Fraud in Your International Business

Presentation to International Trade Association

Of Greater Chicago

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March 2012

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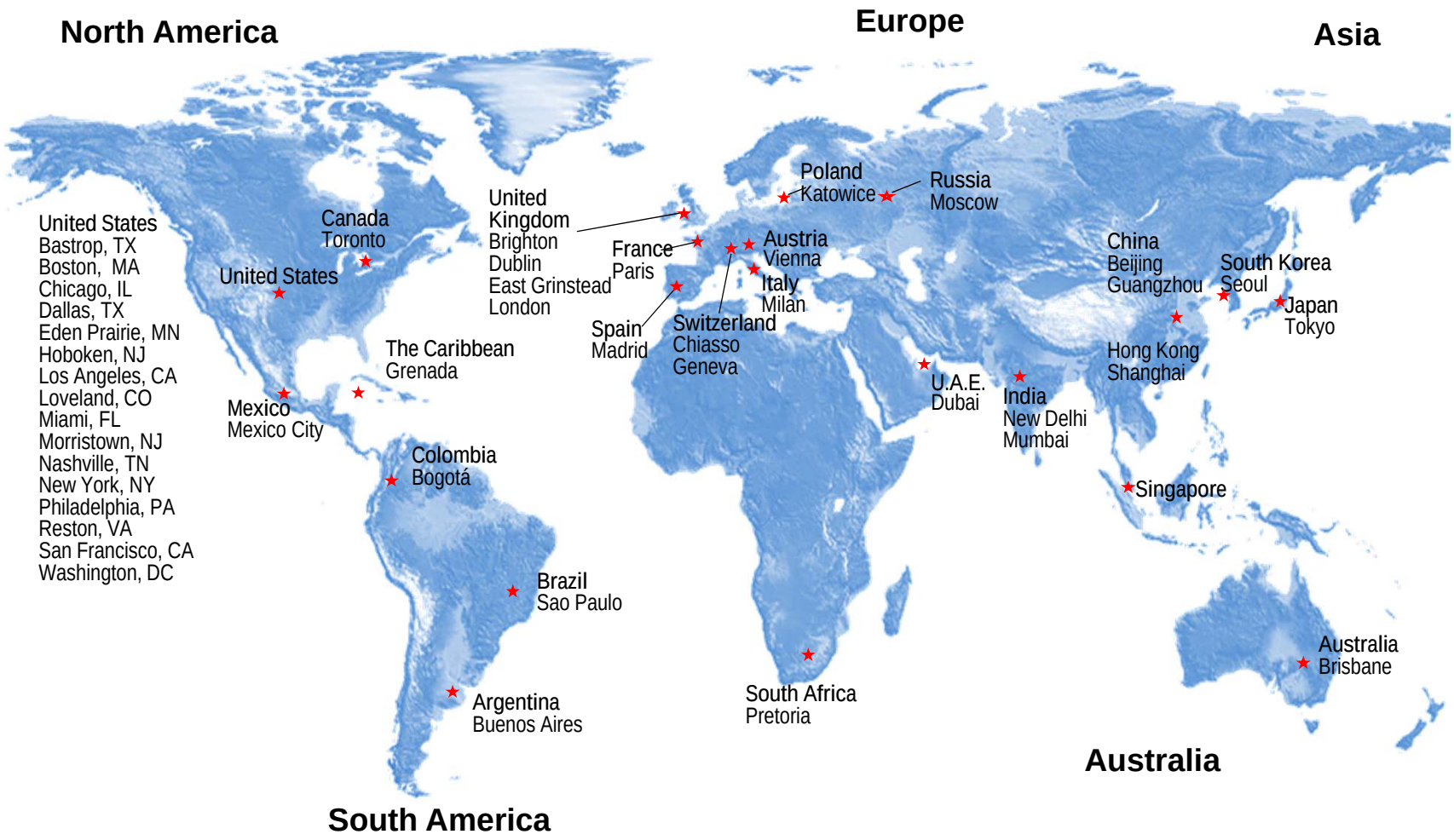
Agenda

- Introduction
- Kroll Overview
- Investment in Anti-Fraud Measures
- Types of Investigations
- Search for Evidence
- The Laws and Cases Relevant to Investigations
- Fraud and Technology Moving Forward

Kroll Overview

- Kroll, the world's leading risk consulting company, provides a broad range of investigative, intelligence, financial, security and technology services to help clients reduce risks, solve problems and capitalize on opportunities.
  - » Headquartered in New York with more than 60 offices in 30 countries
  - » Multidisciplinary corps of approximately 3,000 employees
  - » Professionals have backgrounds in a wide range of disciplines:
    - – forensic accounting, law, law enforcement, intelligence-gathering, international affairs, journalism, accounting, business valuation, computer forensics, corporate security, data recovery, environmental science, financial management, and management consulting

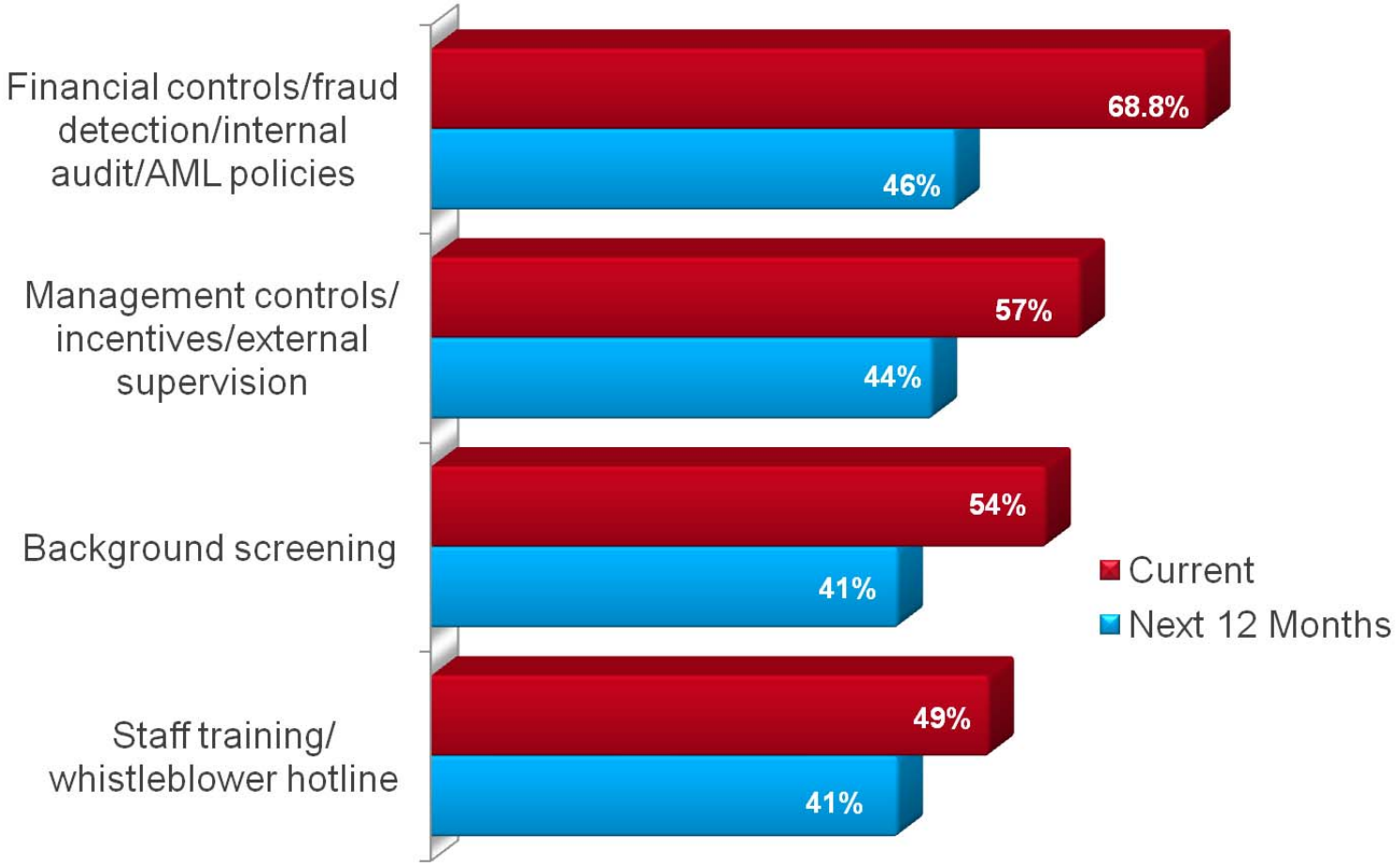
Kroll's Major Investigative Offices Worldwide



Kroll Business Intelligence & Investigations

- Kroll is internationally recognized as the premier firm in conducting business intelligence and investigations. Services include:
  - Investigative Due Diligence
  - Corporate Internal Investigations
  - Foreign Corrupt Practices Act (FCPA) / UK Bribery Act
  - Patent Infringement / Intellectual Property
  - Counterfeiting
  - Competitive Intelligence
  - Forensic Accounting / Computer Forensics
  - Hostile Takeovers and Proxy Contests
  - Litigation Support
  - Compliance and Monitoring
  - Security

Investment in Anti-Fraud Measures – Lag Behind the Risks



**** Source Kroll 2010 – 2011 Global Fraud Report***

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Types of Cases That Call For An Investigation

- Internal Investigations: Contract/Purchasing Fraud
- Foreign Corrupt Practices Act (FCPA)
  - » Payoffs to Government Agents – FCPA Violations
- Theft of Intellectual Property/Trade Secrets
- Internet Crime
- Others

Internal Investigations – Contract/Purchasing Fraud

- Kickbacks paid by vendors to employees or agents
  - » This is the greatest bottom line threat to business operations outside the U.S.
- An employee has a secret ownership interest in a vendor
- An employee has set up a fictitious vendor scheme

Foreign Corrupt Practices Act (FCPA)

- Bribes paid to:
  - » Government officials
  - » Government middlemen
- Bribes by company employees
- Bribes by third party representatives/agents
  - » This is the greatest vulnerability to criminal liability to businesses with operations outside the U.S.
  - » Department of Justice highly focused on these types of bribes
- The correlation between “red tape” and corruption is interesting

FCPA –
The Correlation Between "Red Tape" and Corruption

"A high ranking on the ease of doing business index means the regulatory environment is conducive to the operation of business." -- World Bank's Economic Rankings

Economy	Ease of Doing Business Rank	Dealing with Construction Permits
Singapore	1	2
New Zealand	2	5
Hong Kong SAR, China	3	1
United States	4	25
United Kingdom	5	16
China	89	180
Russian Federation	120	182
India	133	175
Congo, Rep.	179	70
Sao Toamae and Principe	180	116
Guinea-Bissau	181	114
Congo, Dem. Rep.	182	146
Central African Republic	183	147

n = 183 countries

Top tier compliance jurisdictions have least red tape

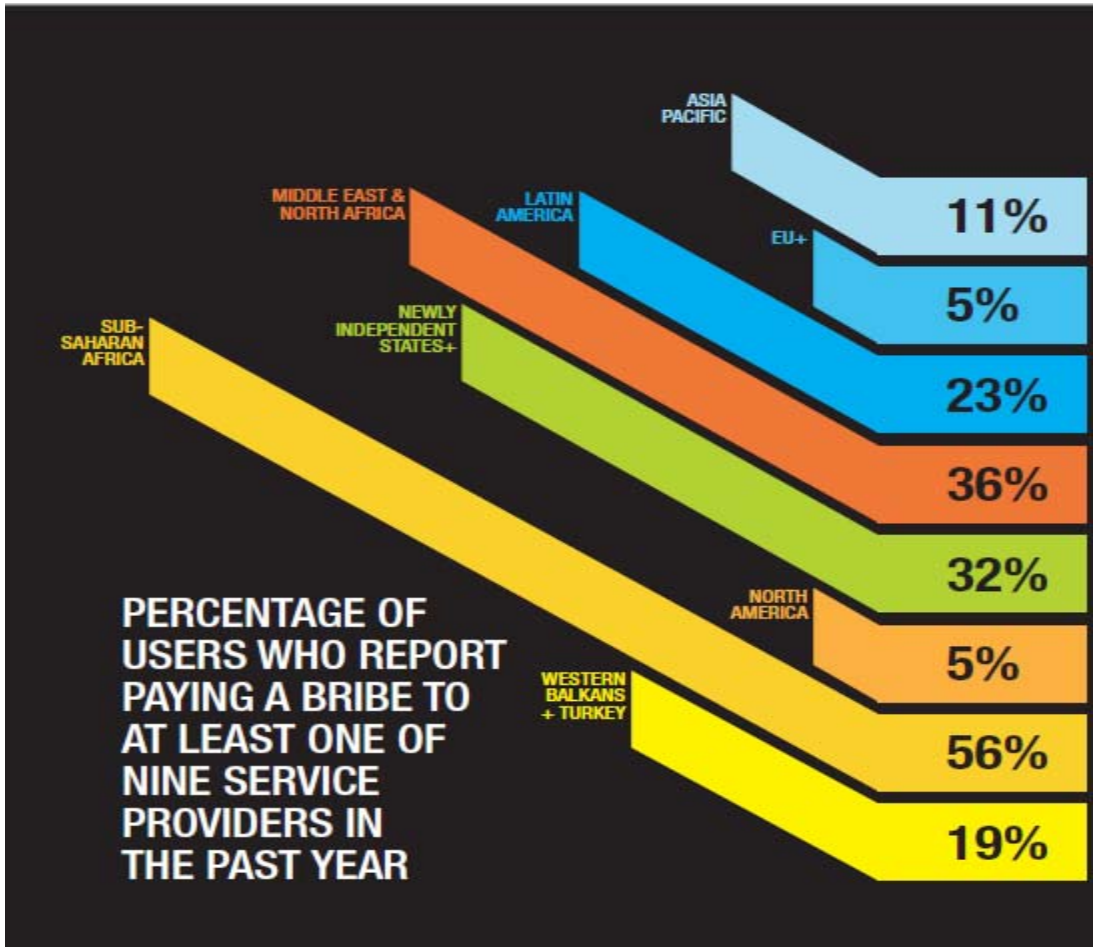
Bottom tier compliance jurisdictions have significant red tape

How do you get a permit in China, Russia, or India?

Lowest tier compliance jurisdictions have most red tape

Source: World Bank (http://www.doingbusiness.org/economyrankings/?direction=Asc&sort=1); FCPA Blog

FCPA –
Regional Bribing Disparities Warrant Geographic Focused Due Diligence



Asia Pacific

EU+

Latin America

Middle East & North Africa

Newly Independent States +

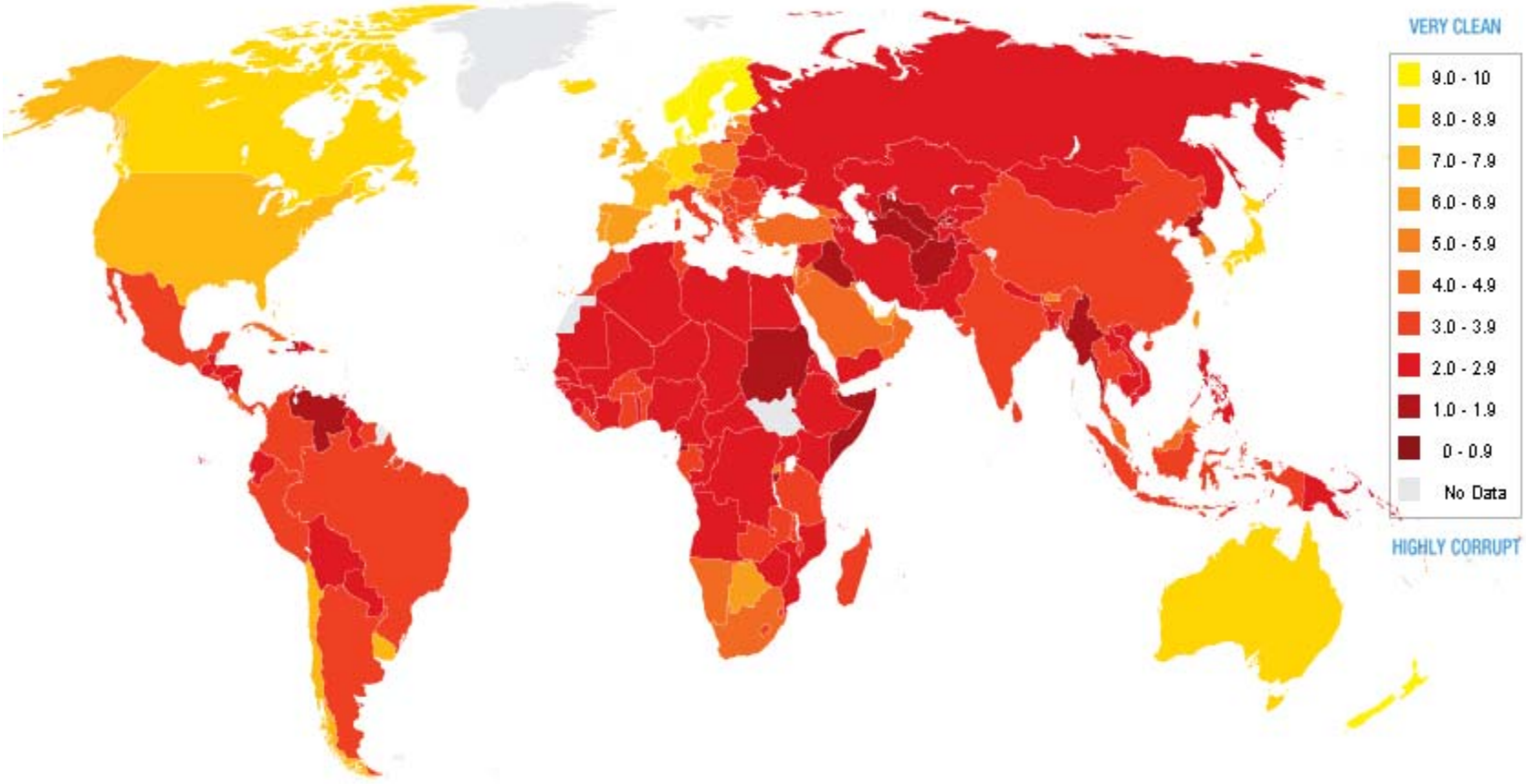
North America

Sub-Saharan Africa

Western Balkans + Turkey

Source: Transparency International Global Corruption Barometer 2010

Corruption Perceptions Index 2011 – “Hot Spots”



Source: Transparency International

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Theft of Intellectual Property/Trade Secrets

- Stealing/Selling of valuable private data like: formulas, chip designs, logistics, customer lists, etc.
- Laying the groundwork to quit and set up competing firm

Internet Crime

- Extortion threats to release private customer and trade data or hack into telecom systems
- Actual hacking into servers and electronic files
- Defamation of the company name
- Short selling attacks on the company

Other Cases for Investigations

- Sexual harassment
- Age/Race discrimination allegations
- Expense account fraud
- Stealing inventory and other company property
- Leaks of confidential information

Assess The Situation

- Does the law require notification to federal or state agencies or foreign regulators?
- Do the company's own rules require such notification?

Search for Evidence

- Best Sources
  - » Electronic evidence
    - – Email and text
  - » Physical evidence
  - » Witness evidence
    - – Live witness – “ I saw” and “I heard”

Evidence Under Your Control

- Electronic evidence
- Electronic data lasts (almost) forever
- Electronic subject investigation:
  - » Webmail: Retrieve all network logs of the subject's internet usage and arrange for enhanced logging of such usage for the duration of the investigation.
  - » Suspend IT deletion schedule with respect to all server files that the subject created or modified.
  - » Identify, recall and restore archived versions of network folders assigned to or accessible to the subject.
- Important: Make sure you are in compliance with company rules

Data Protection Laws – Restrict the Retrieval and Transmission of Data

- In Europe, generally the rule for examining hard drives
  - » Is what I'm doing fair? Do I have a reason to look at this?
  - » Answer: Yes, if you are investigation potential fraud or misconduct.
- Data transfer:
  - » Even if you are entitled to retrieve data, you may be restricted from transferring it out of the county
  - » You must have a "Safe Harbor" certification
  - » EU Data Protection Directive – State harbor
    - – http://www.export.gov/safeharbor/eg_main_018236.asp
- Latin America – evolving data protection laws:
  - » Argentina: law is similar to Europe
  - » Mexico: new DP regulations in effect

Data Protection Laws – Restrict the Retrieval and Transmission of Data

- Pro-employee countries may be even more restrictive:
  - » France, Italy: employee consent may not be sufficient
- Defamation can be criminal offense in Latin American and Europe
  - » An investigative report could be deemed to be a criminal offense in many countries, e.g.: Argentina, Brazil, Columbia, Mexico, Belgium, France, Germany, Sweden, Poland, Russia, Spain, Switzerland
- Criminal liability may not attach against a business in certain countries. A charge of defamation therefore could be brought against a corporate officer.

Fraud and Technology Moving Forward

- *Cyber space
  - » This is where most business activity and development of new ideas now takes place.
  - » Cyber space threats are amplified and malicious actors, whether they are corrupted insiders or foreign intelligence services, can quickly steal and transfer massive quantities of data while remaining anonymous and hard to detect.
- *Cyber security
  - » Cyber tools have enhanced the economic espionage threat and the Intelligence Community (IC) judges the use of such tolls is already a larger threat than more traditional espionage methods.

*Information found in the Report to Congress on Foreign Economic Collection and Industrial Espionage 2009-2011

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