Global regulatory & enforcement trends

December 9, 2020

Agenda

Topic

01	Enforcement landscape over 10 years

02	Recent trends

03	Facing the future

Fighting fraud: A perspective
2020 PwC's Global Economic Crime and Fraud Survey

47%

told us **they had experienced fraud in the past 24 months**. This is the second highest reported level of incidents in the past 20 years.

6 incidents of fraud

On average, companies reportedly experienced 6 incidents **in the last 24 months**.
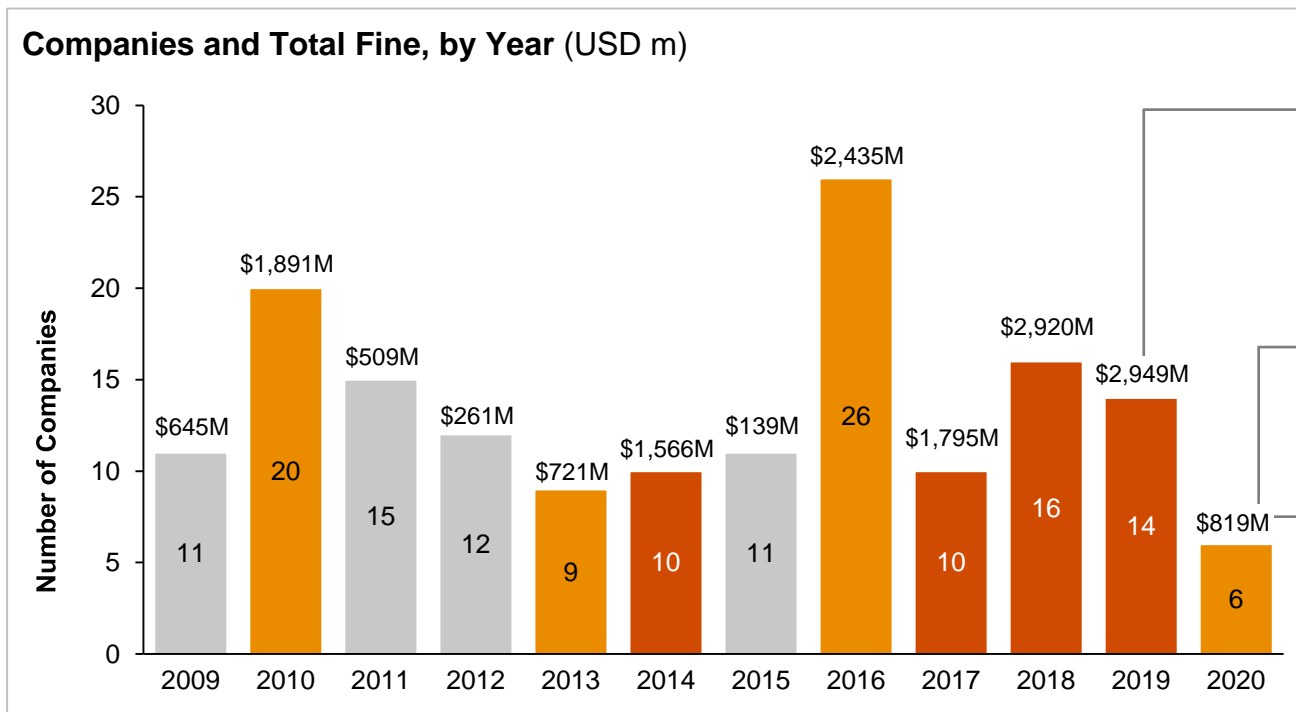
Top 4 types of fraud

1	**Customer Fraud**
2	Cybercrime
3	Asset Misappropriation
4	Bribery and Corruption

Note: Participants included more than 5,000 respondents across 99 territories

Enforcement landscape over 10 years

Enforcement landscape – September 2020

Jan-2009 to Sep-2020 – 159 companies were assessed fines totaling $16.6B in 249 DOJ and/or SEC enforcement actions, with an average fine of $104.7M per company

Companies and Total Fine, by Year (USD m)

Number of Companies

Year	Companies	Total Fine
2009	11	$645M
2010	20	$1,891M
2011	15	$509M
2012	12	$261M
2013	9	$721M
2014	10	$1,566M
2015	11	$139M
2016	26	$2,435M
2017	10	$1,795M
2018	16	$2,920M
2019	14	$2,949M
2020	6	$819M

Avg. Fine Per Company

$12.6M — $210.7M

Ericsson: From 2000 to 2017, Ericsson and its subsidiaries conducted several schemes across half a dozen countries in Asia, Africa and the Middle East to secure and maintain contracts. The form of these schemes included using sham consultants and agents as intermediaries to make illicit payments, maintaining slush funds to pay illicit expenses and disguising customer travel as employee travel to gain favor with foreign officials.

Novartis: Novartis and its local subsidiaries and affiliates made improper payments to public and private healthcare providers in Greece, Vietnam and South Korea in exchange for prescribing or using Novartis or Alcon products. In China, Novartis' former Alcon business used forged contracts as part of local financing arrangements that generated large losses and resulted in Novartis and Alcon writing off more than $50 million in bad debt.
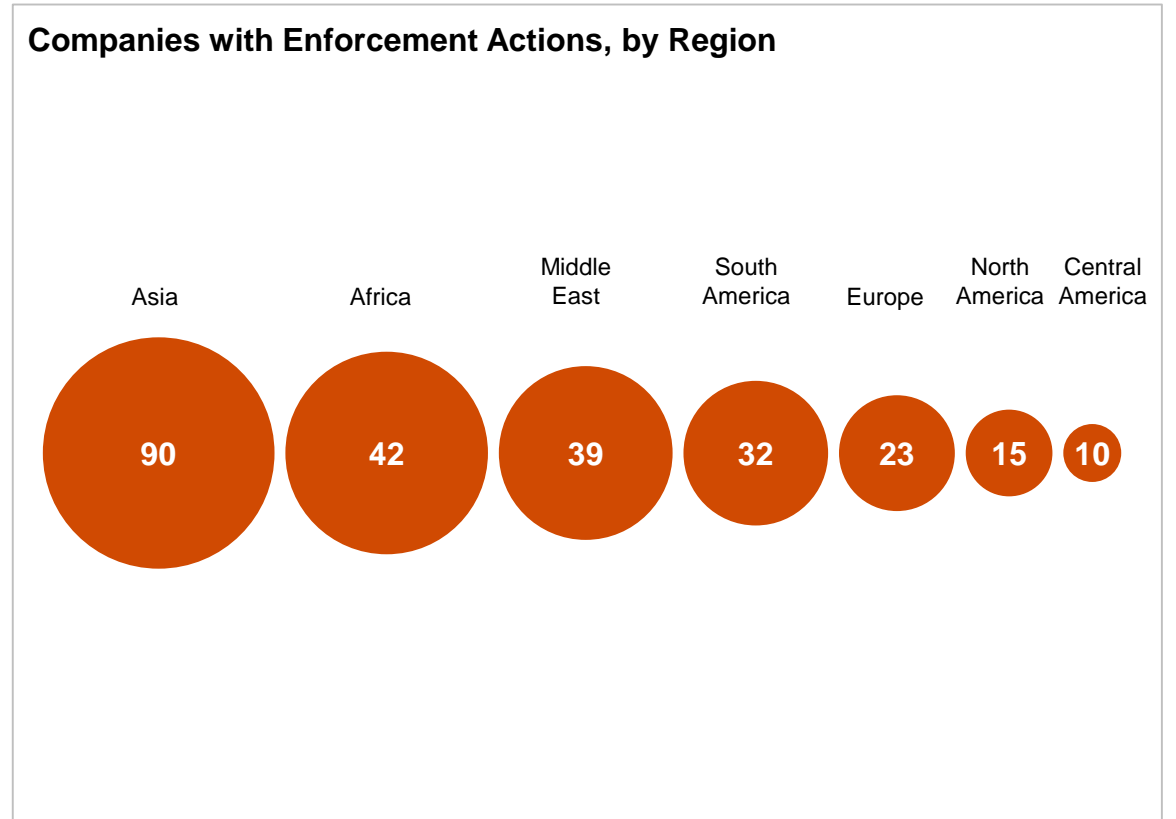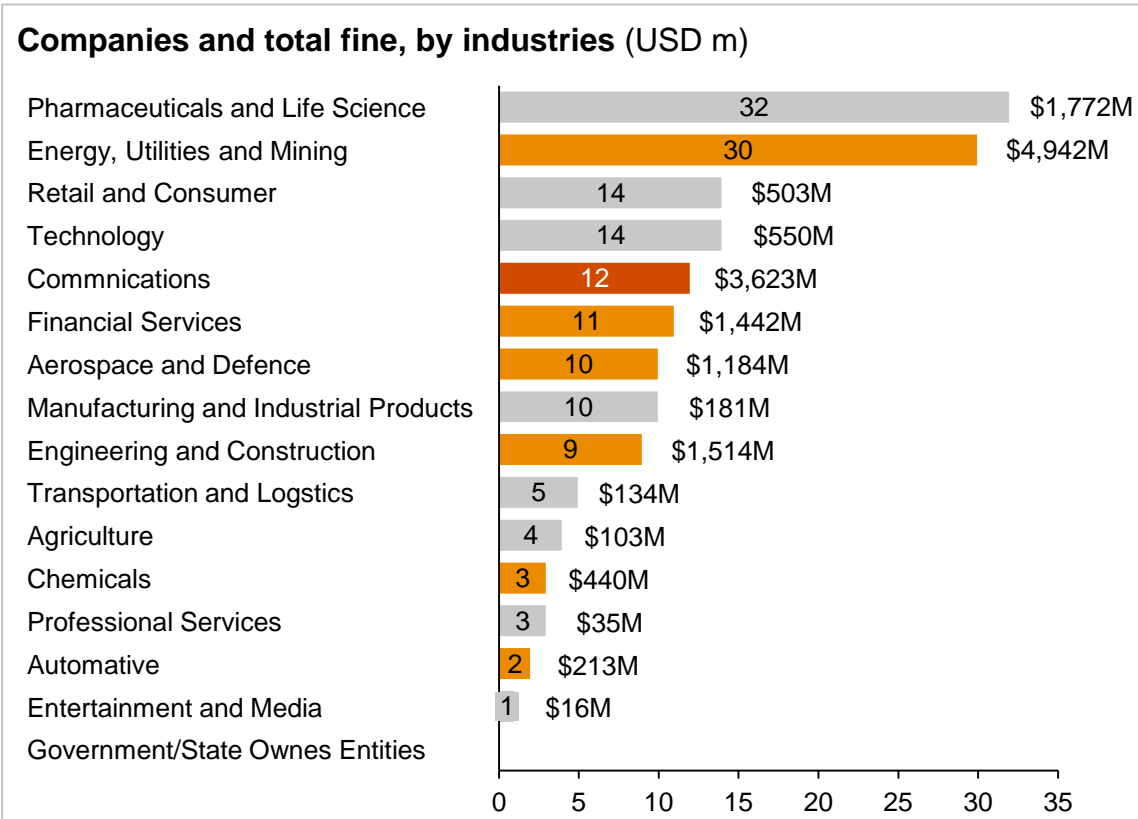
Airbus: Between 2008 and 2015, Airbus SE, acting through its Strategy and Marketing Organization which had the sole responsibility of managing and reviewing/approving Airbus' third party business partners, engaged several agents to facilitate improper payments to officials at several Chinese government entities. These government entities were responsible for regulating the aerospace industry in China and procuring airplanes for state-owned airlines. To conceal the payments made to the agents, Airbus utilized loan schemes and bank accounts not directly affiliated with the Company.
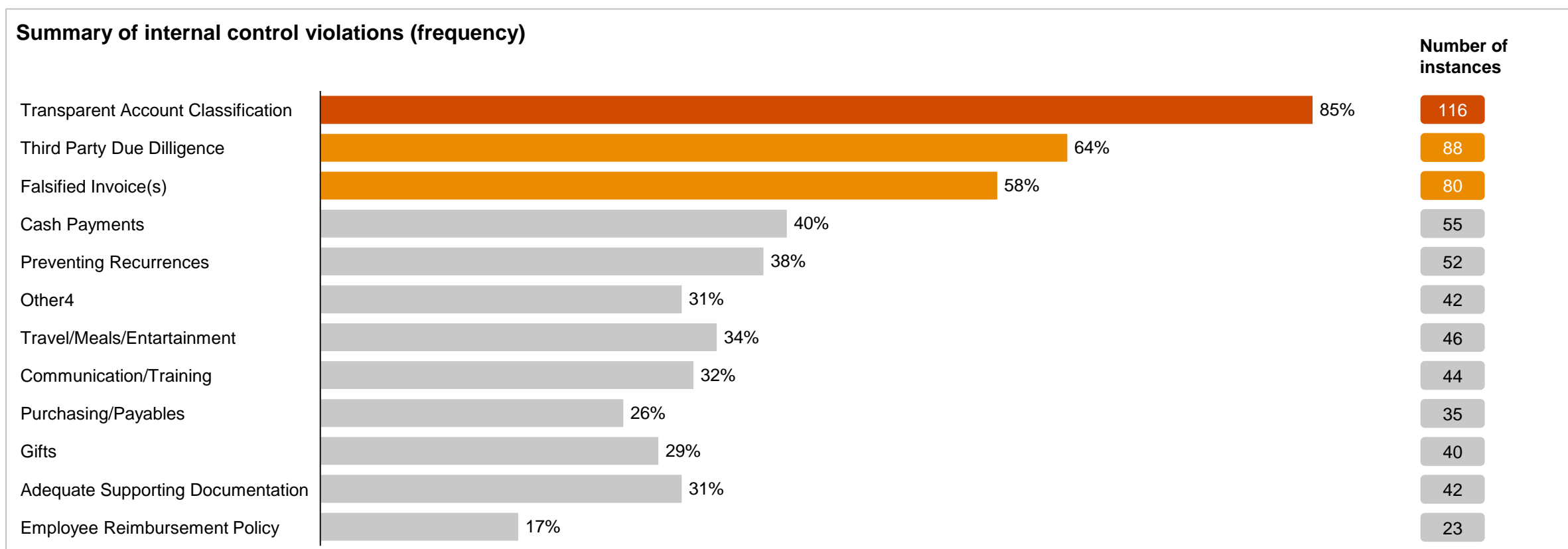
Enforcement landscape – September 2020 (continued)

Jan-2009 to Sep-2020 – 159 companies were assessed fines totaling $16.6B in 249 DOJ and/or SEC enforcement actions, with an average fine of $104.7M per company

Companies and total fine, by industries (USD m)

Industry	Companies	Total fine
Pharmaceuticals and Life Science	32	$1,772M
Energy, Utilities and Mining	30	$4,942M
Retail and Consumer	14	$503M
Technology	14	$550M
Commnications	12	$3,623M
Financial Services	11	$1,442M
Aerospace and Defence	10	$1,184M
Manufacturing and Industrial Products	10	$181M
Engineering and Construction	9	$1,514M
Transportation and Logstics	5	$134M
Agriculture	4	$103M
Chemicals	3	$440M
Professional Services	3	$35M
Automative	2	$213M
Entertainment and Media	1	$16M
Government/State Ownes Entities		

Companies with Enforcement Actions, by Region

Region	Companies
Asia	90
Africa	42
Middle East	39
South America	32
Europe	23
North America	15
Central America	10

Enforcement landscape – SEC focus in internal controls

Jan-2009 to Sep-2020 – 135 Companies were assessed fines totaling $5.9B in 137 SEC enforcement actions

Summary of internal control violations (frequency)

Number of instances

Category	Frequency	Number of instances
Transparent Account Classification	85%	116
Third Party Due Dilligence	64%	88
Falsified Invoice(s)	58%	80
Cash Payments	40%	55
Preventing Recurrences	38%	52
Other4	31%	42
Travel/Meals/Entartainment	34%	46
Communication/Training	32%	44
Purchasing/Payables	26%	35
Gifts	29%	40
Adequate Supporting Documentation	31%	42
Employee Reimbursement Policy	17%	23

Recent trends

Recent regulatory trends

- Regulators generally cooperate by conducting parallel investigations

- Increased level of international cooperation (e.g. Rolls-Royce, Odebrecht)

- Tax prosecution parallel to anti-bribery investigations

- Enforcement structured to "reward" self-policing, self-reporting, remediation, and cooperation (e.g. Rolls-Royce)

- Sanctions can include fines, disgorgement, and prison terms

- Recent sanctions include criminal prosecution

- Recent sanctions have a continued impact on company's business:
  - Monitors
  - Deferred prosecution agreements
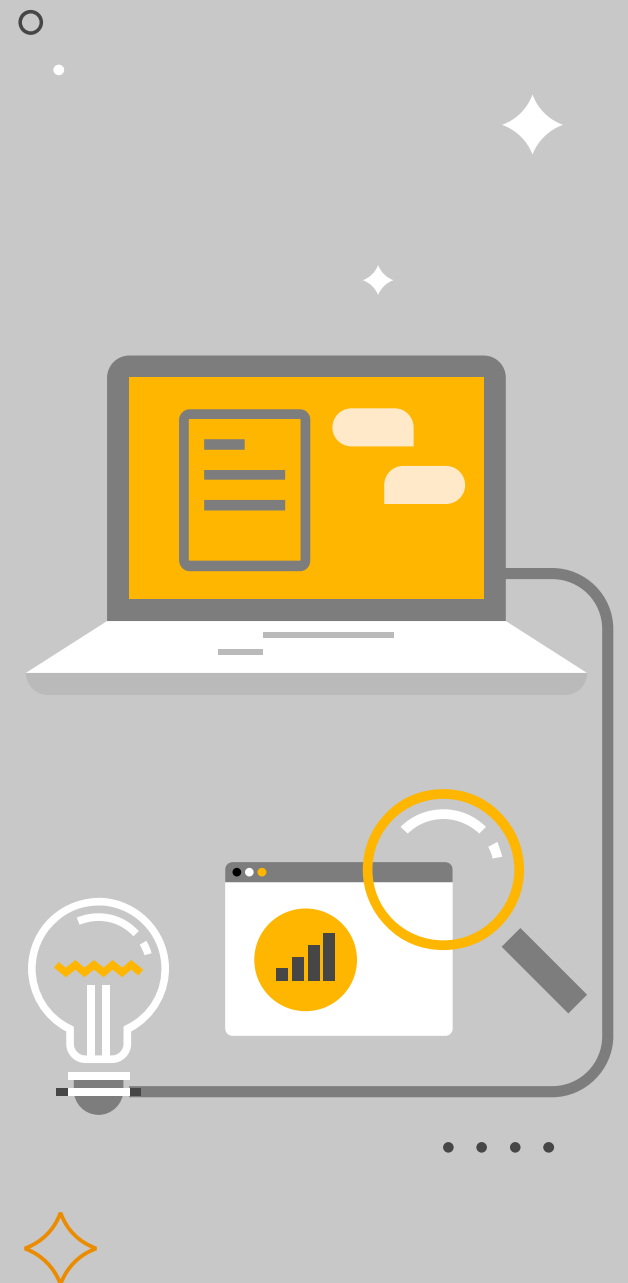
Elements of a robust compliance program

DOJ updated guidance for prosecutors (June 2020)

> **" Are you proud of how your program has evolved? "**

If you had to explain your resourcing and structural choices today, **would you be able to backup your rationale? Could you demonstrate that your program has evolved with the risk?**

Key components to start thinking about now

Resource Empowerment and Effectiveness

Mentions the importance of being purposeful about focusing compliance resources on the **highest risk areas** to own as a central compliance function, and how compliance can **support the business** who functions as a **first line of defense** for most compliance risks.

Data-Driven, Effective Compliance Program and Controls

Highlights that compliance and control personnel should have continuous **direct or indirect access to relevant sources of operational data and information across functions** to allow for **timely and effective monitoring and/or testing** of policies, controls, and transactions. Impediments that limit data access should be addressed.

Third Party Risk Management

Clarifies that risk management of third parties should be **performed throughout the lifespan of the relationship**, not just during the onboarding process.

Facing the future

Five forces will reshape global landscape of anti-corruption

- Enforcement will evolve and spread geographically

- Societal action will be more effective than toothless compliance regimes or unenforced regulations
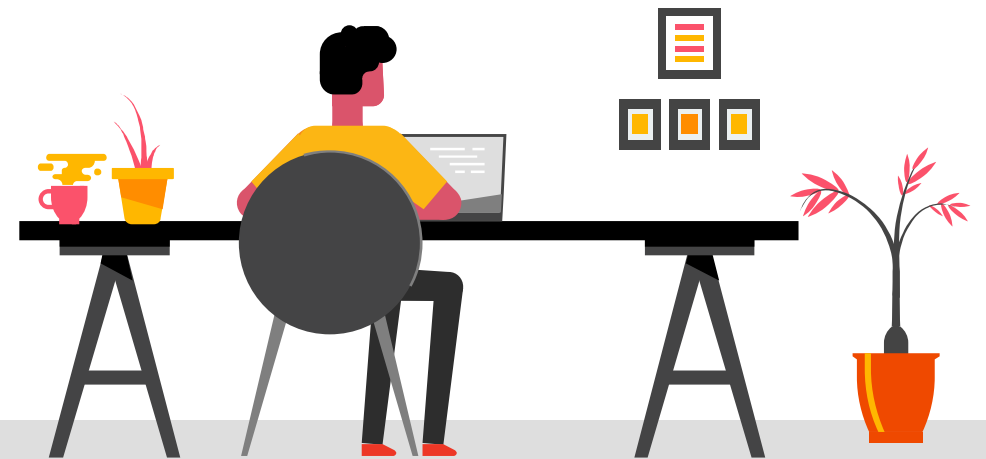
- Technology will enable automated and preventive compliance

- As societies become increasingly cashless, facilitation payments will fall

- Ethical and transparent business will become the new norm

Thank you

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