Target classification





Mergers & Acquisitions

Key considerations



COMMERCIAL CONSIDERATIONS

- Funding
- Value addition
- Business objectives
- Deal size and other commercial parameters

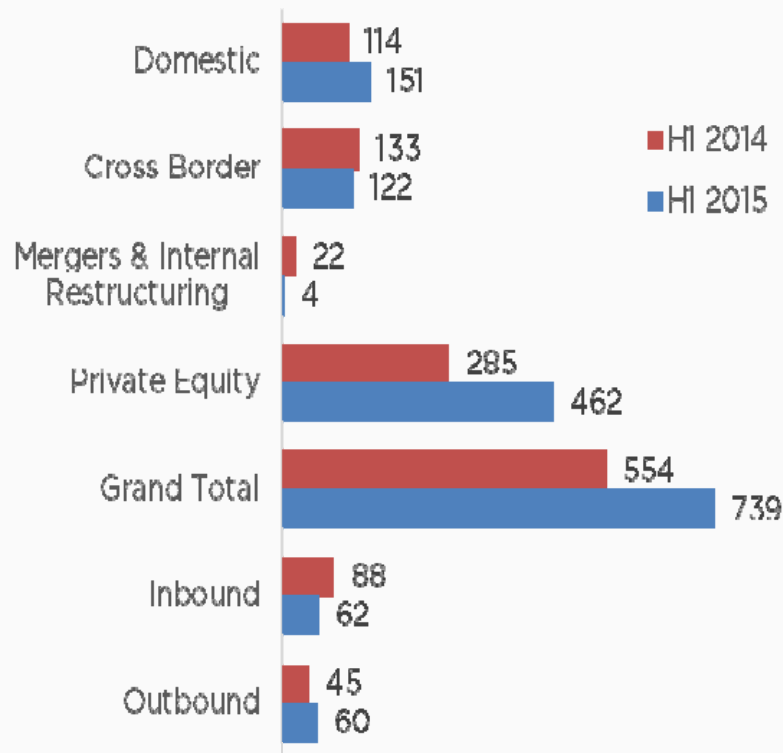
TAX CONSIDERATIONS

- Tax certainty
- Minimum India tax cost
- Tax efficient exit
- Tax efficient income repatriation



View from the Deal Street

Deal Summary India - H1 2015 v/s H1 2014



Watch-out Issues

Pricing

Exit Pricing

Deferred Consideration/
Escrow

Put & Call Option

Share Swap

Mandatory Open Offer

Enforcement

Withholding Tax



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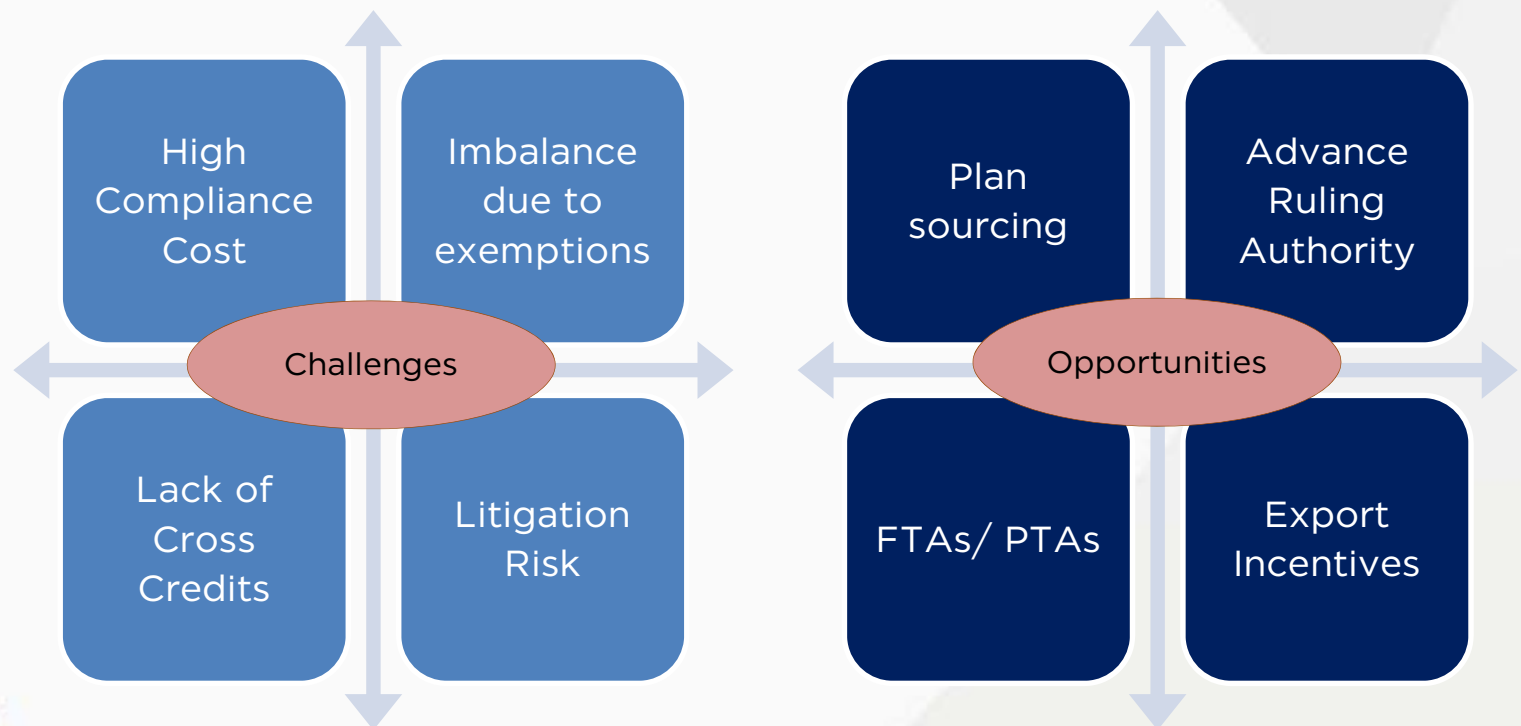


Taxation issues impacting investment decisions



Deciphering indirect tax regime in India

- Approximate impact of Indirect taxes on cost - 30% on goods and 25% on services
- Federal Indirect tax regime
 - Central government collects taxes on import, manufacture, services and interstate trading of goods.
 - State government on manufacture of a few goods and trading of goods





Deciphering direct tax regime in India

- Residents taxed on worldwide income, non-residents taxed on Indian sourced income
- Effective tax rates:
 - Indian company - approx. 48% (including base rate of 30%, DDT of 20% and surcharge and cess);
 - Foreign company - approx. 43% (income attributable to a taxable presence, other sources)
- Special regime for Foreign Portfolio Investors and funds sector
- Key areas of concern:
 - Double taxation on exit
 - Dispute & litigation risk
- Strategic decisions:
 - Tax treaties
 - Repatriation methods
 - Advance Pricing Agreements



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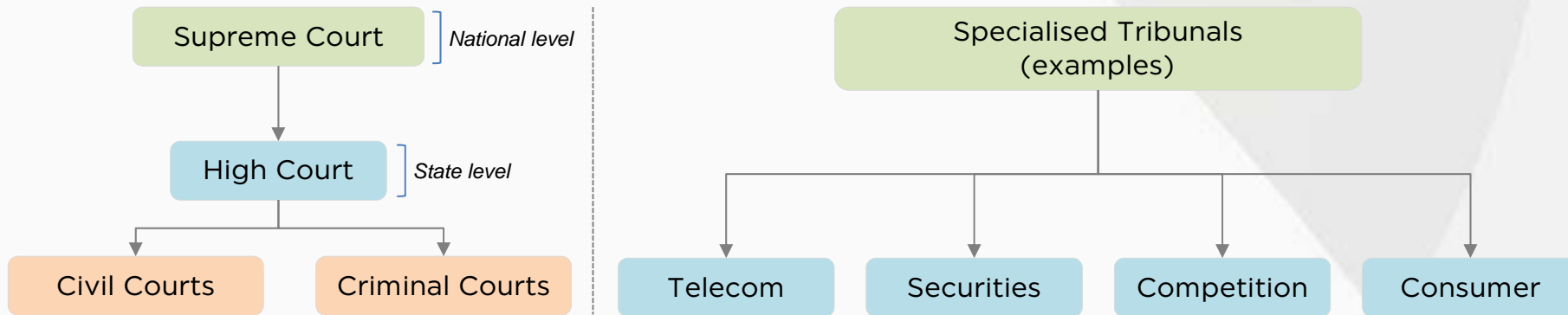


Understanding litigation and white collar crimes risks



Dispute Resolution in India

Dispute Resolution Landscape

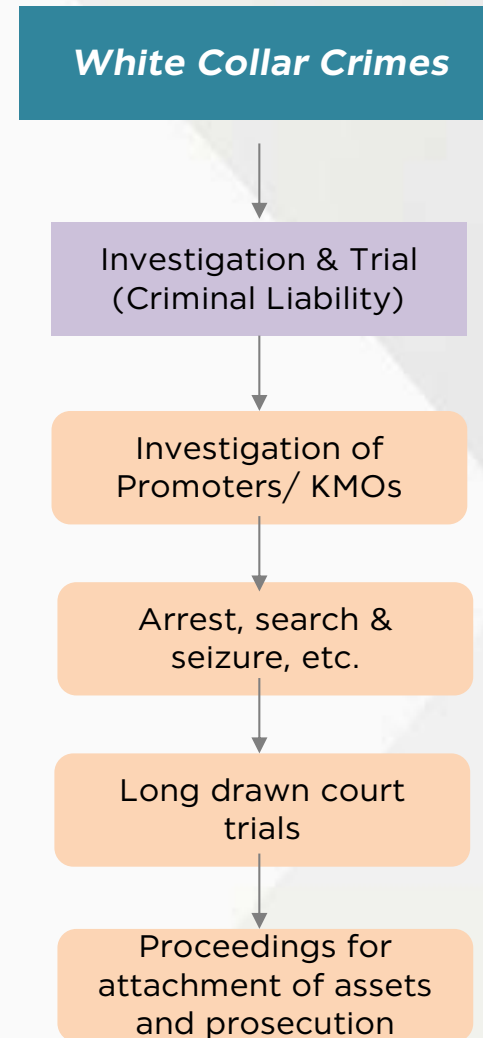
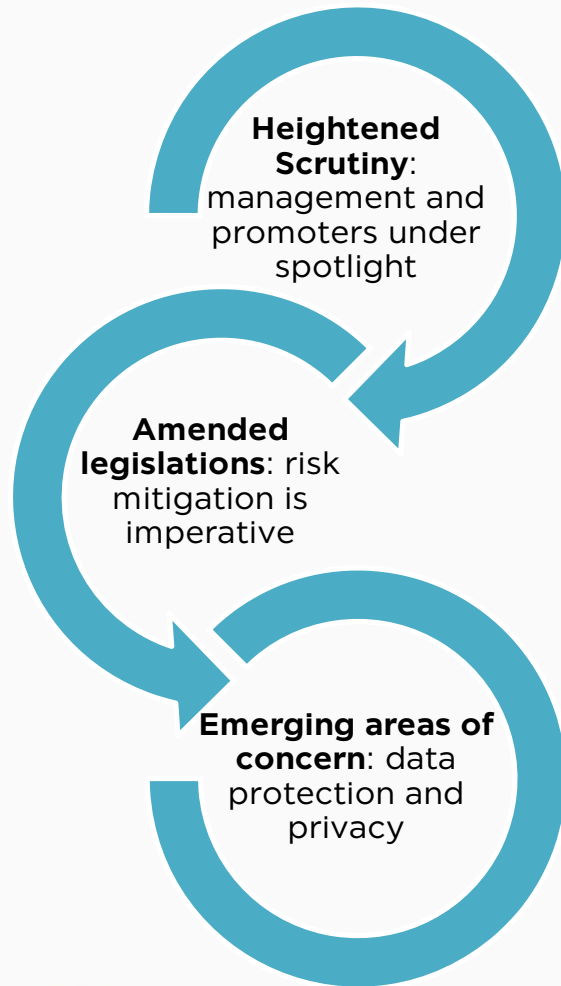


Efforts to promote international arbitration

- Sweep of 'public policy' definition substantially reduced for enforcement of foreign arbitral award
- Expanding jurisdiction of arbitral tribunal to reflect international trends
- Concept of 'seat' and the principle of territoriality in international arbitration has come to stay
- Issue of interim injunction for foreign seated arbitration is subject matter of legislative debate, expected to resolve soon
- Institutional arbitration has taken deep roots in India



White Collar Crimes





Most Global MNCs are in India





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