

# White Collar Offenses and Investigation

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## Statement of Practice

April 2017



# White Collar Offenses and Investigation

At Nishith Desai Associates (“NDA”), the International Litigation & Dispute Resolution Team has developed strong focus on white collar crimes and has developed an expertise in dealing with a wide variety of white collar offences across various industries. We have strong expertise in handling corporate frauds, white collar crimes/economic offences in various matters related to violation of foreign exchange laws, securities law, import-export norms, data theft, intellectual property theft, insider trading, breach of fiduciary responsibilities, corporate defamation, corporate law non-compliance, money laundering, and corporate corruption. We have advised and assisted clients in several investigations and prosecutions under Foreign Corrupt Practices Act, UK Bribery Act and have represented them before several courts, regulators and investigating agencies including the Enforcement Directorate, Crime Branch of Indian Police, Serious Fraud Investigation office, Special Directorate of Enforcement, Cyber Crime Cell, Securities & Exchange Board of India, Registrar of Companies/Ministry of Company Affairs, United States Securities and Exchange Commission, etc. At NDA, we strive to provide clients with creative and pragmatic solutions and effective strategies to deal with such offences and prosecutions.

Below are a few examples of some white collar, fraud and investigation matters handled by the team:

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1. Advised a Japanese conglomerate in respect of potential disclosure obligations for a listed entity under Indian laws;
2. Advising a private equity investor with regard to anti-corruption and bribery compliances under Foreign Corrupt Practices Act and conducting investigation in relation to alleged offences;
3. Represented a Director of a leading IT companies in one of the biggest Indian corporate scam in matters relating to corporate frauds, money laundering and export norm violations;
4. A global leader in clean coal solutions, its entities, directors and employees in relation to proceedings Economic Offences Wing and Magistrate both got dismissed due to disputes being commercial in nature.
5. Advised a company in the oil and gas services industry on investigations pertaining to the cancellation of API license based on allegations of bribe and corruption in operational activities;
6. Assisted a European Research Company in an internal investigation emanating out of employee conduct;
7. Advised a European IT conglomerate in an internal investigation pertaining to employee-related fraud and consequent complaints.
8. Assisted an Indian Subsidiary of an Australian Listed Group in an internal investigation pertaining to employee related fraud;
9. Assisted the Indian group entity of a French conglomerate in an internal investigation pertaining to employee related fraud.
10. Assisted the Indian arm of an American weekly news magazine published in New York City in an internal investigation pertaining to employee related malpractice.

11. Advised Private Equity and Investment Advisors in one of the biggest Indian telecommunication scam in matters related to spectrum allocation.
12. Advising one of the leading private equity players in relation to synchronized trading by its employee.
13. Represented a leading chemical manufacturing company in a corporate defamation case.
14. Represented a leading media house in a matter relating to criminal breach of trust and cheating by a film director.
15. Advised a UK based entity in relation to a web-based fraud.
16. Advised a major Private Equity Investor in relation to corporate fraud in an investee company revealed by whistle blower.
17. Representing India's largest post production house in a criminal cheating case filed by a private equity investor.
18. Advised a Hong Kong based company in relation to a fraud by Indian origin employees in its operations in Africa.
19. Representing a consortium of six leading private equity investors with regard to a criminal complaint filed against them for cheating and criminal conspiracy.
20. Represented a large IT sector company in a matter relating to fraud by an Indian distributor.
21. Advised a French fund manager regarding a white collar crime/ economic offence (fraud and forgery) in relation to an Indian investment.
22. Represented one of the largest oilfield service company and its officials in prosecution initiated for violation of Factories Act.
23. Advising directors of one of the leading business support services company in a criminal intimidation case filed by its employees;
24. Representing the largest art fund of India and its directors in multiple criminal proceedings including for cheque dishonor, criminal breach of trust etc.
25. Advised a Private Equity Investor in a cybercrime cell investigation pertaining to data theft and breach of confidentiality in relation to its investment in the healthcare sector.
26. Advised a major US- based Multi-National bank in a case related to identity theft.
27. Advised a Private Equity investor in a fraud done by promoters and managing director of the investee company and a strategized takeover of investee company.
28. Advised a manufacturing company in relation to theft of designs and other copyrighted material by its employee.
29. Representing an Indian manufacturing company against foreign partner for inducement and cheating to enter into joint venture arrangement.

## About NDA

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai, Bangalore, Palo Alto (Silicon Valley), Singapore, New Delhi, Munich and New York. We provide strategic legal, regulatory, and tax advice coupled with industry expertise in an integrated manner.

As a firm of specialists, we work with select clients in select verticals. We focus on niche areas in which we provide high expertise, strategic value and are invariably involved in select, very complex, innovative transactions.

We specialize in Globalization, International Tax, Fund Formation, Corporate & M&A, Private Equity & Venture Capital, Intellectual Property, International Litigation and Dispute Resolution; Employment and HR, Intellectual Property, International Commercial Law and Private Client. Our industry expertise spans Automotive, Funds, Financial Services, IT and Telecom, Pharma and Healthcare, Media and Entertainment, Real Estate, Infrastructure and Education. Our key clientele comprise marquee Fortune 500 corporations.

Equally passionate about philanthropy, social sector and start ups, our role includes innovation and strategic advice in futuristic areas of law such as those relating to Bitcoins (block chain), Internet of Things (IOT), Privatization of Outer Space, Drones, Robotics, Virtual Reality, Med-Tech and Medical Devices and Nanotechnology.

Nishith Desai Associates is ranked the 'Most Innovative Asia Pacific Law Firm in 2016' by the *Financial Times - RSG Consulting Group* in its prestigious **FT Innovative Lawyers Asia-Pacific 2016** Awards. With a highest-ever total score in these awards, the firm also won Asia Pacific's best 'Innovation in Finance Law', and topped the rankings for the 'Business of Law'. While this recognition marks NDA's ingress as an innovator among the globe's best law firms, NDA has previously won the award for 'Most Innovative Indian Law Firm' for two consecutive years in 2014 and 2015, in these elite *Financial Times* Innovation rankings.

Our firm has received much acclaim for its achievements and prowess, through the years. Some include:

**IDEX Legal Awards:** In 2015, Nishith Desai Associates won the "M&A Deal of the year", "Best Dispute Management lawyer", "Best Use of Innovation and Technology in a law firm" and "Best Dispute Management Firm". IDEX Legal recognized Nishith Desai as the Managing Partner of the Year in 2014.

**Merger Market** has recognized Nishith Desai Associates as the fastest growing M&A law firm in India for the year 2015.

**World Tax 2015 (International Tax Review's Directory)** recognized NDA as a Recommended Tax Firm in India

**Legal 500** has ranked us in tier 1 for Investment Funds, Tax and Technology-Media-Telecom (TMT) practices (2011, 2012, 2013, 2014).

**International Financial Law Review (a Euromoney publication)** in its **IFLR1000** has placed Nishith Desai Associates in Tier 1 for Private Equity (2014). For three consecutive years, IFLR recognized us as the Indian "Firm of the Year" (2010-2013) for our Technology - Media - Telecom (TMT) practice

**Chambers and Partners** has ranked us # 1 for Tax and Technology-Media-Telecom (2015 & 2014); #1 in Employment Law (2015); # 1 in Tax, TMT and Private Equity (2013); and # 1 for Tax, TMT and Real Estate – FDI (2011).

**India Business Law Journal (IBLJ)** has awarded Nishith Desai Associates for Private Equity, Structured Finance & Securitization, TMT, and Taxation in 2015 & 2014; for Employment Law in 2015

**Legal Era** recognized Nishith Desai Associates as the Best Tax Law Firm of the Year (2013).

**ASIAN-MENA COUNSEL** named us In-house Community 'Firm of the Year' in India for Life Sciences Practice (2012); for International Arbitration (2011); for Private Equity and Taxation in India (2009). We have received honorable mentions in ASIAN-MENA COUNSEL Magazine for Alternative Investment Funds, Antitrust/ Competition, Corporate and M&A, TMT, International Arbitration, Real Estate and Taxation and being Most Responsive Domestic Firm.

We have won the prestigious 'Asian-Counsel's Socially Responsible Deals of the Year 2009' by **Pacific Business Press**.

We believe strongly in constant knowledge expansion and have developed dynamic Knowledge Management ('KM') and Continuing Education ('CE') programs, conducted both in-house and for select invitees. KM and CE programs cover key events, global and national trends as they unfold and examine case studies, debate and analyze emerging legal, regulatory and tax issues, serving as an effective forum for cross pollination of ideas. Our trust-based, non-hierarchical, democratically managed organization that leverages research and knowledge to deliver premium services, high value, and a unique employer proposition has been developed into a global case study and published by John Wiley & Sons, USA in a feature titled 'Management by Trust in a Democratic Enterprise: A Law Firm Shapes Organizational Behavior to Create Competitive Advantage' in the September 2009 issue of Global Business and Organizational Excellence (GBOE).

Please see the last page of this paper for the most recent research papers by our experts.

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## Contact

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The following research papers and much more are available on our Knowledge Site: [www.nishithdesai.com](http://www.nishithdesai.com)

	<b>Fund Structuring and Operations</b> July 2016		<b>E-Commerce in India</b> July 2015		<b>The Curious Case of the Indian Gaming Laws</b> September 2015
	<b>Corporate Social Responsibility &amp; Social Business Models in India</b> March 2016		<b>Joint-Ventures in India</b> November 2014		<b>Outbound Acquisitions by India-Inc</b> September 2014
	<b>Internet of Things</b> April 2016		<b>Doing Business in India</b> July 2016		<b>Private Equity and Private Debt Investments in India</b> June 2015

## NDA Insights

TITLE	TYPE	DATE
ING Vysya - Kotak Bank : Rising M&As in Banking Sector	M&A Lab	January 2016
Cairn – Vedanta : ‘Fair’ or Socializing Vedanta’s Debt?	M&A Lab	January 2016
Reliance – Pipavav : Anil Ambani scoops Pipavav Defence	M&A Lab	January 2016
Sun Pharma – Ranbaxy: A Panacea for Ranbaxy’s ills?	M&A Lab	January 2015
Reliance – Network18: Reliance tunes into Network18!	M&A Lab	January 2015
Thomas Cook – Sterling Holiday: Let’s Holiday Together!	M&A Lab	January 2015
Jet Etihad Jet Gets a Co-Pilot	M&A Lab	May 2014
Apollo’s Bumpy Ride in Pursuit of Cooper	M&A Lab	May 2014
Diageo-USL- ‘King of Good Times; Hands over Crown Jewel to Diageo	M&A Lab	May 2014
Copyright Amendment Bill 2012 receives Indian Parliament’s assent	IP Lab	September 2013
Public M&A’s in India: Takeover Code Dissected	M&A Lab	August 2013
File Foreign Application Prosecution History With Indian Patent Office	IP Lab	April 2013
Warburg - Future Capital - Deal Dissected	M&A Lab	January 2013
Real Financing - Onshore and Offshore Debt Funding Realty in India	Realty Check	May 2012
Pharma Patent Case Study	IP Lab	March 2012
Patni plays to iGate’s tunes	M&A Lab	January 2012
Vedanta Acquires Control Over Cairn India	M&A Lab	January 2012

## Research @ NDA

**Research is the DNA of NDA.** In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Research has offered us the way to create thought leadership in various areas of law and public policy. Through research, we discover new thinking, approaches, skills, reflections on jurisprudence, and ultimately deliver superior value to our clients.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "*Hotlines*". These *Hotlines* provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our *NDA Insights* dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction.

We regularly write extensive research papers and disseminate them through our website. Although we invest heavily in terms of associates' time and expenses in our research activities, we are happy to provide unlimited access to our research to our clients and the community for greater good.

Our research has also contributed to public policy discourse, helped state and central governments in drafting statutes, and provided regulators with a much needed comparative base for rule making. Our *ThinkTank* discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we are now in the second phase of establishing a four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. The center will become the hub for research activities involving our own associates as well as legal and tax researchers from world over. It will also provide the platform to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research reports.

Please feel free to contact us at  
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