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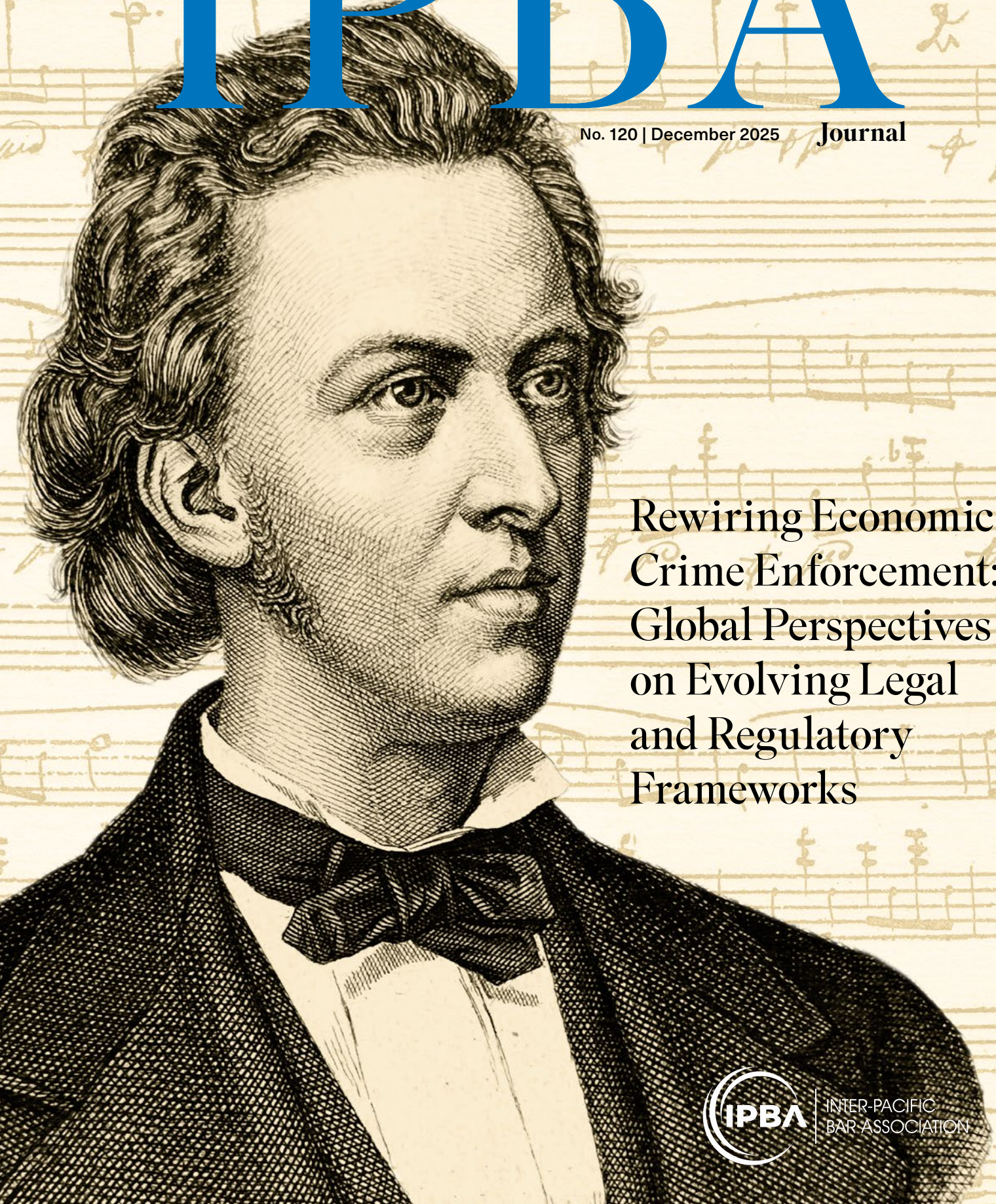

Rewiring Economic Crime Enforcement: Global Perspectives on Evolving Legal and Regulatory Frameworks

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The President's Message

Dear IPBA Members,

As we approach the end of an exciting year for the Inter-Pacific Bar Association, I am delighted to share some highlights and updates from our recent activities and upcoming plans.

First, our Mid-Year Council Meeting and Conference in Madrid this past September was a tremendous success. The event brought together members from across the globe for insightful discussions on emerging legal trends, cross-border collaboration and the evolving role of lawyers in a rapidly changing world. The vibrant exchange of ideas reaffirmed the IPBA's commitment to fostering dialogue among legal professionals in the Asia-Pacific and beyond. My congratulations to the planning committee for such a wonderful event!

Later that month, I had the privilege of delivering the keynote address at the China Arbitration Summit Forum and the Latin America International Arbitration Forum events in Beijing, where I spoke on the intersection of Artificial Intelligence and international arbitration. The topic sparked lively debate on how technology is reshaping dispute resolution, from predictive analytics to AI-assisted decision making. It was inspiring to see such strong engagement from international practitioners and scholars on this critical issue. Indeed, the IPBA's own ad hoc AI committee is actively exploring initiatives around AI and legal technology, recognising their transformative impact on the profession. With this and many other areas of legal change and scholarship, we aim to provide thought leadership and practical guidance through dedicated sessions, publications and working groups. If you are passionate about these topics—or any of our committees—I encourage you to volunteer and get involved. Your expertise and energy are vital to shaping the future of our Association.

Looking ahead, we are eagerly preparing for our Annual Conference in New Delhi, scheduled for February 2026. This promises to be one of our most dynamic gatherings yet, featuring cutting-edge sessions on global legal developments, networking opportunities and cultural experiences in one of the world's most vibrant cities. I encourage all members to mark their calendars and join us for what will surely be an unforgettable event.

In November, IPBA Past President Bill Scott hosted a reception in Toronto in conjunction with the International Bar Association Annual Conference and the event drew many attendees—a testament to the strength and enthusiasm of our growing community. Beyond these major milestones, the IPBA continues to strengthen its presence worldwide through other regional receptions and meetups. Recent gatherings in Tokyo, Singapore, Beijing, Paris, Milan, San Francisco and Sydney have provided excellent opportunities for members to connect locally while staying engaged with the broader IPBA community. These events underscore the value of our network and the friendships that make the IPBA unique.

Finally, as our membership continues to grow, I am reminded of my own personal experience with the IPBA at my first annual conference in Hong Kong in 2002. To this day, I maintain friendships established at that conference so many years ago. I invite you to spread the word and bring new colleagues into our ranks. The reasons for joining the IPBA vary widely, but what truly sets us apart is the spirit of camaraderie, openness and genuine exchange among established legal professionals. For many, membership is not about referrals or business development; it is about the rare opportunity to meet outstanding lawyers from around the world, share ideas and build friendships that transcend borders. This is what makes the IPBA unique among international legal organisations.

Thank you for your continued support and dedication. I look forward to seeing many of you in New Delhi!

Warm regards,

Michael Chu
IPBA President

The Secretary-General's Message

Dear IPBA Friends,

Even though I was for legitimate family reasons excused from attending the Mid-Year Council Meeting and Regional Conference in Madrid in September (my oldest son was getting married that Saturday), I heard nothing but positive echoes about it. All those attending enjoyed perfectly organised Council meetings and a very interesting one-and-a-half day conference covering such topics as arbitration, investments, AI and sports arbitration, spanning Africa, Asia, Europe and Latin America. Many thanks to J Felix de Luis and other Spanish members who assisted (Omar Puertas, Luis Fernando Rodriguez Garcia), for all the hard work put into this. Thank you also to Shin, my Deputy, and Randa at the Secretariat, for the organisation and presiding over the meetings.

September having passed, we will quickly head into the holiday season with this December issue of our Journal. Its theme, 'Rewiring Economic Crime Enforcement: Global Perspectives on Evolving Legal and Regulatory Frameworks', promises once more to provide us with interesting contributions.

Money laundering and terrorist financing represent serious threats to society, while also threatening the basics of the rule of law. Given a lawyer's role in society, we must at all times act with integrity, requiring us to be vigilant of criminals seeking to misuse the legal profession in pursuit of such activities.

The evidence for the role that lawyers play in enabling economic crime is more than anecdotal. Large-scale, cross-border economic crime typically uses complex transactions and corporate structures that hide the true owners behind assets or transactions. Lawyers are called upon to advise how to create such structures. This reflects the changed nature of the legal profession, which now offers a vast range of services going beyond more 'traditional' activities of legal advice in the context of disputes arising and representation before the courts.

Some members of the legal profession have resisted attempts to impose AML/CTF obligations, citing lawyer-client confidentiality. However, this position is difficult to defend in the absolute. The right of access to justice and the ability to consult with a lawyer for such purposes have to be balanced with the public interest in investigating and prosecuting criminal activity. This touches on one of the core principles of the lawyer-client relationship, namely lawyer-client confidentiality.

When it comes to the AML/CTF compliance and reporting obligations of lawyers, a distinction is typically made between economic and more traditional legal activities. Only where a lawyer is called upon for assistance in defending the client or in representing the client before the courts, or for advice as to the manner of instituting or avoiding judicial proceedings, is it accepted that a lawyer is exempt from the obligations, regardless of whether the information has been received or obtained before, during or after the proceedings, as a safeguard to the right of the client to a fair trial. Activities of a financial or transactional nature, with no link to judicial proceedings are, on the other hand, generally deemed to fall outside the scope of the right to a fair trial; hence the obligation of compliance.

Several issues may arise on a cross-border basis as a result of a lawyer working for clients in different jurisdictions or with a presence in different jurisdictions, as obligations in terms of AML/CTF compliance and the exemptions thereto may differ from jurisdiction to jurisdiction. Conversely, effective enforcement similarly requires an international rule-based order with cooperation between countries.

I am most confident that the contributions in this Journal will serve as food for thought to reflect on the above. Enjoy reading them. And see you in New Delhi for our Annual Conference, once the festive season is over.

Jan Peeters
Secretary-General

Publication Committee Chair's Message

Reflections on My Tenure

Time passes swiftly, and with this edition I conclude my tenure as Chair of the Publications Committee. The past term has been both challenging and fulfilling, marked by significant developments in the structure and content of our publication. In particular, we introduced several new sections—Events, Celebrations, Something New and Did You Know—which have collectively broadened the scope of our journal and enriched its content. While these enhancements have brought immense value, they have also necessitated greater coordination with Jurisdictional Council Members, Committee Chairs, the Publisher and the Secretariat, as well as diligent editorial oversight to maintain the standard and integrity of our publication.

The Committee takes great pride in cultivating a publication that not only serves as a platform for insightful discussions of legal topics but also fosters closer collaboration among Committees and members across jurisdictions. It is my sincere hope that this ongoing commitment to inclusivity and engagement will continue to inspire and guide the Committee's work in the years to come. By building on this solid foundation, I am confident that future leadership will further expand the Journal's reach and impact.

Focus of the Current Issue

Continuing our tradition of exploring nuanced and underexamined areas, this issue examines the enforcement of economic crime—a topic seldom discussed in depth. Enforcement trends worldwide reveal an intriguing dynamic: while conviction rates in many regions have remained steady or declined, the prosecution of complex high-value economic crimes have become both more prevalent and more sophisticated. In response, regulatory and investigative authorities are adapting their strategies, leveraging cross-border cooperation, advanced data analytics and technology-driven tools to address misconduct that frequently transcends national boundaries.

This edition features valuable contributions from China, Malaysia, India, the United States, the United Kingdom and France. These articles offer comparative insights into different enforcement approaches and examine the impact of evolving US policy on compliance efforts worldwide.

Upcoming Article Contribution Rota

To encourage broader participation and ensure a diverse range of voices in our publication, I would like to inform all Jurisdictional Council Members and Committee Chairs that another round of our popular 'spinning the wheel' activity will take place at the forthcoming council meeting in India. This engaging process will determine the rota for article contributions for the year ahead.

Importantly, jurisdictions and committees that have previously contributed will be excluded from the 'lottery' selection process. This approach ensures that those who missed out in the last cycle have an equal opportunity to participate in the upcoming one.

I would like to express my appreciation to all contributors for their commitment, as well as to our readers for their continued interest and support. I look forward to engaging with everyone at the Annual Conference in New Delhi. In the interim, I wish you an enjoyable and insightful reading experience!

Olivia Kung
Publications Committee Chair

Events

Malaysia

IPBA Reception in Malaysia

On 27 October 2025, Ong Eu Jin Partnership hosted an in-person Inter-Pacific Bar Association event to welcome IPBA President-Elect Priti Suri to Malaysia. The session formed part of Priti's regional engagements to promote the upcoming IPBA Annual Conference in New Delhi, scheduled for 25–28 February 2026. More than 50 Malaysian legal professionals attended this get-together, including many who were keen to learn more about the IPBA.

The event began with an opening speech by Kumar Kanagasabai, the IPBA's Jurisdictional Council Member for Malaysia, who spoke about the role and significance of the IPBA within the international legal community and for Malaysian lawyers who want to globalise their practice. His remarks set the context for the evening, highlighting the importance of continued engagement with the IPBA's activities and its efforts to foster collaboration and friendship across jurisdictions.

Following the introduction, Priti Suri provided an overview of the programme for the IPBA Conference in Delhi in 2026. She outlined key elements of the event and shared insights into the themes and the activities that participants can expect. Her presentation offered attendees a preview of the conference and networking opportunities the conference aims to deliver. She also reminded everyone to practice their Bollywood dance moves before coming to Delhi!

The session also featured a special address by Tan Sri Cecil Abraham, a former IPBA President. Tan Sri Cecil spoke on the topic 'Building a Global Legal Practice: Leveraging International Lawyer Networks for Growth'. He drew on his extensive personal experience in successfully developing a global reputation and a network which has resulted in him being appointed to act in disputes throughout the world. He emphasised that while the first step is to attend international conferences, active

involvement in organisations such as the IPBA is essential for building a strong international profile and expanding one's professional network.

After the presentations, attendees continued their networking and discussions over food and drinks. This informal segment complemented the presentations by giving participants the opportunity to reconnect with peers, exchange views on practice developments and, of course, to socialise.

The event provided a timely update on the IPBA's initiatives and upcoming activities, while reinforcing the value of active engagement within the IPBA community.

Siva Kumar Kanagasabai
Senior Partner & Head of Dispute Resolution
Halim Hong & Quek, Kuala Lumpur

China

Summary of Seminar on Legal Perspectives of Artificial Intelligence

The Seminar on Legal Perspectives of Artificial Intelligence, organised by the AI (Ad Hoc) Committee, APEC Committee and Legal Development and Training Committee of the Inter-Pacific Bar Association and co-organised by the Tianjin University Law School with support from the Tianjin Lawyers Association, was successfully held on 7 November 2025, Tianjin University's 130th anniversary. Jack Li, Chair of the AI (Ad Hoc) Committee of the IPBA, delivered the opening speech. The opening ceremony was presided over by Ms Lanny Li, Vice President of the Tianjin Lawyers Association and Chair of the IPBA APEC Committee.

Jack Li pointed out that as digital technology continues to evolve, the integration of AI and law is deepening, not only driving institutional innovation but also accelerating the transformation of legal service models. He highlighted that the IPBA, recognising the new opportunities and challenges brought by the rapid development of AI to the legal industry, took the lead in establishing an AI committee, with members comprising senior legal experts from 30 countries and regions, including China, the United States, Italy, Japan, Singapore, Brazil and Argentina. On 21 August 2025, the Central Government of China promulgated the 'Opinions on Implementing the 'AI+' Initiative', which explicitly calls for improving AI laws, regulations and ethical guidelines, and advancing legislation to promote the healthy development of AI. This seminar, he noted, is being held at the perfect time.

The seminar was attended by 150 Chinese and international experts from various sectors, including enterprises, arbitration and legal practice, such as Mr Kuang Guodong, Secretary-General of the Belt and Road International Legal Services Association and Mr Niu Tongxu, President of the Tianjin Lawyers Association.

Participants, including Romanee Luo (Chair-Elect of the IPBA Environmental Law Committee) and Zhang Ronghui (Director of the Two Public Specialised Committee of the Tianjin Lawyers Association), experts Yang Zhaoying (Deputy Director of the Department of General Affairs, International Commercial Dispute Prevention and Settlement Organization), Tang Yu (Deputy Director of the Tianjin Arbitration Commission), Chang Jiang (Deputy Director of the Qingdao Arbitration Commission),

Sun Haihua (Deputy Director of Shanghai Arbitration Commission), Tian Ye (Distinguished Professor at the Law School of Tianjin University), Wang Haina (Secretary-General of the Shanghai Intellectual Property Arbitration Court), Tan Baixuan (Deputy Director of the Internet & High-Tech Committee of the Tianjin Lawyers Association), Nick Yuan (Vice Chair of the IPBA ESG Committee), Akira Moriwaki and Danniel Liang (Vice Chairs of the IPBA APEC Committee), Du Jianbo (Senior Manager of the Legal Department of Baidu Inc.) and Hao Xinlin (Director of Liaoning Shixun Law Firm), shared cases on how AI applications enhance quality and efficiency, important legal issues and AI from inspiring perspectives.

Scott Li
Lawyer, Jinmao Partners (LinGang), Shanghai

Hong Kong

IPBA Cocktails Reception Marks a Memorable Evening at Des Voeux Chambers

The Inter-Pacific Bar Association hosted a cocktail reception on Wednesday, 3 December 2025 at Des Voeux Chambers ('DVC') in Hong Kong, drawing together more than 65 distinguished legal professionals for an evening of dialogue and international exchange.

The reception commenced with warm welcome remarks from Winnie Tam SC, IPBA Jurisdictional Council Member and Co-Head of Chambers at DVC, alongside Olivia Kung, Chair of the IPBA Publications Committee. Both speakers extended greetings to guests from Hong Kong and overseas, emphasising the Association's pivotal role in promoting cross-border engagement and strengthening professional ties among legal practitioners. Their words set the tone for an evening that celebrated both the diversity and unity of the international legal community.

A highlight of the evening was the keynote address delivered by IPBA President-Elect, Ms Priti Suri. In her engaging presentation, Ms Suri introduced the forthcoming IPBA Annual Meeting and Conference 2026, to be held in New Delhi under the theme 'The Future of Law: Agility, Creativity and Change'. She outlined the ambitious programme planned for the conference, which will explore the evolving landscape of law in an era defined by innovation and transformation. Ms Suri also spotlighted India's dynamic legal market, its rich cultural heritage and the renowned hospitality that awaits delegates. Extending a heartfelt invitation, she encouraged all attendees to join the 2026 gathering, describing it as a unique opportunity for legal minds across the region to converge, exchange ideas and shape the future of the profession.

The evening concluded with remarks from José Maurellet SC, Chairman of the Hong Kong Bar Association, who expressed his strong support for the IPBA and the upcoming conference. He underscored the importance of such international forums in cultivating dialogue and advancing the global legal profession, urging participants to take part in what promises to be an inspiring and globally connected event.

As the formal programme drew to a close, guests continued to engage in lively conversations, forging new connections and strengthening existing ones. The reception not only reinforced Hong Kong's role as a hub for international legal exchange but also highlighted the IPBA's mission of building bridges across jurisdictions. It was, indeed, a memorable evening that captured the spirit of collaboration and the promise of future engagement within the Asia-Pacific legal community.

Winnie Tam SC
Co-Head, Des Voeux Chambers, Hong Kong
IPBA JCM, Hong Kong

Olivia Kung
Partner, Sun Lawyers LLP, Hong Kong
Chair, IPBA Publications Committee

China

China-India Seminar on Commerce and Law

It's bright and clear in this early winter in Shanghai, 8 December 2025. The China-India Seminar on Commerce and Law, organised by the AI (Ad Hoc) Committee and Legal Development and Training Committee of the IPBA, co-organised by the River Delta Law Firm, was held as scheduled. Ms Priti Suri, the President-Elect of the IPBA, attended in person and delivered a keynote speech. The Seminar gathered over 50 senior foreign-related lawyers and legal experts from the Yangtze River Delta and the Guangdong-Hong Kong-Macao Greater Bay Area.

Dragon-Elephant Collaboration for Boundless Prospects

At the opening ceremony, Jack Li, Past President of the IPBA and Chair of the IPBA AI (Ad Hoc) Committee, stated in his address that his first participation in an international rule of law exchange was in New Delhi in 1997, where he was received by the then President of India. Years later, a photograph of that handshake meeting was published in Shanghai's widely circulated Wenhui Daily. Such people-to-people diplomacy by legal professionals enriches the landscape of civilisational exchange and mutual learning on the rule of law. On 19 April 2021, Shanghai successfully hosted the 30th Annual Meeting & Conference of the IPBA, the first major international lawyers' organisation conference held in the city in its 178 years since opening up as a port. It became the sole major international rule of law conference held successfully in a primarily offline format combined with online sessions during the unprecedented pandemic. That year, Ms Priti, then Chair of the IPBA Publications Committee, meticulously edited the June issue of the IPBA Journal. Its brilliant cover perfectly integrated Shanghai Tower and the Yu Garden, two landmarks representing modernity and tradition, much like the IPBA anthem 'We Are Together', reaching out across the globe.

China-India Exchange for Win-Win Cooperation

At the Seminar, Jin Chunqing, Romanee Luo and Zhang Haiyan shared insights on China-India investment and AI law and practice; Tai Jie, Ni Jianlin and Xu Shanshan discussed China-India intellectual property and international trade law and practice; Zhang Zhen'an and Jiang Hai addressed China-India international commercial dispute resolution law and practice. Entrusted by Jason Lu, Jurisdictional Council Member for China of the IPBA, Qu Xiaorong, Senior Partner and Deputy Director of River Delta Law Firm, presided over the opening and closing ceremonies. Keanu Ou, Romanee Luo and Scott Li moderated the three thematic sessions of the dialogue session respectively.

Participants at the dialogue noted that China and India, as major neighbouring countries with long histories and extensive global influence, stand to gain profoundly from strengthening people-to-people exchanges and legal cooperation. The resumption of direct flights between the two countries helps bring their peoples closer. From 25 to 28 February 2026, the IPBA 2026 Annual Meeting & Conference will be held in New Delhi, India, where legal professionals from various countries will share insights on hot topics such as artificial intelligence, the digital economy and commercial arbitration. This will advance the deep integration of the rule of law and the economy and enhance win-win cooperation among international commercial lawyers.

Participants expressed that state-to-state relations thrive on close people-to-people ties. Amidst profound changes unseen in a century, non-governmental legal exchanges are particularly valuable and the role of people-to-people diplomacy is increasingly prominent. Chinese legal professionals should strive to amplify China's voice on the rule of law on the international stage, contribute Chinese solutions and wisdom to the global rule of law and showcase a China that is amiable, respectable and admirable.

Scott Li

Lawyer, Jinmao Partners (LinGang),Shanghai

Something New

Modernisation of the Brazilian LLC: How the Civil Code Reform Aims to Attract Cross-Border Investments

Introduction

Brazilian Bill No 4/2025 proposes a comprehensive reform of the Brazilian Civil Code, directly impacting the structure and governance of limited liability companies (*sociedades limitadas*), aiming to 'boost business activities in Brazil, attract investment, and foster entrepreneurship and competition', as stated in the Bill's justification report.

Limited liability companies ('LLCs') are formed by one or more partners (equivalent to 'shareholders' in corporations), have their capital divided into quotas (equivalent to 'shares' in corporations) and represent the most common type of corporate entity in Brazil, adopted by both family-owned small businesses and subsidiaries of major global corporate groups.

The proposed changes, which are under discussion by the Federal Senate, expect to make Brazil more appealing to foreign investors, particularly those engaged in inbound investment operations, mergers and acquisitions and joint ventures.

Among the innovations introduced by the Bill, highlighted below are the key aspects set out in the Bill in connection with the Brazilian LLC, with emphasis on how these changes align Brazil with international best practices.

Articles of Association and Party Autonomy

The Bill ensures broad autonomy for partners to define the rules governing the operation of the Brazilian LLC. This allows entrepreneurs and investors to tailor the provisions of the respective articles of association to suit their needs, risk appetite and other case-specific circumstances.

Relevant matters, such as the autonomy to transfer quotas to third parties, quorum requirements for corporate resolutions, minority partner rights and the rights of withdrawing or removed partners are examples of areas where party discretion has been preserved or expanded. In general terms, the Bill ensures that these matters may be freely regulated in each LLC's articles of association, provided that general principles of Brazilian law are observed.

Preferred Quotas for Tailored Governance Structures

One of the most significant innovations is the express possibility for a Brazilian LLC to issue preferred quotas, with or without voting rights. Inspired by the institute of preferred shares in Brazilian corporations, this measure ensures the separation of economic and political rights, allowing for more sophisticated investment and governance structures.

In practice, this expands the possibilities of the entry of minority investors and strategic partners in the capital structure of this kind of companies, without compromising the controlling partners' governance.

Notwithstanding the fact that preferred quotas have been generally accepted by Brazilian case law, their express inclusion in the Brazilian Civil Code enhances this mechanism's legal certainty.

Reduced Bureaucracy in Partners' Meetings

The Bill also proposes to modernise the mechanisms for convening and conducting partners' meetings, in view of the need to adapt the Brazilian Civil Code to the technological transformations of the last decades.

For that purpose, the Bill eliminates the requirement for publication in printed newspapers and the Official Gazette—a residue of a legal framework attached to a reality that predates the popularisation of the Internet—and allows for electronic

notices, such as via email or the company's website. In line with such provisions, the Bill establishes that the email address of the partners is an essential component of the company's articles of association, and that email communications are valid and enforceable.

Additionally, a new provision authorises corporate resolutions to be adopted by a majority of partners without a formal meeting, provided that all partners are aware of the partners' meeting agenda. This flexibility reduces operational costs and accelerates decision making, offering a practical advantage in day-to-day business operations in Brazil.

Management by Legal Entities

The proposed changes also allow the management of a Brazilian LLC to be exercised by legal entities, provided the company has at least two partners. In contrast, the current provisions of the Brazilian Civil Code require managers to be individuals, which is often a source of surprise for some foreign investors.

This change is particularly relevant for international corporate groups, which may use holding companies or other corporate vehicles to perform management functions. The measure expands governance possibilities and facilitates the integration of Brazilian subsidiaries into global structures.

Greater Flexibility for Corporate Names

This new Bill further allows the corporate name of a Brazilian LLC to be written in a foreign language and removes the requirement to include the company's business activity description in their name. The previous wording, which read 'the company name shall designate the purpose of the company' was replaced with 'the company name may designate the purpose of the company'.

Despite being subtle, this change addresses the reality that the current legal framework often forces major companies to register corporate names in Brazil that are longer than or more distant from their international counterparts. Removing the requirement to include an activity description in the corporate name will facilitate the standardisation of subsidiary names, ensuring alignment in global corporate identity.

Conclusion

The set of amendments proposed by this new Bill represents a major step forward in the modernisation of Brazilian corporate law. If approved, these changes are expected to reinforce the use of the limited liability company as the preferred vehicle for cross-border transactions, joint ventures and strategic investments in Brazil, consolidating Brazil as a competitive destination for international capital.

It is important to note that these changes are subject to ongoing discussions in the National Congress and may be amended. All parties interested in investing in Brazil should follow the Bill's development and its impacts on the Brazilian current legal framework.

Gabriel Ricardo Kuznietz
Partner, Demarest Advogados, São Paulo

United States Federal Appeals Court Creates a Bright Line: No Copyright for AI-Generated Works

On 18 March 2025, the United States Court of Appeals for the DC Circuit affirmed the United States Copyright Office's refusal to register an image created entirely by an Artifical Intelligence ('AI') system, holding that the United States Copyright Act 'requires all eligible work to be authored in the first instance by a human being' (Thaler v Perlmutter, 130 F.4th 1039 (D.C. Cir. 2025)).

The Court's opinion in Thaler is the first federal appellate decision in the US that squarely rejects copyright registration for machine-generated works with no human authorship. It solidifies, at least for now, the US Copyright Office's long-standing human-authorship rule.

The DC Appeals Court treated the question as statutory, not policy: read as a whole, the 1976 Act assumes that an author is someone who can own property, live, die and have heirs, which are concepts that make sense for humans, but not for machines. Based on that rationale, the Court said, a non-human system cannot be the 'author' whose work the Copyright Act protects. The Appeals Court's decision affirmed the Copyright Office's denial. Because the statutory text resolved the matter, the Court declined to reach the constitutional argument that the US Constitution's IP Clause[1] itself demands human authorship.

The Appeals Court's opinion also flagged two limits. First, the Court did not decide whether a person who builds and operates an AI could be deemed the author under some theory. Plaintiff Thaler waived a key version of that argument. Second, the Court did not disturb registration of AI-assisted works that include meaningful human creative contributions—only works created solely by AI were at issue.

Plaintiff Thaler also filed a petition for rehearing *en banc* of the decision. The Appeals Court denied that petition on 12 May 2025. Plaintiff Thaler appeals to get ready to appeal to the US Supreme Court as he requested a time extension to file his petition for writ of certiorari with the Supreme Court. If the Supreme Court denies the writ of certiorari, the DC Appeals Court's reasoning will likely become influential upon other US federal courts.

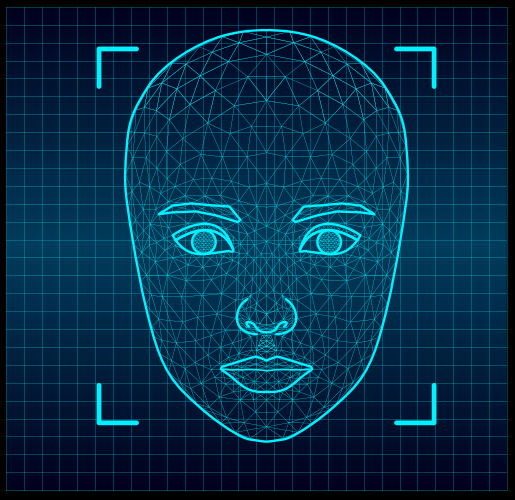
To conclude, the Thaler case does not attempt to freeze technology. It clarifies where the law draws the line today. If a machine acts alone, there is no copyright registration allowed. If a human exercises creative control (by conceiving, selecting, arranging, rewriting, and/or transforming), those human contributions can still be protected.

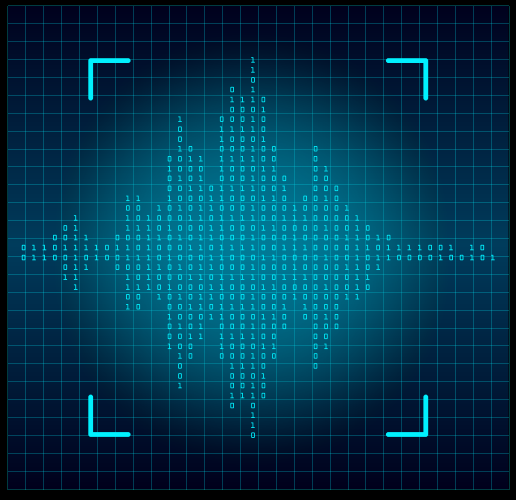
Jack Shaw
Cherry Johnson Siegmund James PC, Palo Alto

Notes

[1] United States Constitution, Article 1, Section 8 ('To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries').

Analysing the Integration of AI, Data Analytics and Evidence Under India's New Criminal Laws Framework





India confronts a critical paradox: as economic and digital crimes grow exponentially conviction rates remain stagnant. India has fundamentally transformed its colonial-era criminal justice system to integrate modern investigative technologies. The reforms elevate digital evidence to primary status, mandate forensic examination for serious offences, and introduce AI-driven tools like facial recognition systems and crime databases to aid investigations.

This article analyses the legal and ethical challenges accompanying this technological shift by examining the three pillars of India's criminal justice system i.e., digital evidence, artificial intelligence and data analytics. The article also assesses the operational deployment of technological systems, efficacy in prosecution, and the urgent need for safeguards against algorithmic bias, AI hallucination and rights violations.

The article further calls for a balanced approach while embracing technological advancement and preserving fairness, due process and constitutional protections in India's evolving criminal justice framework.

Introduction

Global enforcement trends reveal a striking paradox with overall conviction rates getting plateaued while the frequency and sophistication of economic offences continue to grow. As a nation, India is going through a rapid digital transformation and with this transformation it is also witnessing a surge in the sophistication and frequency of financial offences, ranging from complex corporate frauds to technology-enabled scams. The Supreme Court of India had to take *suo moto* cognisance in Suo Moto Writ Petition (Criminal) No. 03 of 2025 In Re: Victims of Digital Arrests Related to Forged Documents after it noticed a rise in cases of cyber fraud/digital scams and then transferred the investigation to the Central Bureau of Investigation.

This ever-growing threat of digital crimes has been met with a plateaued conviction rate and requires unconventional investigative methods in tackling crimes which are increasingly digital and data sensitive. Jurisdictions are globally focusing on integrating technology into their criminal justice system. India has replaced its colonial era criminal statutes with a new triad of laws, that is, the Bharatiya Nyaya Sanhita, 2023 ('BNS'), the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') and the Bharatiya Sakshya Adhiniyam, 2023 ('BSA'). This new regime aims at a technology-driven investigative and procedural framework and also brings profound legal, ethical and operational challenges that demand critical examination.

This article analyses the integration of modern technologies in criminal investigations and prosecution under India's new legal framework by exploring the elevated status of digital evidence, deployment of Artificial Intelligence ('AI') and the use of data analytics in investigation and prosecution.

The Legislative Framework: Digital Transformation

The BNSS and BSA fundamentally reimagine evidence law and criminal procedure. For years there was a cumbersome procedure under Section 65B of the Indian Evidence Act, 1972 related to the admission of electronic evidence. The BSA includes electronic and digital records under the definition of 'document', and these records are now considered as primary evidence. It further streamlines the process of admitting evidence such as emails, server logs and digital transaction records which form an integral part of a digital crime investigation. The BSA further provides for admissibility of oral evidence given electronically.

The BNSS mandates forensic examination of offences which are punishable with imprisonment of seven years or more. In economic or digital offences, which frequently involve complex financial instruments, digital transactions

and electronic communications, such forensic examination becomes crucial. Section 176 of the BNSS has introduced mandatory videography of crime scene investigations while Section 193 of the BNSS permits electronic submission of investigation reports. These provisions help in creating a tamper-resistant trail for evidence which will help in prosecution of digital or economic crimes where evidence preservation remains paramount.

Further, this statutory mandate will also force an upgrade on the existing colonial infrastructure and will push the investigating agencies away from reliance on oral testimony towards scientifically verifiable proof. These changes will also help in upgrading the technological infrastructure of the investigating agencies.

AI and Data Analytics in Practice

While the new criminal laws provide the framework, it is the deployment of new-age technology that gives these criminal laws their teeth. Indian law enforcement agencies are increasingly turning to AI and Data Analytics to collate and go through heaps of information which otherwise would be a mammoth task for the investigating officer. The investigating officers are now asking for documents and information in machine-readable format so that they can easily sift through the documents.

The recent investigations in the case of a nationalised bank turned substantially on forensic analysis of SWIFT message trails, email communications and encrypted messaging platforms. The investigating agencies were able to trace fraudulent letters of undertaking worth approximately US$1.5 billion through digital forensic examination.

In another investigation related to fund diversions by a company, the Enforcement Directorate investigators utilised blockchain technology to trace fund diversion exceeding approximately US$1 billion. Digital forensic examination of company servers, cloud storage and communication platforms proved important in establishing the money trail which otherwise would be an arduous and impossible task if the investigation would have taken place through traditional investigative methods.

The Trinetra initiative is a multi-pronged system that combines mass surveillance with data-driven policing and serves as a powerful example of the integration of technology into criminal investigations. The project involves the installation of hundreds of thousands of CCTV cameras

in public places creating a vast network for monitoring and evidence gathering. The Trinetra app provides police officers in the State of Uttar Pradesh with a digitised database of over 900,000 criminals and is integrated with facial recognition technology that allows for swift identification of suspects. The Trinetra system is enhanced by an AI tool dubbed 'Crime GPT' which allows officers to perform tailored searches on the criminal database using both text and voice commands to find precise details on individuals.

The Maharashtra Police, in partnership with Microsoft, has rolled out MahaCrime OS AI, an AI-driven investigation platform for the Maharashtra Police. It equips all 1,100 police stations with AI-driven cybercrime tools. The program aims to ingest complaints in multiple formats, including PDFs, audio files, handwritten notes and images. The tool then extracts key information and adapts investigation pathways and automates analysis.

Delhi Police is also set to significantly expand its use of facial recognition from localised experiments to full scale, centralised operations as part of a major shift towards AI surveillance.

Evidentiary and Constitutional Concerns and Challenges

There is clearly potential in AI-based tools and data analytics to uncover the truth and aid in the criminal investigation process, however, as a practitioner one must also highlight the profound legal and ethical challenges these technology-driven investigations may introduce. The growth of AI and data analytics tools in criminal investigations is massive; however, they must be tested by the courts rigorously.

The BSA's acceptance of digital evidence comes at a time when the authenticity of such digital evidence is more

vulnerable than ever. The rise of generative AI has led to a proliferation of 'deepfakes' which can create hyper-realistic but entirely fabricated images, videos and audio recordings posing a direct threat to the integrity of evidence.

The proliferation of deepfakes creates an immense burden on the defence to prove a negative which appears to be an authentic piece of evidence. Further, AI systems may generate plausible but factually incorrect outputs which poses a grave risk in criminal investigation and prosecution.

In addition, predictive policing algorithms, like Trinetra or criminal databases, are trained on historical crime data which may reflect existing societal biases that the algorithm may amplify leading to disproportionate targeting of certain communities. Research by the National Law School of India University ('NLSIU') found that predictive policing algorithms deployed in Bengaluru demonstrated significant bias against specific communities. Further, AI systems which are trained on already detected fraud cases may fail to identify new schemes or overlook such offences in sectors which are under investigated.

Mass data collection and surveillance initiatives like MahaCrime OS or Trinetra may create a challenge to the privacy of an individual. While the goal of criminal investigation and prosecution is legitimate and necessary, the lack of a robust data protection law specifically governing the actions of law enforcement agencies creates a significant legal vacuum. The indiscriminate collection of personal data, without clear and stringent safeguards against misuse, is a challenge waiting to be mounted before the courts.

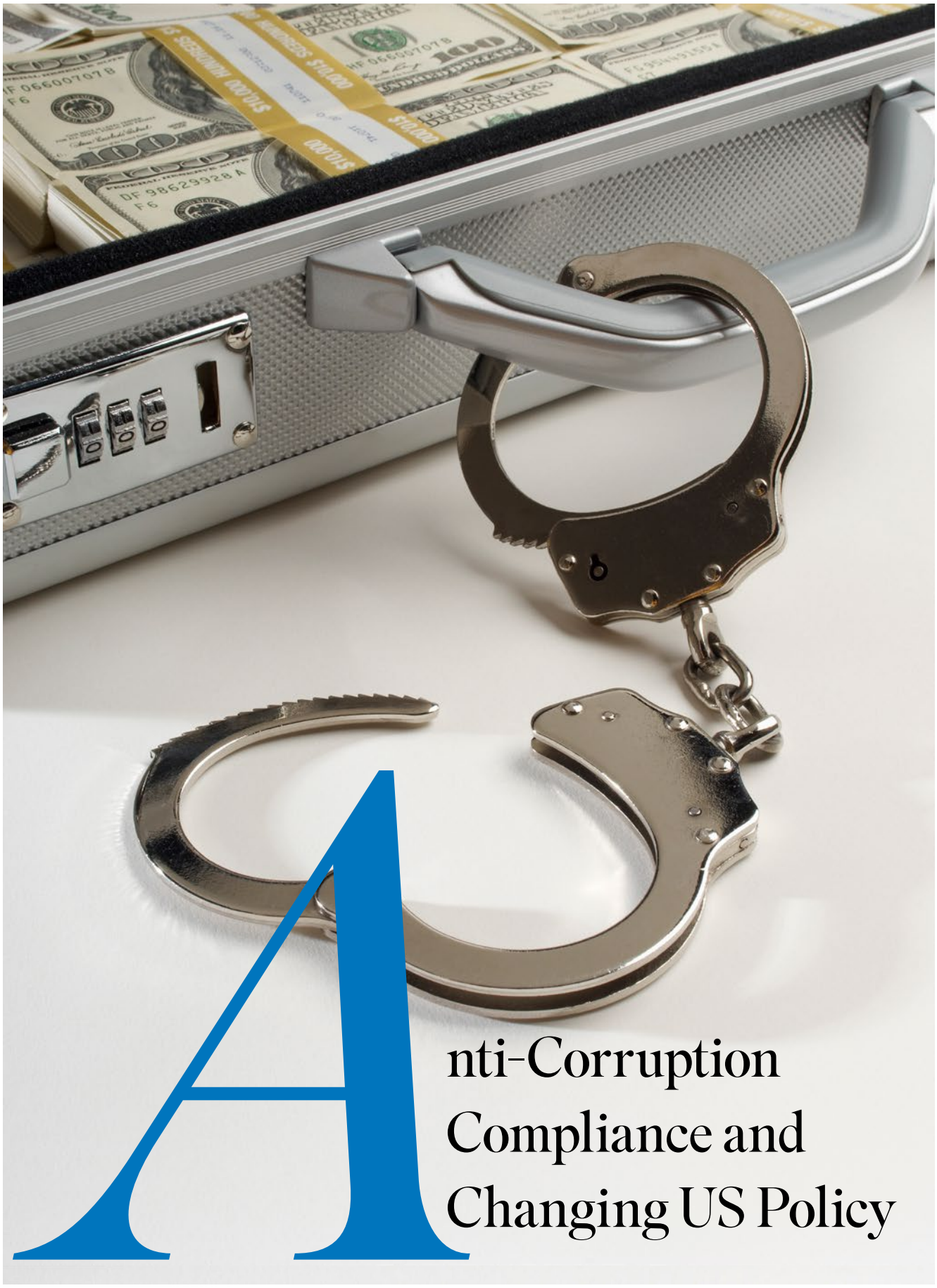
Conclusion

The convergence of law and technology will define the next era of India's criminal justice system. The new criminal laws have ushered our justice system into the digital age, providing much-needed tools to deal with the complexities of digital crimes. The ability to treat electronic records as primary evidence and the requirement of forensic investigations are welcome and long overdue reforms. However, this adoption of technology cannot be a blind march forward as it is the duty of legal practitioners to ensure that in an aim to adopt technology to ensure efficiency, we must not trample upon the principles of fairness, due process and justice.

It must be ensured that proper protocols for data collection, storage and processing for law enforcement agencies, and guidelines on authentication of digital evidence in the age of deepfakes, are complied with. The establishment of forensic laboratories with specialised capacities to monitor the use of AI in data forgery is also of paramount importance to certify the authenticity of digital evidence. There is also an urgent need for extensive training for police officers, public prosecutors and judicial officers to ensure that they understand the nuances of digital evidence collection, chain of custody and the potential pitfalls of these new technologies. The courts may also seek external assistance in complex matters involving digital technologies. The path forward requires a careful balancing of innovation and safeguarding of constitutional rights. The introduction of the BNSS and BSA provides a foundation, but still there is a lot of work required in developing regulations, building institutional capacity and cultivating an ethical culture around technology deployment.

Ajay Bhargava
Senior Partner, Khaitan & Co LLP, New Delhi

Ajay Bhargava is a Senior Partner in the Dispute Resolution practice group in Khaitan & Co LLP with almost 30 years of experience in handling complex litigation/arbitration matters across civil, commercial and constitutional law. In his area of practice, he has advised and represented clients in the Supreme Court, state high courts, arbitration (international and domestic) and quasi-judicial tribunals, among others. He also advises on constitutional matters, civil and criminal matters, corporate–commercial disputes, and also on matters before the police investigation wings relating to corporate criminal investigations (white collar crimes). He is also consulted on M&A transactions to provide tactical and advisory support. Ajay has been recognised and ranked as one of the Dispute Resolution & Arbitration Lawyers 2025 by various platforms like India Business Law Journal (IBLJ), Chambers Asia-Pacific Rankings 2025, Legal Era Leading Lawyers Rankings 2024-25, Chambers and Partners Global Guide 2025, and Legal 500 Asia Pacific 2025 Rankings. He was also recognised as Dispute Resolution Lawyer of the Year 2024 by Asian Legal Business.



Anti-Corruption Compliance and Changing US Policy

This article discusses changes in Anti-Bribery and Corruption ('ABAC') policies and related enforcement in 2025 and preceding years, and what those changes mean for companies and individuals engaged in international business transactions. The jurisdictions discussed include the United States ('US'), the United Kingdom ('UK'), France and the People's Republic of China ('PRC').

Anti-corruption treaties, along with the US Foreign Corrupt Practices Act 1977 ('FCPA') have galvanised international anti-corruption activities for the past 50 years. The United Nations Convention against Corruption (effective 2005) is the only global legally binding treaty, with more than 190 signatory jurisdictions. Other instruments, including the OECD Anti-Bribery Convention (1977), the Council of Europe Criminal Law Convention on Corruption (1999) and the Inter-American Convention Against Corruption (1996), have focused more proactively on combating corruption. Globally, ABAC enforcement has been trending, albeit slowly, in a unified direction under the framework of these treaties. This has resulted in a compliance environment based on largely similar national policies that has become increasingly unified, even though the US has disrupted its historical approach to ABAC enforcement in 2025.

2025: A Year of Change

As many companies and individuals that are engaged in international trade and investment have experienced, 2025 was a year of stress and challenge for trade and regulatory compliance. While ABAC was not at the forefront of these challenges, nevertheless governments and businesses have had to adapt to new conditions and keep abreast of the impact of the geopolitical environment on their approach to bribery and corruption. Typically, ABAC challenges arise in connection with enforcement; however, 2025 stood out as the US reassessed the policies underlying its ABAC regime and shifted its approach to ABAC.

US FCPA Compliance

Prior to 2025, the ABAC compliance approach in the US, in part mandated by the requirements of the FCPA, tended to dominate ABAC compliance internationally. The FCPA provides US enforcement agencies—the US Securities & Exchange Commission ('SEC') and the US Department of Justice ('US DOJ')—with 'long arm' capabilities regarding enforcement outside the US. As a result, companies often find that they have dual compliance obligations: first, to comply with the anti-bribery and corruption laws of the local jurisdiction in which they are established and conduct business; second, to comply with the FCPA and potentially also the UK Bribery Act. Generally, this has resulted in the implementation of FCPA compliance programmes that also cover the requirements of relevant local legal regimes, albeit generically, and which sometimes also provide for specific local law requirements.

Strengthening of ABAC Regimes Globally

During the period of FCPA compliance dominance, major anti-bribery regimes have evolved in other jurisdictions, often with impressive results. For example, during the term of President Xi Jinping of the People's Republic of China, the PRC has placed a long-term policy focus on ABAC. Among other things, this has led to the strengthening of existing laws and the implementation of programmes to clean up corruption in government, the army and state-owned enterprises, including financial institutions. Government authorities have not stopped at tackling official corruption, however, and laws governing commercial bribery have been updated and upgraded, along with associated enforcement activities.

Another example involves the UK, which in 2011 after many years of delay implemented comprehensive legislation that addresses both domestic and international bribery and corruption, including both bribery of government officials and commercial bribery in its scope. The UK Bribery Act covers both domestic and international ABAC and includes some of the toughest requirements of any anti-corruption regime. Enforcement has gradually developed momentum, with the UK Anti-Corruption Strategy 2025 seeking to 'combat corrupt actors and their funds in the UK and overseas', address domestic corruption and build global resilience.

A New Direction for US FCPA Compliance?

Shortly after assuming office for a second term in 2025, President Trump announced a 'resetting [of] the table' with regard to the international trade and geopolitical relationships of the United States. That process began to manifest at a granular level in April 2025 and is still ongoing. It goes without saying that the US international regulatory regime historically has served the international interests of the US and that the current US administration has the same

aims. Generally, the ABAC focus of the US is now targeted at drug cartels and organised crime, rather than policing in detail the overseas activities of regular US businesses.

On 10 February 2025, President Trump issued an Executive Order, 'Pausing Foreign Corrupt Practices Enforcement to Further US Economic and National Security', which asserts that the FCPA interferes with the functioning of US companies overseas and therefore impedes US foreign policy, and in turn impacts US national security. On 12 May 2025, the DOJ issued a short memorandum 'Focus, Fairness and Efficiency in the Fight Against White Collar Crime', which was accompanied by an update of the DOJ Criminal Division's Corporate Enforcement and Voluntary Disclosure Policy ('CEP'). The CEP signalled changes to DOJ enforcement priorities in relation to all criminal matters, potentially impacting some sanctions and export control investigations, but principally targeted at domestic and overseas white-collar crime. The CEP potentially makes compliance easier for US companies if they are entirely open with the DOJ, engage in extraordinary cooperation and voluntarily disclose any violations in a timely fashion. If a company fulfils these requirements, potentially the DOJ may not enforce against it, or there could be reductions in financial penalties and other disciplinary measures. In all circumstances, the DOJ appears determined that investigation procedures will be streamlined and most likely shortened, meaning less of a company's time and resources will need to be allocated to DOJ investigations.

The next document issued by the DOJ came on 9 June 2025 when Deputy Attorney General Blanche signed into effect the 'Guidelines for Investigations and Enforcement of the FCPA' ('DOJ Guidelines'). The DOJ Guidelines have the stated aim of limiting undue burdens in US companies when they are operating outside the US and restricting FCPA enforcement that undermines US national interests. Essentially, the DOJ states that it will prioritise investigation of serious misconduct, focus on overseas bribery involved in the actions of Cartels and Transnational Organisations, while making sure that US companies have access to what it terms 'fair opportunities.'

Based on the above changes to enforcement policy, do the CEP and the DOJ Guidelines mean the end of FCPA enforcement as it has been conducted previously? The first thing to note is that FCPA enforcement has not gone away, far from it. The DOJ Guidelines expect companies to maintain robust anti-bribery and corruption compliance programmes; however, in terms of enforcement it appears that the DOJ will focus its efforts on targeted corrupt activities and, in particular, organised crime. Notwithstanding the shift in enforcement emphasis, a company must be able to demonstrate that it has made best efforts to maintain a compliance culture and prevent bribery and corruption. The current US administration clearly believes that FCPA enforcement has tended to stymie US companies while conducting their businesses overseas and it appears to be easing up on investigating low-level bribery that can be prosecuted locally or which does not have clear legal support, but at the same time it does not condone bribery and corruption.

Does this mean that US companies can rest easy with their overseas gifts and entertainment budgets? Well, probably not. This is because in theory the DOJ will default to local overseas authorities to enforce laws that cover the same ground as the FCPA, including those relating to gifts and entertainment.

Of course, FCPA enforcement in the US is not only conducted by the DOJ, in practice the SEC, which regulates and enforces against companies listed in the US or with exposure to US stock markets, usually investigates the bigger FCPA cases. Has the SEC followed the direction of the DOJ Guidelines? Indications derived from statements made by various SEC officials at conferences in the US and in US media suggest that the SEC will follow the DOJ's priorities. The indications are that it has done so, but this may not be the whole story as the SEC operates independently from the DOJ.

So how is the DOJ likely to review a case and what will it be looking for? First, the DOJ is emphasising the conduct of individuals, including employees, directors and others authorised by the company, and is reducing emphasis on criminalisation of the company itself. Second, the DOJ is seeking to protect 'fair opportunities' for US companies, although it is unclear what this means in practice. The DOJ asserts that it is not seeking to disrupt a company's business during the course of an investigation or ruin careers. Before the DOJ will investigate, the Assistant AG of the Criminal Division of the DOJ, or higher, must sign off and there will only be an investigation if there is very compelling evidence and non-compliance is tantamount to fraud. In particular, the Guidelines state that FCPA enforcement should not penalise 'American citizens and business' for 'routine business practices' in other countries. When conducting investigations, prosecutors must be mindful that the FCPA contains an exception for 'facilitating' payments (which many

local laws do not) and that it provides affirmative defences for reasonable and bona fide expenses and payments that are lawful under the laws of the country where the activity takes place. In particular, FCPA investigations and enforcement actions should not focus on alleged misconduct involving routine business practices or the type of corporate conduct that involves de minimis or low dollar payments that are generally accepted business courtesies.

With regard to internal corporate investigations responding to whistleblower complaints, red flags, etc., that invoke FCPA jurisdiction, the position from the corporate perspective has not changed fundamentally, since the policies and procedures of most MNCs and US companies have FCPA compliance embedded within them. That said, depending on a company's compliance policies, there could be some clarification regarding risk tolerances in the light of the US government's current enforcement stance. With regard to DOJ enforcement, investigations (and potentially also SEC investigations) are likely to be fewer and very targeted. If the risk of enforcement is low, logically compliance standards could slip, but based on the performance of many US MNCs to date, it appears that robust compliance is ongoing.

Developments in the Peoples' Republic of China

The US and China have different priorities and approaches in relation to anti bribery and corruption programmes, but the underlying principles are similar. In recent years, China has reformed its Criminal Law several times to bring its provisions into line with evolving domestic ABAC risks. The 2021 Amendment (XI) to the Criminal Law increased punishments for non-state public officials who accept or solicit bribes and redefined the sentencing standards for non-state employees who take advantage of their position to accept or ask for bribes or seek benefits for others. 2024 Amendment (XII) to the Criminal Law included individual criminal liability risks for management and regular employees, similar to those faced by employees at state-owned enterprises. Directors, supervisors, managers and other key personnel of Chinese companies face criminal liability for assigning management of profitable business to relatives, entering into procurement arrangements with relatives, or engaging in procurement of substandard products from relatives. Additionally, sale of company assets below market value incurs criminal lability. Companies and their officials found guilty of corruption face civil, administrative and criminal penalties if they engage in corrupt activities.

A key development in the expansion of China's anti-corruption framework was the coming into effect of the Supervision Law in 2018 and subsequent amendments, which went into effect in June 2025. New measures under the Supervision Law include provisions governing coercive measures, protective custody, compulsory appearance, orders to await investigation and confinement during investigation.

The National Commission of Supervision ('NSC') was established in 2018 to integrate the disciplinary functions of the Communist Party of China ('CPC') and Chinese state anti-corruption functions. The NSC enforces the new supervision regime, and its subordinate commissions are empowered to oversee officials who exercise state power, investigate violations of official duties, including crimes related to their positions, promote integrity and anti-corruption activities, and safeguard the PRC Constitution. Typical violations investigated by the NSC include embezzlement, bribery, abuse of power, neglect in the exercise of official duties, rent-seeking, conflict of interest, fraud and dissipation of state assets. While the NSC is focused primarily on corruption by CPC officials and SOE employees, the scope and jurisdiction of the NSC also touches non-CPC persons who have exposure to state activities. The NSC does not have an international profile because its work is domestically focused, but it has entered into MOUs, some of which envisage cooperation, with countries in South America, Southeast Asia and the Middle East.

With the rapid development of the Chinese economy, commercial bribery has tended to become more prevalent in business transactions. Currently, the PRC legal framework does not have a unified anti commercial bribery regime and legal provisions are spread across various administrative and criminal laws, and judicial documents, principally the Anti Unfair Competition Law, the Criminal Law and judicial opinions. In recent years these laws have been strengthened to clearly reiterate the illegality of commercial bribery and there have been multiple regional enforcement programmes, including throughout 2025.

Strengthening ABAC Enforcement in Europe Through Cooperation

Meanwhile in Europe, in March 2025 three key jurisdictions announced an alliance to fight corruption. The UK Serious Fraud Office ('SFO'), the French Parquet National Financier ('PNF;) and the Attorney General of Switzerland ('Swiss OAG') agreed the formation of a taskforce to tackle international

bribery and corruption. The intention behind the new taskforce is to strengthen collaboration and cooperation on cases and to share experience and best practices. The SFO, the PNF and the Swiss OAG have previously successfully cooperated on high profile anti-bribery and corruption cases involving Rolls Royce and Airbus and are able to strengthen Europe-wide enforcement on the basis of their shared experience. As the task force becomes increasingly integrated and effective, it is possible that other European countries will join the group. While it is unclear whether the task force is a direct response to the recent changes in US enforcement priorities discussed above, it is clearly aimed at improving ABAC enforcement in Europe, which has been quietly evolving in recent years integrating experience from the US in a complex environment where intra-Europe cases require that regulators closely cooperate. For example, various European jurisdictions including the UK and France now use the Deferred Prosecution tool that was first developed by US regulators.

Focusing on one member of the European Union, in 2025 the French government reinforced its anti-bribery and anti-corruption framework through a combination of policy, legislative and institutional initiatives, adopting a far-reaching National Anti-Corruption Plan for 2025 to 2029. The plan comprises 36 measures aimed at strengthening the prevention and detection of integrity breaches across French public administrations, local authorities and the private sector, with a particular focus on risks linked to organised crime and an enhanced international regime. It is expected that this new environment will be supported by legislation providing for a clearer statutory framework for internal investigations, including their legal basis, along with strengthening of rights of defence and protection of lawyers' work product.

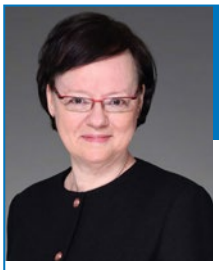
In Conclusion

While the US government does not appear to be as comprehensively focused as previously on FCPA enforcement (except insofar as it relates to serious crime), US companies nevertheless are maintaining very high standards of ABAC compliance based on mature policies and procedures developed over many years and a deep bench of external professional support.

In China, authorities have been working on enforcing existing ABAC laws and upgrading them for several years, while also building a new strong regulator, in the form of the Supervision Bureau, to manage enforcement against bribery activities involving CCP members and government officials. The scale of enforcement in mainland China, as compared with all other jurisdictions, has been huge and the signs are that it will continue.

The ABAC regulatory environment in Europe is complex, and enforcement activities must be performed by individual nations in accordance with different laws and compliance risk tolerances. That said, regulators from different countries increasingly have worked together to investigate cross-border crime. Unified enforcement has been advanced further with the creation of the 2025 task force discussed above. Meanwhile European countries, notably France, have upgraded and rationalised their ABAC regimes in 2025.

In conclusion, notwithstanding policy shifts in the US, in 2025 ABAC compliance has tended to favour the plus side of the equation in terms of robustness of policies and enforcement by individual nations, working alone and together. As of the time of writing, this momentum looks set to continue as governments seek to address the malign effects of organised crime and reduce the impact of corruption on their economic systems.



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Rewiring Economic Crime Enforcement: How Malaysia is Modernising Laws, Institutions and Enforcement

This article will discuss how Malaysia is rebuilding the anti-economic crime ecosystem end-to-end. It outlines key law reforms, including Anti Money Laundering, Anti Terrorism Financing and Proceeds of Unlawful Activities (Amendment) Act 2025 proliferation-financing coverage, Companies (Amendment) Act 2024 beneficial-ownership rules, Penal Code Sections 424A to D on mule accounts, Criminal Procedure Code section 116D fast-freeze powers, the Government Procurement Bill 2025, and mandatory e-Invoicing, and explains their practical impact on investigations, asset restraint and compliance. It then examines institutional capacity: the National Scam Response Centre and National Fraud Portal for near real-time tracing, Financial Intelligence Unit analytics, and mutual legal assistance reciprocity that strengthen cross-border freezing. Finally, it highlights prosecutorial signals from landmark cases and closes with governance and culture: why AI-enabled tools still require human judgement and accountability.

Introduction

Economic crime has placed long-standing pressure on Malaysia's economy. Between 2018 and 2023, the country is estimated to have lost RM277 billion (equivalent to approximately US$60 to 65 billion over the period, depending on exchange rates) to corruption, about RM1,609 per Malaysian, a figure higher than a full month of minimum wage during that period of time for many Malaysians, which puts the real-world impact of these statistics into perspective.[1] On the digital front, online fraud reported losses reached RM5.62 billion from 2023 to 2025, spanning phone scams, e-commerce fraud and fake investment schemes.[2]

However, over the past 18 to 24 months, Malaysia has shown meaningful progress. Stronger laws, faster coordination and firmer prosecutions have improved outcomes: faster fund tracing, more mule account takedowns, fewer successful phishing attacks and more blocked fraud attempts.[3]

Law and Policy Reforms

AntiMoney Laundering, AntiTerrorism Financing and Proceeds of Unlawful Activities (Amendment) Act 2025

The 2025 amendments expand the AntiMoney Laundering, AntiTerrorism Financing and Proceeds of Unlawful Activities Act 2001 ('AMLA') to expressly cover proliferation financing and strengthen powers relating to investigation, prosecution, supervision, reporting and forfeiture. Reporting obligations and compliance expectations have also been raised for designated non-financial businesses and professions ('DNFBPs') such as law firms, accountants and estate agents.[4]

In practice, the reforms enable earlier asset freezes and broaden the scope of chargeable conduct, strengthening both deterrence and enforcement outcomes.

Companies (Amendment) Act 2024

The Companies Act 2016 now expressly regulates beneficial ownership ('BO'). Under the Companies Commission of Malaysia's Guidelines for the Reporting Framework for Beneficial Ownership of Companies (Revised 2025), BO is assessed using criteria such as whether a person exercises ultimate effective control, formally or informally.[5] These provisions directly target shell structures and layered ownership commonly used to conceal proceeds of crime, enabling easier tracing in corruption and fraud investigations.

Penal Code (Amendment) Act 2024

The amendments introduce targeted offences into the Penal Code under Sections 424A to 424D to address mule accounts and account-rental schemes. New offences criminalise possession or control of another person's account or payment instrument without lawful authority, giving another person possession or control of one's own account, and conducting unlawful transactions using one's own or another person's account.[6] These targeted provisions close a long-standing enforcement gap by allowing prosecutors to directly charge mule account holders who facilitate scam networks.

Criminal Procedure Code (Amendment) Act 2024

Section 116D added into the Criminal Procedure Code empowers police officers (Sergeant and above) to seize or prohibit dealings with funds in accounts where there is reasonable suspicion of criminal involvement.[7] This provides investigators with a practical early intervention tool to prevent the rapid dissipation of funds, especially critical in scam and commercial crime cases.

Government Procurement Bill 2025

The bill introduces Malaysia's first dedicated procurement statute, standardising tender rules and extending coverage to many government-linked companies. It also introduces vendor registration, conflict-of-interest declarations and stronger sanctions for corruption and falsification.[8] By turning procurement governance into enforceable law rather than policy, the bill strengthens transparency, improves auditability and enhances deterrence in a historically high-risk sector.

E-Invoicing

Mandatory e-invoicing requires every invoice, credit note and debit note to be electronically submitted for validation before it is shared with customers, ensuring real-time tax transparency, reduced invoice fraud and smoother audit processes.[9]

Institutional Capacity and Cross-Border Coordination

National Scam Response Centre and National Fraud Portal

Malaysia's scam-response engine now has a two-layered system. The National Scam Response Centre ('NSRC') is a national coordination hub and the National Fraud Portal ('NFP') is the shared infrastructure that enables banks to trace fund flows collaboratively in near real-time, powered by Artificial Intelligence ('AI') and automation.

In 2024, this model delivered measurable operational gains. Fund-tracing time improved by approximately 75 per cent, monthly earmarked sums (funds held pending police or court orders) increased by about 47 per cent, and mule account identifications increased by approximately 65 per cent, with more cases escalated promptly to the Royal Malaysia Police. The financial sector also blocked more than RM399 million in attempted fraud, while phishing-related unauthorised transactions declined by 52 per cent year-on-year.[10]

Financial Intelligence and Suspicious Transaction Reports
In 2024, the Central Bank of Malaysia's Financial Intelligence Unit ('FIU') received 342,166 Suspicious Transaction Reports ('STRs') using network analytics and text-mining tools to prioritise higher-risk activity and share intelligence with domestic agencies and more than 30 foreign FIUs.

Notably, around 70 per cent of FIU disclosures were linked to high-risk predicate crimes (including fraud, corruption, organised crime, smuggling or drugs, and terrorism or proliferation financing), contributing to over 200 arrests and more than RM120 million in funds frozen, seized or recovered.[11]

Mutual Legal Assistance
Malaysia's primary legal channel for cross-border cooperation is mutual legal assistance ('MLA'). Through MLA, Malaysia can request or provide asset-tracing information and enforce foreign freezing or restraint orders. Malaysia currently maintains 13 MLA treaties covering 21 jurisdictions, including most ASEAN neighbours and key trading partners.[12]

Where no bilateral treaty exists, Malaysia can still cooperate based on reciprocity, which extends the practical 'freezing safety net' beyond formal treaty boundaries. This flexibility is crucial in fraud and online scam cases, where funds often move rapidly across multiple regional accounts.[13]

The Attorney General's Chambers acts as Malaysia's Central Authority, with the Transnational Crime Unit managing MLA matters. Since December 2024, the i-AGC case-management system has introduced structured prioritisation, factoring in severity, urgency and risk of asset dissipation. This allows high-risk freeze requests to move faster.[14]

Mutual Assistance in Criminal Matters (Amendment) Act 2024
A significant shift came with the September 2024 amendments to the Mutual Assistance in Criminal Matters Act ('MACMA'). Malaysia can now:

1. freeze or seize instrumentalities used or intended for money laundering or predicate offences at the request of foreign authorities; and

2. execute foreign restraint or confiscation orders even without a bilateral treaty, relying on reciprocity.[15]

This is a significant enhancement to Malaysia's international cooperation framework because it directly strengthens pre-recovery restraint and freezing tools across borders. Foreign partners can now request Malaysia to freeze assets located here with greater confidence, so long as requests satisfy MACMA standards and contain sufficient particulars. This clarity is critical in fast-moving, multi-jurisdiction fraud cases, where speed and legal certainty often determine whether assets are preserved or lost.

Operational Networks: National Central Bureau Unit/ INTERPOL, ASEAN Chiefs of National Police and Asset Recovery Inter-Agency Network–Asia Pacific
While MLA provides the legal lane for freezing assets, operational networks provide the fast lane for intelligence, tracing and coordination, often making the difference between timely freezes and lost funds.

Malaysia's law enforcement agencies regularly exchange information with foreign counterparts, including National Central Bureau Unit ('NCB')/INTERPOL, ASEAN Chiefs of National Police ('ASEANAPOL') and National Central Bureau Unit ('NCB')/INTERPOL.

The information is exchanged either via the centralised coordinator NCB/INTERPOL or directly via established contacts, which resulted in the opening of 27 investigations on fraud cases and the arrest of 261 individuals for fraud.[16]

The ARIN-AP is a practitioner network focused on asset recovery. It enables rapid, informal exchanges about where assets are located; how they are structured; and which jurisdictions hold relevant accounts, companies or nominees. In practice, the ARIN-AP helps each jurisdiction to locate assets quickly in preserving the trace-to-freeze window.[17]

Prosecution and Enforcement

1MDB Scandal

The strongest prosecutorial signal came on 26 December 2025 when the High Court convicted former Prime Minister Najib Razak on all 25 charges in the 1MDB prosecution, including abuse of power and money laundering, imposing a further 15 years' imprisonment alongside multi-billion-ringgit fines and recoveries.[18]

High-profile prosecutions have strengthened the deterrence effect of economic crime laws and reinforced the legal norm that no one is above the law, particularly when corruption undermines public trust.

Conclusion: Reforms in Place, Technology Assists, Culture Decides

Malaysia has modernised its legal framework, enhanced institutional capacity and embraced technology to combat economic crime. Tools like the NFP's AI-enabled tracing, FIU analytics and cross-border cooperation networks have made enforcement faster and more effective.

While laws and technology are essential, they are not, on their own, sufficient. Speaking at the International Financial Crime and Terrorism Financing Conference ('IFCTF') 2025, the Governor of the Central Bank of Malaysia, Datuk Seri Abdul Rasheed Ghaffour, stated that:[19]

'As technology and AI reshape compliance and AML, personal conduct and ethics are what ultimately sustain trust. No algorithm can replace the judgment, integrity and accountability expected of the financial industry.'

Putting this into practice means supervising systems that use AI and machine learning technologies that analyse data, detect patterns, and even suggest decisions. Institutions need checks to prevent bias, maintain full audit trails showing who changed what and when, and keep humans involved for sensitive decisions like freezing accounts or onboarding higher-risk clients.

At the end of the day, rewiring economic crime enforcement is not just about new rules or digital tools. It's about creating a culture of integrity, sound judgment and accountability that runs through the entire system.

Notes

[1] New Straits Times, 'Economic crime is draining Malaysia of billions' (23 March 2025); Focus Malaysia, 'Concerted effort needed to combat the draining of billions of ringgit annually from economic crime' (25 March 2025).
[2] New Straits Times, 'Online fraud losses hit RM5.62bil in three years' (21 January 2026).
[3] The Central Bank of Malaysia ('BNM'), Annual Report 2024 (24 March 2025) (Maintaining Financial Integrity chapter); The Edge Malaysia, 'Banking industry averted over RM399 mil in attempted fraud transactions in 2024 — BNM' (24 March 2025).
[4] Anti-Money Laundering, Anti-Terrorism Financing and roceeds of Unlawful Activities (Amendment) Act 2025; Financial Action Task Force/Asia-Pacific Group, Mutual Evaluation Report: Malaysia (11 December 2025).
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[11] *Ibid*.w
[12] Financial Action Task Force/Asia-Pacific Group, Mutual Evaluation Report: Malaysia (11 December 2025).
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[18] The Edge Malaysia, '1MDB-Tanore: Najib sentenced to 15 years' imprisonment, hit with RM11.38b fine' (26 December 2025).
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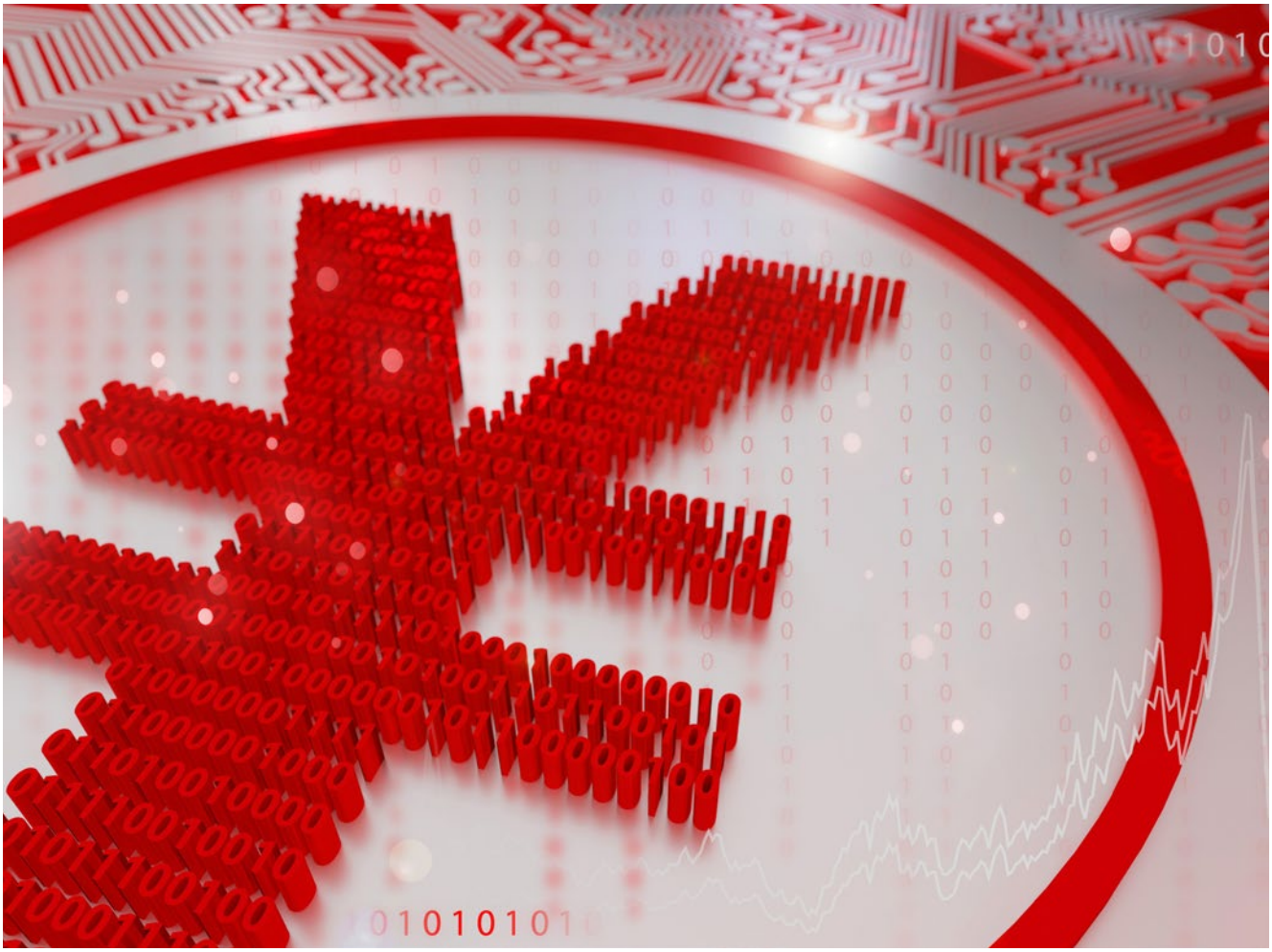
Rewiring Economic Crime Enforcement: China's Legislative Innovation, Coordinated Mechanisms and Digital Empowerment



In an era of deep global economic interconnection and rapid digital technology development, economic crimes have exhibited cross-regional, specialised and highly concealed characteristics, posing severe challenges to law enforcement systems worldwide. Confronting this global challenge, China is advancing the modernisation of its economic crime governance through a systematic approach. This article aims to provide an in-depth analysis of the three-dimensional restructuring within China's economic crime enforcement: using legislation and policy as the vanguard to solidify the legal foundation; employing inter-agency and cross-border coordination as the nexus to consolidate; and leveraging digital technology as the engine to empower investigative operations. By incorporating the latest cases, this article attempts to outline a dynamic picture of China's response to new economic crime challenges and explore its underlying logic and future direction.

Economic Crime Enforcement in China: New Challenges and Old Difficulties

China's economic crime landscape is currently undergoing a profound transformation. Criminal activities such as illegal fundraising, telecom and online fraud, underground banking, cross-border money laundering and capital market manipulation are interwoven. These involve not only enormous sums but also constantly evolving methods that utilise new technologies and business models like virtual currencies, cross-border payments and online grey industries to evade supervision. These crimes often feature long chains, dispersed involved entities and a high degree of evidence digitisation, presenting acute challenges to the traditional law enforcement model.

In the past, enforcement practices faced multiple bottlenecks. First, legislative lag, where emerging financial activities and criminal tactics sometimes lacked clear legal definition and regulation. Second, cross-department coordination barriers, where information cannot be shared and overlapping functions among public security, financial regulatory, tax, customs and judicial departments. Third, investigative capability gaps, where traditional manual analysis struggled to effectively mine clues and secure evidence from massive amounts of electronic data. Fourth, difficulties in cross-border fugitive pursuit and asset recovery, where criminals exploited legal differences and judicial barriers between countries to conceal assets and evade sanctions.

Legislative and Policy Reforms: Building the Foundation for a Law-Based Business Environment

To address these challenges, China has in recent years committed to providing a robust institutional guarantee for economic crime governance through top-level design and legislative refinement. Its core orientation is shifting from post-event governance to whole-chain governance encompassing pre-event prevention, in-process supervision and post-event punishment.

Policy Guidance

In July 2025, the Central Committee of the Communist Party of China issued the Opinions on Strengthening Judicial Work in the New Era, setting the tone for judicial adjudication of economic crimes in the new period. The Opinions explicitly call to severely punish, according to law, financial crimes such as market manipulation, insider trading, illegal fundraising, loan fraud and money laundering, and place improving the law-based business environment in a prominent position. This signifies that combating economic crime is not only a necessity for maintaining financial security, but is also a key measure for protecting the property rights of enterprises under all forms of ownership and stimulating market vitality. At the policy level, emphasis on correcting the misuse of administrative or criminal means to intervene in economic disputes reflects the precision and balance of judicial protection.

Legislative Revision and Improvement

Legislative activity dynamically adjusts following changes in crime patterns. In the field of money laundering crime, relevant regulations are continuously improved, aiming to provide solid legal support for combating downstream money laundering related to telecom fraud and online gambling, and to align China's anti-money laundering regulatory system with international standards. In the field of financial adjudication, rulemaking extends to frontier areas like digital currency, mobile payments and cross-

border financial asset transactions, striving to fill legal gaps in adjudicating disputes in these emerging areas. The core of these legislative efforts lies in tightening the criminal law net, compressing the space for crime by enhancing the operability and deterrent effect of the law.

Inter-Agency and Cross-Border Coordination Mechanisms: Building a Collaborative Governance Network

Breaking down departmental barriers and achieving efficient coordination is key to enhancing the effectiveness of China's economic crime governance. Currently, China is constructing a vertically and horizontally linked, internally and externally combined collaborative governance network through mechanism innovation.

Deepening Inter-Departmental Administrative-Criminal Linkage and Joint Governance

Inter-departmental collaboration has evolved from ad-hoc case consultations to institutionalised and regularised joint working mechanisms. For example, the Ministry of Public Security and the National Financial Regulatory Administration jointly launched cluster operations targeting black/grey industries in the financial sector, filing and investigating over 1,500 cases and dismantling over 200 professional criminal gangs between June and November 2025. In this process, the mechanism of 'public security economic investigation suggestion letters' played a unique role, whereby public security organs provided governance suggestions to responsible departments regarding systemic vulnerabilities discovered during previous attacks, extending the impact from fighting crime to promoting industry governance. In Shanghai, the Financial Regulatory Bureau, together with public security and prosecutorial organs, established physical collaborative governance offices, achieving deep cooperation in areas like clue research and evidence collection through issuing joint mechanism documents. Innovative mechanisms like the foreign exchange administrative-criminal linkage in Guangdong and elsewhere have opened channels for transferring clues discovered through administrative supervision to criminal investigation for accountability.

Strengthening Cross-Border Judicial and Law Enforcement Cooperation

For economic crimes with distinct cross-border features, China's law enforcement actions increasingly rely on international collaboration. The case of Shanghai police cracking the first nationwide case of illegal fund exchange using international gift cards is a prime example. This case was a cluster campaign launched under the unified work of the Ministry of Public Security, coordinating police forces from Beijing, Shanghai, Zhejiang, Jiangsu and Anhui. In tracking down underground banking operations, cross-border intelligence exchange and law enforcement cooperation have become key to severing fund chains and tracing upstream crimes. Through participation in the Financial Action Task Force ('FATF'), utilising Interpol channels and deepening bilateral judicial assistance treaties, China continuously expands the depth and breadth of cross-border cooperation, aiming to achieve destructive strikes against criminal networks.

Digital Evidence, Artificial Intelligence and Data Analytics: The Core Engine Driving Investigative Model Transformation

Technological empowerment is an inevitable choice to address the digitised and networked challenges of economic crime. Chinese law enforcement agencies are deeply integrating big data and AI into the entire case-handling process, driving the investigative model from experience-driven to data-driven.

Financial Analysis as Evidence

Fund flow is the lifeline of economic crime. The Financial Analysis as Evidence model promoted by Beijing's public security economic investigation departments represents the cutting-edge application of fund analysis technology. Relying on fund analysis and appraisal centres, this model transforms complex fund flow analysis results into court-admissible evidence for combating newly emerging crimes like illegal business operations involving virtual currency exchange. This is not only an application of technology but an innovation in judicial proof rules.

Intelligence-Command-Action Integration: The Central Nervous System of Smart Policing

The Intelligence-Command-Action integrated operational mechanism—with intelligence as the guide, command as the hub, and action as the core—has become one of the dual engines for enhancing policing efficiency. At the command centre of the Beijing Municipal Public Security Bureau's Economic Investigation Corps, large screens integrate real-time case and clue information, enabling precise command and dispatch during cross-regional arrest operations. By strengthening the data, computing power, application and collaborating with administrative supervision departments and national laboratories to build

crime-type research tool matrices, this mechanism has significantly improved monitoring, early warning and in-focus governance capabilities.

Big Data Legal Supervision Models

Prosecutorial organs utilise big data models to shift from passively accepting cases to actively seeking crime clues. For instance, by constructing legal supervision models, case handlers can read out abnormal fund chains within massive volumes of normal transaction data, thereby uncovering facts such as underground banks assisting smuggling gangs in transferring criminal proceeds. In cases involving cross-border gambling or telecom fraud, penetrative analysis of fund flows involving accounts can effectively outline the complete criminal network and gang structure.

Comprehensive Collection and Application of Electronic Evidence

Electronic evidence has become central to case determination. In zero confession cases, technical means to recover deleted chat records or parse tens of gigabytes of electronic data often become key to breaking the case. Law enforcement agencies standardise the entire process of electronic evidence extraction, fixation, appraisal and presentation to ensure its evidentiary soundness, making silent data speak and testify against crime.

Conclusion and Outlook

China's restructuring of its economic crime enforcement system follows a comprehensive governance path rooted in the rule of law, advanced through coordination, and driven by technology. Through the continuous improvement of legislation and policy, law enforcement actions have gained clear norms and authorisation. By breaking down departmental and geographical barriers, governance force has been formed. Through the deep integration of digital technology, the paradigm of investigation and case handling has been totally rewritten.

However, challenges remain on the path forward. The double-edged sword effect of technology necessitates a careful balance between innovation and the protection of citizens' rights, data utilisation and privacy security, and investigative efficiency and procedural justice. In the future, China's economic crime governance system may exhibit the following trends. First, legislation will become more forward-looking and adaptive, rapidly responding to new risks brought by Web3.0, AI-generated content, etc. Second, coordination mechanisms will move towards smart coordination, achieving automatic clue collision and intelligent risk alarm through building cross-departmental data sharing platforms. Third, technology application will deepen and become more standardised; AI may not only be used for analysis but also assist in sentencing recommendations and the giving of similar cases, while electronic evidence rules will become increasingly improved. Fourth, cross-border cooperation will move towards rule coordination, with China playing a more active role in shaping global economic crime governance rules and promoting the establishment of fairer and more efficient cross-border asset recovery cooperation mechanisms.

Ultimately, the modernisation of the economic crime enforcement system is an integral part of the modernisation of national governance capacity. China's practice demonstrates that only by adhering to the development direction of legalisation, coordination and intellectualisation can the risks posed by complex economic crimes be effectively managed, thereby safeguarding financial security, market order and public rights and interests, and safeguarding high-quality economic development.

Jack Li (Li Zhiqiang)
Founding Partner, Jin Mao Partners, Shanghai

Jack Li is the Founding Partner of Jin Mao Partners, the 30th President of the IPBA, National Expert in Administrative Adjudication and Administrative Reconsideration recognized by the Supreme People's Court and the Ministry of Justice of China, is an Arbitrator of more than 60 international and domestic arbitration commissions. He is Vice President of the Shanghai Association of Bankruptcy Administrators.

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Technology, Digital Evidence and Data Analytics in Economic Crime Enforcement: Challenges Under Indian Law

This article examines the integration of technology, digital evidence and data analytics in Indian economic crime enforcement, with particular focus on constitutional limitations, statutory thresholds and evidentiary standards under contemporary Indian law.

Introduction

Economic crime enforcement in India is undergoing a structural transformation driven by technology. Investigative agencies increasingly rely on data analytics, artificial intelligence ('AI'), machine learning ('ML') and digital forensic tools to detect, investigate and prosecute complex financial misconduct. This transformation is not merely operational; it reshapes how suspicion is generated, how evidence is assembled, and how culpability is inferred.

India's rapid digitisation of financial systems—through real-time payments, automated compliance platforms, digital identification mechanisms and online marketplaces—has fundamentally altered the anatomy of economic offences. Traditional investigative techniques are frequently inadequate to reconstruct such conduct without technological assistance.

While technological tools have enhanced enforcement capacity, they also raise acute challenges for India's constitutional framework and criminal procedure. The increasing reliance on algorithmic suspicion, automated surveillance and complex digital evidence tests the guarantees of equality, fairness and personal liberty under the Constitution of India ('Constitution'). With the enactment of the Bharatiya Sakshya Adhiniyam, 2023 ('BSA'), Indian courts are now required to interpret evidentiary rules expressly designed for a digital age, while preserving foundational principles of due process and fair trial.

India's Digital Enforcement Environment and Statutory Architecture

Indian enforcement agencies operate within one of the world's most expansive digital public infrastructures. Platforms such as Aadhaar, the Unified Payments Interface ('UPI'), the Goods and Services Tax Network ('GSTN'), depositories and digitised securities markets generate enormous volumes of transactional data in real time. This data-rich ecosystem has fundamentally altered investigative possibilities.

Investigations under the Prevention of Money Laundering Act, 2002 ('PMLA'), the Companies Act, 2013, the Income Tax Act, 1961, the Customs Act, 1962 and the Information Technology Act, 2000 increasingly depend on electronic records and digital trails. Agencies such as the Enforcement Directorate ('ED'), Serious Fraud Investigation Office ('SFIO'), Central Bureau of Investigation ('CBI'), Directorate of Revenue Intelligence ('DRI') and Financial Intelligence Unit–India ('FIU-IND') now function in an environment where the scale, velocity and complexity of information far exceed traditional investigative methods.

This shift has also altered enforcement logic: suspicion is increasingly generated through data analytics rather than human observation, and evidence is often reconstructed digitally rather than built solely on physical seizure. While these technologies enhance the detection and tracing of financial crime, they raise legal concerns. Tools such as blockchain analytics often rely on probabilistic inference rather than conclusive attribution. Techniques like wallet clustering may indicate control or connections between wallets, but they cannot definitively identify individuals. Heavy reliance on such tools risks concentrating decision-making within opaque systems, making judicial scrutiny challenging—particularly in criminal cases where guilt must be established beyond reasonable doubt.

Data Analytics, 'Reason to Believe' and Statutory Thresholds

One of the most significant doctrinal implications of technology-led enforcement concerns the statutory threshold of 'reason to believe'. This expression appears across Indian economic statutes and functions as a gatekeeping standard for search, seizure, attachment, arrest and prosecution.

Traditionally, 'reason to believe' requires tangible material rationally connected to the formation of belief and capable of judicial scrutiny. It is not synonymous with subjective satisfaction or institutional suspicion.

In contemporary enforcement practice, however, agencies increasingly rely on algorithmic analysis—such as transaction pattern recognition, network mapping, anomaly detection and risk scoring—to identify suspicious conduct. This raises a critical legal question: can algorithmic outputs alone constitute 'reason to believe' in the statutory sense?

The constitutional risk lies in the delegation of statutory satisfaction to automated systems. If the legally mandated belief is effectively generated by an opaque algorithm, the statutory threshold risks becoming immune from judicial scrutiny. Technology may inform belief, but it cannot replace the legal obligation to independently assess material facts.

Comparable concerns have arisen globally, particularly in jurisdictions deploying predictive analytics in financial regulation. However, Indian constitutional jurisprudence demands that discretionary power remain structured, non-arbitrary and reviewable. Algorithmic suspicion must therefore remain legally intelligible, not merely technologically persuasive.

Indian courts have consistently held that such belief must be based on relevant material and must not be arbitrary, vague or extraneous. In Arvind Kejriwal v Directorate of Enforcement,[1] the Apex Court reiterated that 'reason to believe' must be more than mere suspicion and based on material evidence, holding that belief must have a rational connection to the facts, and it distinguished 'reason to believe' from mere grave suspicion and emphasised that it must be shared with the arrestee.

Digital Evidence Under the Bharatiya Sakshya Adhiniyam, 2023

The enactment of the BSA marks a decisive shift in India's evidentiary framework. The BSA expressly recognises electronic and digital records as primary forms of evidence and modernises evidentiary rules to reflect contemporary investigative realities.

Under the BSA, electronic records—including data stored on servers, cloud platforms, mobile devices and distributed systems—are no longer treated as exceptional or derivative. However, the core evidentiary concerns remain unchanged: authenticity, integrity, reliability and chain of custody.

Economic crime prosecutions increasingly rely on forensic extraction of digital devices, metadata analysis and hash verification, system logs and transactional databases and expert interpretation of complex technical material.

In Anvar P.V. v P.K. Basheer,[2] the Supreme Court emphasised strict statutory compliance for electronic evidence, reinforcing that digital convenience cannot override procedural safeguards. This insistence on formal admissibility continues to influence digital prosecutions.

Courts must ensure that complicated technology does not weaken basic legal safeguards. When digital evidence plays a key role, the defence must be given proper access to the data, the methods used to collect it, and the assumptions behind the analysis, so it can question whether the evidence is reliable. Without this, the fairness of the trial may be undermined.

Constitutional Constraints: Articles 14, 20 and 21

The Constitution requires that enforcement powers, irrespective of the tools employed, remain subject to the principles of fairness, accountability and proportionality.

Article 14 of the Constitution Provides for the Right to Equality Before Law

This implies that State action must be non-arbitrary, rational and based on intelligible criteria.

Where similarly situated persons are treated differently on the basis of undisclosed risk scores, data correlations or automated flags, enforcement action may fail the constitutional test of non-arbitrariness. The absence of transparency prevents affected individuals from understanding why they were selected for scrutiny, while also limiting judicial review of the decision-making process.

Equality before law requires that enforcement criteria be rationally connected, transparent and consistently applied. When algorithmic outputs substitute or substantially influence human judgement without adequate safeguards, they risk introducing hidden discrimination and unequal treatment, undermining the core guarantee of Article 14.

Article 20(3) of the Constitution Provides for the Right to not be Compelled to be a Witness Against Oneself

This right protects individuals against self-incrimination. In the digital context, this protection is increasingly implicated by practices where they may be compelled to provide access to personal devices, passwords, electronic records, chats, emails, logs and cloud-stored data.

As digital evidence increasingly originates from personal devices and online accounts, the traditional distinction between testimonial and non-testimonial compulsion becomes strained. Unlike physical objects, digital data often reflects the mental processes, choices and communications of the individual.

Courts are therefore required to reassess existing jurisprudence in light of modern technology, particularly where compelled access effectively forces an individual to assist in the creation or interpretation of incriminating evidence. Uncritical acceptance of digital extraction practices risks eroding the substantive protection guaranteed under Article 20(3).

Article 21 of the Constitution Provides for the Right to Life and Personal Liberty

Privacy is Recognised as a Fundamental Right

This right protects personal liberty and privacy, both of which are directly impacted by technology-driven enforcement mechanisms. Large-scale data collection, automated surveillance, continuous monitoring and prolonged digital investigations intrude deeply into an individual's private sphere.

The Supreme Court's decision in K.S. Puttaswamy v Union of India[3] changed Indian law by recognising privacy as a fundamental right. The case also set out a proportionality test for any action that interferes with privacy or personal freedom. According to this test, the government must ensure that any such action: (1) has a valid reason or legitimate purpose; (2) is necessary to achieve that purpose; (3) is reasonable in how much it affects people; and (4) uses the least intrusive method possible.

Technology does not dilute these requirements; if anything, it heightens the need for strict scrutiny, given the scale, speed and intrusiveness of digital tools.

Digital Permanence and the Right to Live with Dignity

A less examined, but equally significant, concern under Article 21 is digital permanence. Technology-led enforcement generates enduring digital records—such as search histories, attachments, alerts, watchlists and investigative metadata—that may persist long after

investigations conclude, or even where no wrongdoing is established. The indefinite retention and potential circulation of such data can cause lasting reputational harm, limit personal and professional opportunities and subject individuals to ongoing suspicion. This persistent digital footprint may function as a form of extra-legal punishment, undermining the right to live with dignity and personal liberty. Article 21 therefore requires not only the lawful collection of data, but also clear limits on retention, mechanisms for review and deletion and safeguards against unnecessary dissemination.

The Digital Personal Data Protection Act, 2023 reinforces this constitutional concern by imposing statutory duties of data minimisation and erasure, reflecting a legislative move away from perpetual data retention. Although the Act does not establish an absolute right to be forgotten, it signals an emerging balance between investigative necessity and individual dignity. In economic crime enforcement, courts will increasingly be called upon to address this tension, particularly where digital records outlive their legal justification, implicating the evolving 'Right to Be Forgotten' under Indian constitutional law

Evidentiary Burdens, Disclosure and Judicial Capacity

Technology-based investigations create new challenges for courts. Judges now have to understand complex digital evidence, evaluate expert opinions and make sure that the accused has a real chance to question and challenge electronic proof.

This makes disclosure especially important. When authorities rely on computer systems, algorithms or specialised software to reach conclusions, fairness requires that the defence is told how these tools work, what assumptions they rely on, how accurate they are and where they may fail. Claims of technical complexity or confidentiality should not prevent this basic transparency.

To protect the right to a fair trial, courts must develop the knowledge and clear legal standards needed to deal with such technology. Without this, advanced tools risk giving the prosecution an unfair advantage and weakening the balance between both sides.

Conclusion

Technology has become central to economic crime enforcement in India, enhancing the State's ability to investigate complex financial misconduct through data analytics, digital forensics and blockchain tools. At the same time, these innovations place pressure on constitutional safeguards, evidentiary standards and procedural fairness.

The Chief Justice of India, Honourable Justice Surya Kant, emphasised, 'Technology must remain a servant of justice, not its substitute', highlighting that while technological tools can aid investigations, ultimate responsibility for fairness, reasoned judgment and constitutional compliance must remain with human decision-makers.[4] Technology can inform and assist, but it cannot replace judicial discretion or the safeguards of due process.

The future of enforcement lies in constitutionalised technology use, where innovation is governed by transparency, judicial oversight and procedural fairness. As Indian courts interpret statutes like the PMLA and apply constitutional safeguards to digital investigations, their jurisprudence will decisively shape the legitimacy and fairness of technology-driven economic crime enforcement.

Disclaimer: The opinions expressed herein are personal and are not intended to represent the official position of any employer, client or associated entity.

Notes

[1] Criminal Appeal No. 2493 of 2024 (Supreme Court of India, 12 July 2024) – 2024 INSC 512.
[2] (2014) 10 SCC 473; AIR 2015 SC 180.
[3] (2017) 10 SCC 1; AIR 2017 SC 4161.
[4] Address at 'Ensuring justice for the common man: strategies for reducing litigation costs and delays' symposium, 14 December 2025.

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Upendra's practice covers mergers & acquisitions, private equity investments and general corporate commercial matters. With over 25 years of experience, augmented in representing multinational and domestic corporations, he is able to appreciate the nuisances of different sectors like manufacturing, real estate, defence, media-entertainment, IT/ITES and retail with the same vivacity. In the past year, Upendra has completed deals/matters with a combined value of over a billion dollars. He is a member of the Bar Council of Delhi, Delhi High Court Bar Association and International Bar Association. Upendra was ranked as a 'Notable Practitioner' in Corporate & M&A by IFLR1000 Asia Pacific Annual Rankings 2025-2026 and as a 'Leading Lawyer Champion' in Corporate & M&A by LEGAL ERA Rankings 2024-2025.

Did You Know?

Interesting Laws Around the World

New Social Media Minimum Age in Australia

Despite its relatively small size in population and economy, we like to think that Australia punches above its weight with regard to advances and innovations in the tech sector, for example, in the development of Wi-Fi technology, Cochlear implants and Google Maps technology.

The federal government of Australia recently introduced a legally enforceable age limit for social media use, which took effect in December 2025. Certain social media platforms, including Facebook, X, Instagram, TikTok and YouTube, are now required to prevent accounts being held by children under 16 years of age.

While many jurisdictions have regulated digital service providers—for example, the UK and EU have legislation imposing duties of care or consumer protection provisions—Australia was the first to enact a blanket mandatory age limit. Whether this measure falters like previous attempts to regulate big tech or establishes Australia as a digital policy leader remains to be seen.

Who Does the Law Apply To?

The ban applies to 'age-restricted social media platforms', being those whose primary function is enabling online social interaction, such as linking, posting, and interacting with other users, although messaging, education and gaming services are exempt.

The definition is intentionally broad and covers not only the global tech giants but likely a vast majority of online platforms with interaction features.

What are Platforms Required to Do?

Age-restricted social media platforms must take 'reasonable steps' to prevent under-16-year-olds from having accounts on their platform. There is little explicit guidance in the legislation about these steps, which are contemplated to differ between platforms. Guidelines from the eSafety Commissioner suggest that the first step should be identifying and de-activating underage accounts, with review processes for mistakenly removed users.

Following this, social media companies must also implement some baseline form of user age assurance. Companies are not expected to verify the age of every user or meet a clear

procedural standard. They are instead expected to take a 'layered approach' using multiple verification methods in a way which 'minimises friction' for users. They cannot use government ID as the sole method, despite a government-backed report finding this as the most effective method, and also must not rely on self-declaration alone. Possible methods include parental approval, biometric checks or behavioural data tracking. Companies are also expected to address and monitor attempts to circumvent the restriction, for example, through the use of VPNs.

The eSafety Commissioner is the primary enforcement body of the new law and has powers to compel the provision of relevant information, publicise breaches, delist non-compliant platforms from search results, take legal action, and impose penalties of up to AU$49.5 million.

Privacy Concerns

As verifying user ages inevitably involves the collection of personal information, the minimum age law is accompanied by several privacy safeguards. The restriction on reliance on government-issued identification mentioned above is intended to ensure that no user can be compelled to provide government ID to access social media. In addition, companies must destroy the information collected for age verification after it is used for that purpose, with penalties specifically applying to breaches of these requirements. They are also expressly prohibited from using this information for any other purpose without explicit consent from the individual which is voluntary, informed, current, specific and unambiguous. Simply including such a term in a standard terms of service document is unlikely to meet the threshold for valid consent.

What Will Be the Effect?

The minimum age law largely avoids prescribing specific standards, with the focus of eSafety's scrutiny being on 'systems and processes'. Much is left up to each social media platform to determine its own appropriate method to implement the restriction. This provides both flexibility and significant work for platforms and their legal advisors. The government has clarified that it is not 'anticipating perfection', and individual instances of under-16s gaining access to accounts will not necessarily mean the company has failed to comply with the law. The objective appears to be more about effecting a general change in young people accessing the Internet.

The law arises amid ongoing clashes between social media companies and regulators in Australia, such as X's dispute with the eSafety Commissioner, adding a new front to the contest over the control and regulation of the Internet.

It is still very early days in the law's implementation; to date, no enforcement action has been taken by the government, and the long-term impact remains to be seen. Notably, young people are still able to view social media online without logging in, or by using accounts belonging to others, such as their parents. Some critics have expressed doubt over whether the ban will be effective, while others believe it may push children to even less regulated corners of the Internet. Still, an early positive effect appears to be that the law has provided parents with a formal government-backed stance on the potential harms of social media, helping to facilitate more open and informed discussions with their children about navigating online spaces safely. The outcome will likely be watched closely by policymakers worldwide.

Tin-Lok Shea
Partner, H & H Lawyers, Sydney

A New Set of Rules Promoting Life and Work in Mountain Areas in Italy

Let's play a game: imagine a land rich in biodiversity, natural resources, breathtaking landscapes, history, art, multiculturalism and, of course, tourism.

Then, imagine that this land has local communities that are becoming increasingly depopulated over time because economic centres are far away and/or difficult to reach, to the point that a real demographic crisis is developing, causing a loss of social identity and growing disinterest in environmental protection in those areas.

What has appeared right now in your imagination is real: this is the picture of what is happening in mountain areas in Italy, involving both mountain chains of the country: the Alps (including Dolomites) and the Apennines.

This is a lose-lose situation: no one wins whilst cultural identity, economic life and environmental protection are being lost to the point that tourism could also be undermined, since what attracts tourists most are such well-maintained landscapes as well as the quality of local services and products.

Before it became too late, the law intervened to try to stem this drift. The time has come to understand in detail how the Italian legislator has attempted to do so. But first, a warning: it's a very intriguing approach.

The piece of legislation concerned is Law 12 September 2025 n. 131, called 'Provisions for the recognition and promotion of mountain areas', which entered into force on 20 September 2025.

Even though it may sound weird, this law is perfectly consistent with the

legal system binding Italy, since it is implementing art. 44 para. 2 of the Italian Constitution, stating 'The law provides for measures in favour of mountain areas', and art. 174 et seq. of the Treaty on the Functioning of the European Union on economic, social and territorial cohesion.

It establishes economic, fiscal and social incentives with the aim to overcome the aforementioned structural disadvantages of Italian mountain territories, and finally to enhance their development as well as the quality of life and the economic opportunities in them.

It is interesting to note that this law requires that a classification of mountain municipalities is carried out (by December 2025, through a specific decree issued by the Prime Minister) on a preliminary basis, for the purpose of the application of the different incentives provided by the law itself; it is worth noting also that the classification at stake should be based on an evaluation of altitude and slope parameters of the territory concerned.

Important provisions on policy strategies and economic resources are set out. Among those, it is worth mentioning the 'Strategy for the Italian Mountain', which identifies the priorities and directives concerning the policies to be adopted for the purposes of the law and in the framework of the 'Fund for the development of Italian mountains', that is established as the tool to finance the initiatives promoted within the law itself and has a budget of €200 million per year for the three-year period 2025–2027.

In the context of measures concerning public services, a central role is played by the incentives in support of public health, education and telecommunications. In particular, on one hand, new tax credits and other incentives are made available for workers operating as healthcare and school staff. On the other hand, the use of forms of partnership between public and private bodies is encouraged with the aim of reducing the digital divide, supporting the process of digitisation in mountain areas and promoting greater digital literacy of the mountain population.

As far as protection of the territory is concerned, incentives are provided for investments and diversified activities by mountain farmers and foresters. Moreover, a technical committee has been established to identify measures aimed at facilitating the sale of agricultural land and land consolidation measures. Besides these, there are provisions on the enhancement of pastures and mountain woods, mountainous ecosystems and animals, parks and protected areas, mountain shelters, and the monitoring of glaciers and reservoirs.

Regarding economic development, the specific scope of these provisions is to promote tourism, employment and repopulation of mountain areas, also taking into account the special circumstances of cross-border workers and typical mountain professions. The main incentives are provided in favour of mountain businesses run by young entrepreneurs as well as of those who purchase and renovate their main residence in the mountains, and total contribution relief is arranged for companies that adopt smart working. To combat depopulation, even birth incentives in mountain areas are set out: in mountain municipalities with a population of less than 5,000 inhabitants, a one-off contribution will be granted for each child born or adopted and registered in the municipal registry.

Only time will tell us whether these measures will achieve their intended goal. Obviously, we hope so, since the mountain heritage is a universal heritage and—hopefully—the law may have a wide impact on its preservation.

Alberto De Luca
Partner, DL-LAW, Milan

Celebrations

The French National Holiday on 14 July

Declared a national holiday in 1880, 14 July marks the celebration of the French Republic. It is France's most important holiday.

This celebration unites the nation in commemorating the birth of the French Republic in 1789, with concerts, fireworks and festive gatherings that embody the spirit of liberty, equality and fraternity.

A Historic Symbol and Foundation of Republican Identity

14 July is now France's national holiday, celebrated every year. However, behind these festivities lies a founding event in French history: the storming of the Bastille on 14 July 1789. Bastille was the name of a prison in Paris.

In 1789, France was going through a serious economic, political and social crisis. Inequality was rampant and royal absolutism was increasingly contested. In this tense context, rumours spread that the King was preparing a crackdown.

The worried people of Paris took up arms. On 14 July, the Bastille, a powerful symbol of royal arbitrariness, was stormed by the people, mainly to get hold of arms and ammunitions that were stored there. Its fall marked the beginning of the Revolution and embodied the rejection of royal absolutism in favour of liberty, equality and popular sovereignty.

One year later, on 14 July 1790, the Federation Day was organised to celebrate the unity of the French people and revolutionary ideals. Local federations of the National Guard, which had been created in all French provinces during the summer of 1789, gathered at the 'Champ-de-Mars' in Paris (where the Eiffel tower was built a bit more than 100 years after) to march and celebrate the first anniversary of the storming of the Bastille and the union of the Nation.

This day symbolised the fall of the Old Regime, but also the birth of a new model of society based on republican principles. In 1880, at the instigation of Deputy Benjamin Raspail, 14 July officially became the national holiday of the French Republic.

A national holiday between tradition and popular celebration

From the moment it was adopted as an annual national holiday, the army was given a central place in the festivities. From 1880 onwards, the program included a military parade at the Longchamp racecourse. Thus, every year, a military parade is organised as part of the national festivities.

Since the end of the First World War, the military parade has traditionally taken place on the famous Champs-Elysees avenue. This military parade takes place in the morning, attended by the President of the Republic, surrounded by senior political and military officials and prominent foreign guests. Soldiers, police officers, firefighters and military vehicles parade in front of the crowd.

In towns and villages across France, numerous festivities are organised, such as public dances and concerts.

On the evening of 14 July, magnificent fireworks light up the sky, particularly those at the Eiffel Tower in Paris, which attract thousands of spectators. These displays are often accompanied by music and create a festive and friendly atmosphere. Usually on 14 July there are balls organised by firefigthers in their fire stations and anyone can attend.

A Time for Gathering

Beyond its historical and military significance, 14 July is above all a time for gathering and national cohesion. It is a day when French people of all ages, backgrounds and religions come together to celebrate the values that form the foundation of the Republic: liberty, equality and fraternity. The festivities are an opportunity for everyone to come together in a spirit of conviviality and solidarity.

14 July also helps to strengthen the bond between the population and institutions, particularly through the presence of the army, firefighters and law enforcement, who are often honoured on this day.

Each year, this celebration reminds us of the importance of liberty, equality and fraternity, and allows everyone to feel like an active participant in the nation.

Frédérique David
Partner, Harlay, Paris

When Warsaw Listens, the World Responds in Chopin's Language

Every five years, Warsaw becomes the quietest and the loudest city in the world, all at once. The 19th International Chopin Piano Competition, held from 2–23 October 2025, opened the centennial celebrations of this extraordinary event.

With more than 640 applications and 85 selected participants, it reaffirmed its status as not only Poland's most important cultural event, but also one of the world's great musical gatherings—often called 'the Olympics of the piano'.

Tickets for the final rounds sold out online within two minutes, and the city turned into a festival of Chopin: live broadcast zones, restaurants offering special 'Chopin menus' and a laser show over the Vistula blended tradition with modernity.

The jury awarded Eric Lu, an American pianist of Chinese-Taiwanese origin, the first prize. The second place went to Kevin Chen from Canada, and the third to Zitong Wang from China. Among the laureates were also Shiori Kuwahara from Japan and Vincent Ong from Malaysia, as well as Piotr Alexewicz from Poland (Wrocław), one of the few Europeans to reach the final stage.

Of the 40 pianists in the second round, 28 came from Asia, reflecting not just a regional trend but a structural transformation of the competition itself. Today, the Chopin enterprise—artistic, educational, and even institutional—would be unthinkable without Asia. Pianists trained in Seoul, Tokyo, Taipei or Beijing are equally present in European and North American conservatories, shaping global standards of interpretation. It is a phenomenon decades in the making, rooted in discipline, continuity and deep respect for classical repertoire.

In Poland, Chopin connects tradition with a sense of cultural continuity; around the world, his works have become a shared artistic language.

For three autumn weeks, Warsaw listened—and once again, the world responded in Chopin's voice.

Mirella Lechna-Marchewka
Partner, Wardynski & Partners, Warsaw

IPBA NEW MEMBERS

New members, September through November 2025

We are pleased to introduce our new IPBA members who joined our association from September through November 2025. Please welcome them to our organisation and kindly introduce yourself at the next IPBA conference.

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Labuan IBFC is a wholesale financial, risk and wealth management intermediation centre that also boasts a wide range of business structures including solutions for fintech or digital businesses. It is also home to the world's first sukuk and is acknowledged as an Islamic financial hub.

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