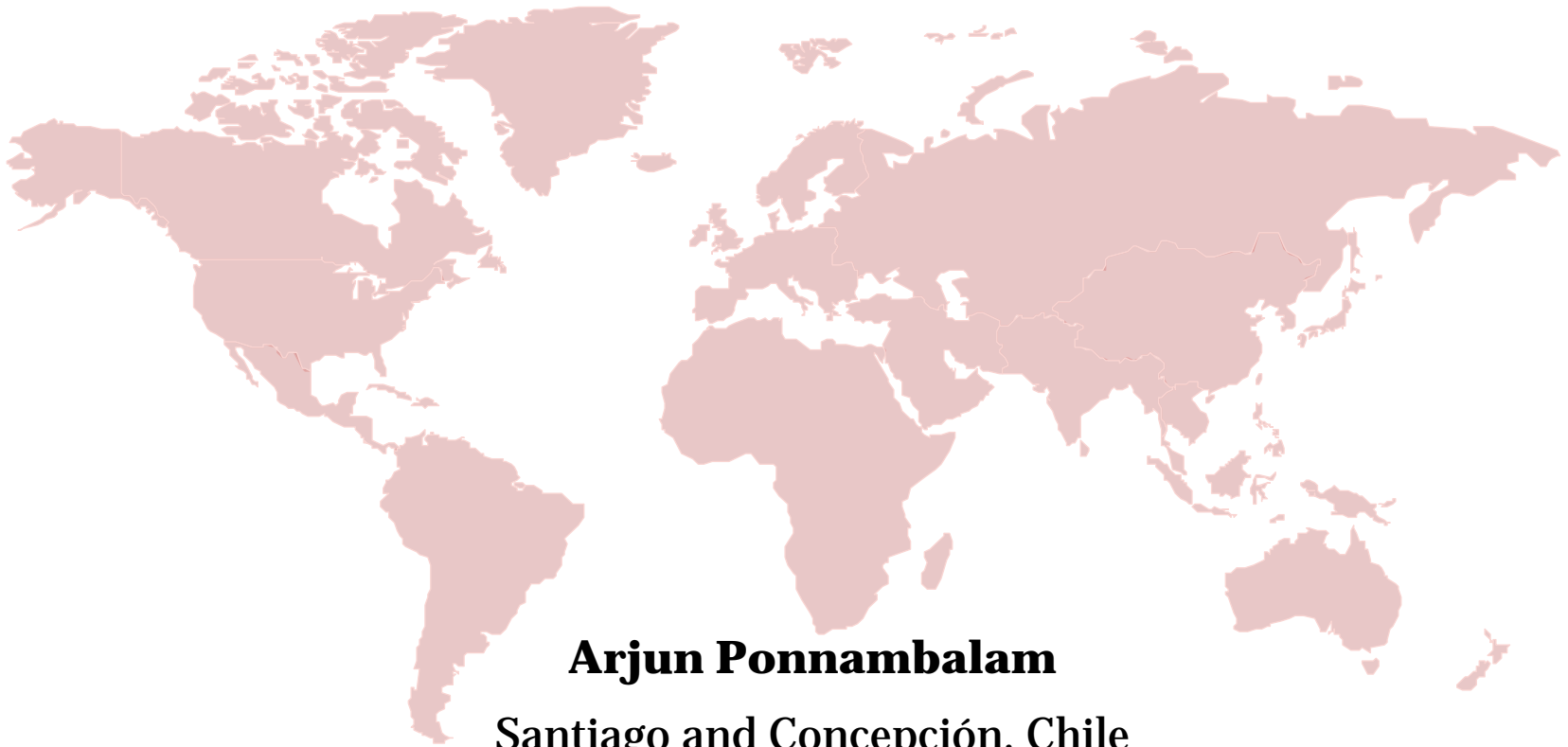

The International Anti-corruption Architecture and How Companies Can Mitigate Risk

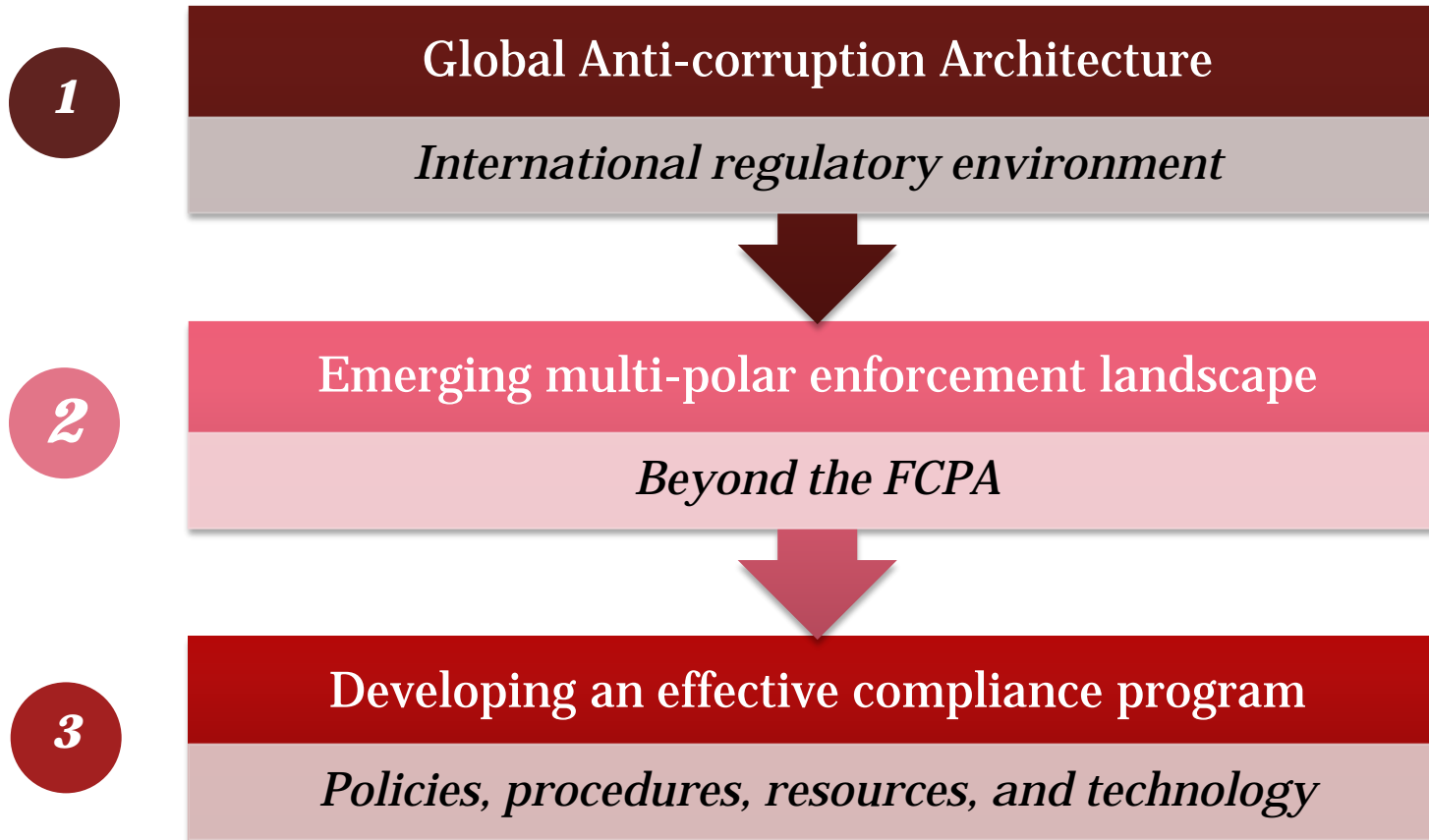


Arjun Ponnambalam

Santiago and Concepción, Chile

July 8-9, 2014

Agenda



1

Global Anti-corruption Architecture

Global Anti-Corruption Architecture

- 1977 - U.S. implemented anti-corruption legislation to outlaw bribery in business transactions overseas (Foreign Corrupt Practice Act – FCPA)
- U.S. businesses pressured United States government to globalize the anti-corruption regulatory regime in order to “level the playing field”
- 1993 - Founding of Transparency International; put pressure on international community to create global treaty architecture
- Mid 1990’s - Normative movement began; explosion of international instruments and declarations “outlawing” corruption.

Key milestones in the modern anti-corruption movement

1977

US Foreign Corrupt Practices Act (FCPA)

1980s

Despite limited enforcement of the FCPA, business pressure to “level the playing field”

1993

Transparency International founded

1997

Inter-American Convention Against Corruption enters into force

1999

OECD Anti-Bribery Convention enters into force

2002

Council of Europe Criminal Law Convention on Corruption enters into force

2003

Council of Europe Civil Law Convention enters into force

2005

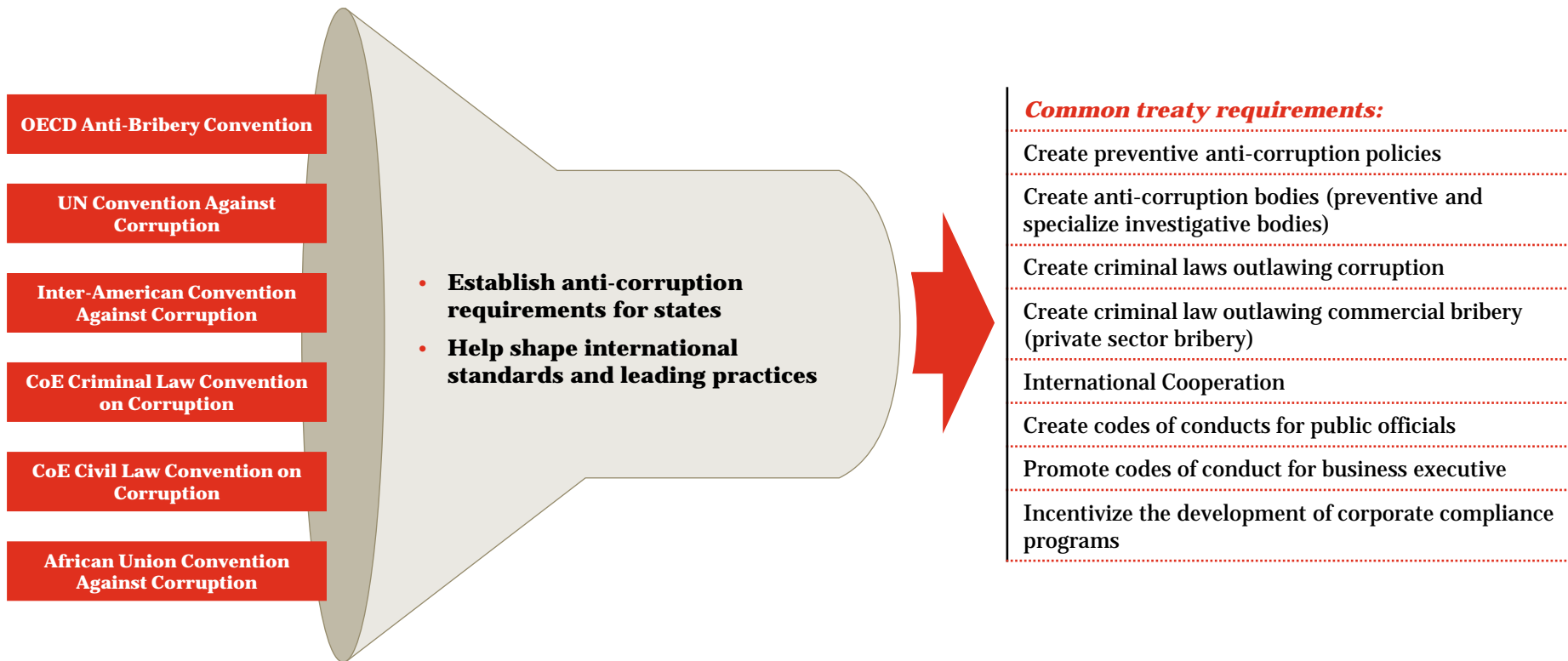
United Nations Convention Against Corruption enters into force

2006

African Union Convention on Preventing and Combating Corruption enters into force

Global Anti-Corruption Architecture

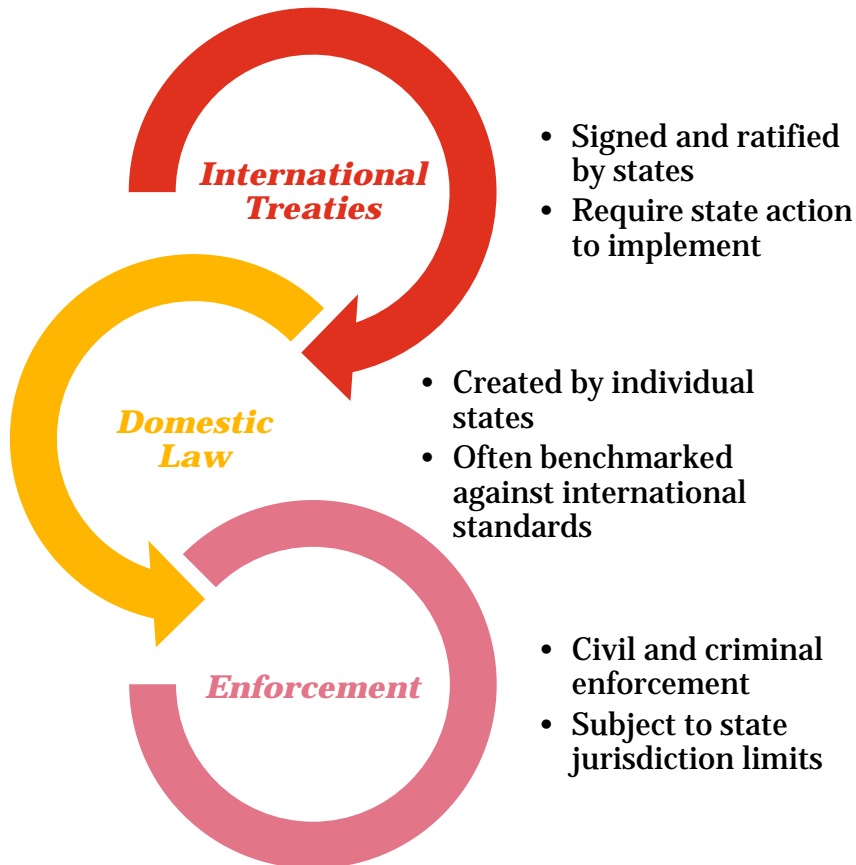
What do anti-corruption treaties require states to do?



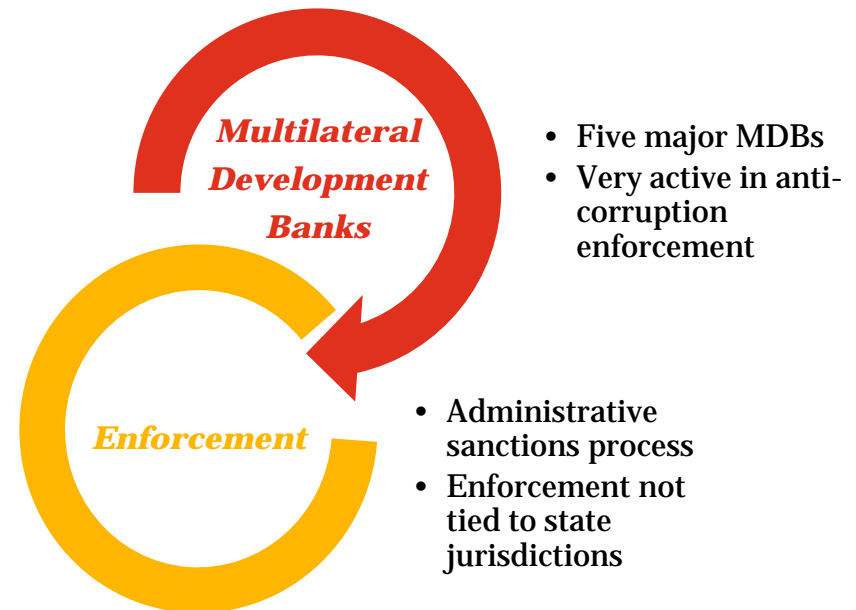
Global Anti-Corruption Architecture

How do anti-corruption treaties impact business?

International Treaty Enforcement



Multilateral Development Bank Enforcement



2

Emerging multi-polar enforcement landscape

Emerging Multi-polar Enforcement Landscape



Emerging Multi-polar Enforcement Landscape

Rise of Non-State Regulators



African Development Bank



Asian Development Bank



European Bank for Reconstruction and Development



Inter-American Development Bank



The World Bank



Global Enforcement

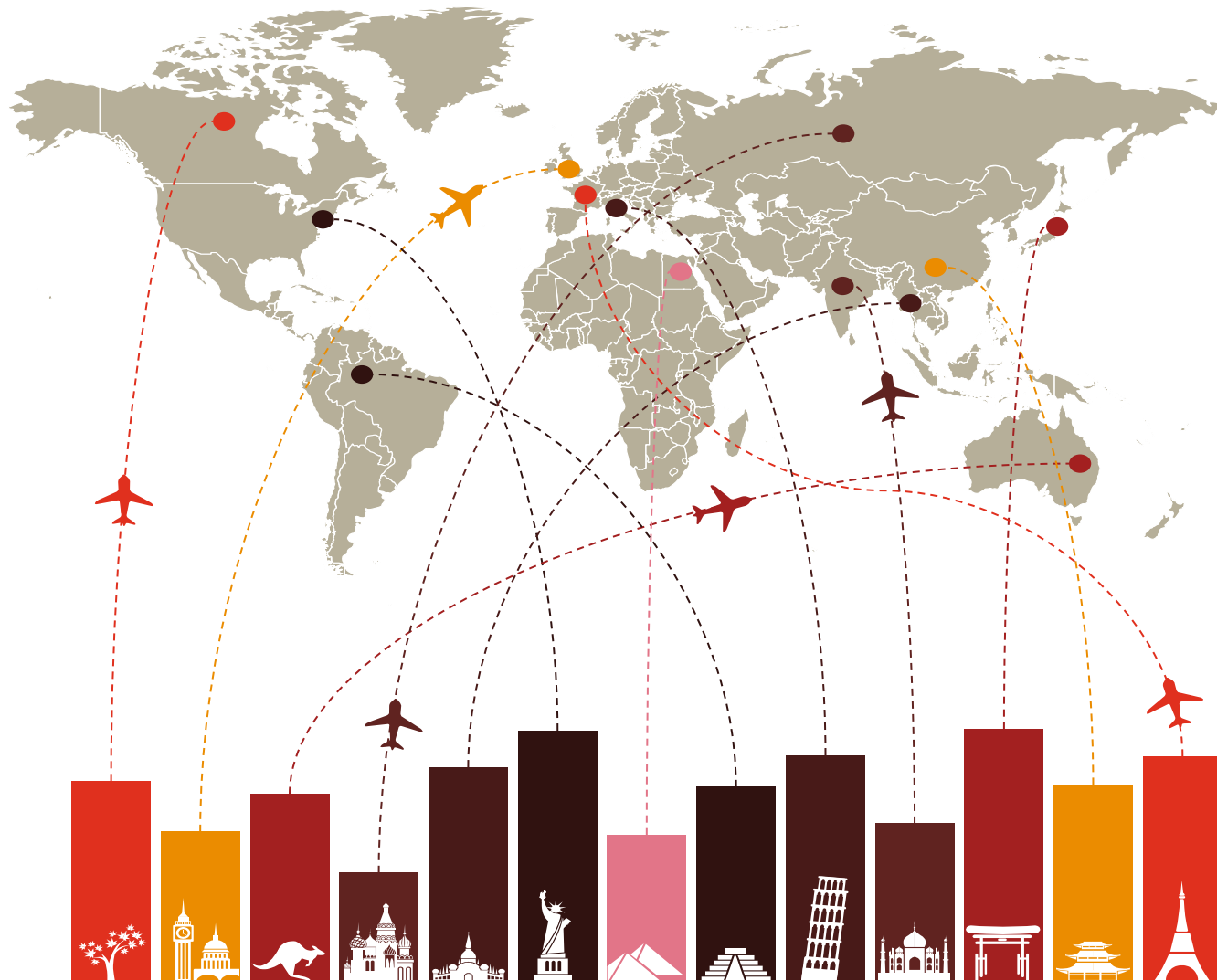
Emerging Multi-polar Enforcement Landscape

Multilateral Development Banks – Assessing Your Risk



Emerging Multi-polar Enforcement Landscape

Transboundary Cooperation



3

Developing and effective compliance program

Developing an Effective Compliance Program

Compliance Guidance and Standards

	USSG	FCPA	UK Bribery Act	TI	OECD	WEF- PACI	WBG- ICG
I. Anti-Corruption Program a. Bribes b. Political Contributions c. Charitable Contributions d. Facilitation Payments e. Gifts, Hospitality, Expenses	(a); (b)(1)	1, 3	1	1, 2, 3, 4	A) 2, 5	1, 2, 3, 4	1, 4
II. Organization and Responsibilities	(a)(2); (b)(2), (3)	2, 6	2	5.1	A) 1, 3, 4	5.1	2
III. Risk Assessment	(b)(5)	4	3	3.2, 4	A	3.2, 4	3
IV. Business Relationships	N/A	11, 12	4	5.2	A) 6	5.2	5
V. Human Resources /Disciplinary Actions	(b)(6), (7)	10	1	5.3	A) 10	5.3	8, 10
VI. Raising Concerns and Seeking Guidance	(b)(5)	9	5	5.5	A) 11	5.5	9
VII. Communication and Training	(a)(1); (b)(4), (6)	8	5	5.6	A) 8, 9	5.4, 5.6	7
VIII. Internal Controls and Audit	(b)(7)	7	1, 6	5.7	A) 7	5.7	6
IX. Monitoring and Review	(b)(5), (7)	5, 13	6	5.8, 5.9	A) 12	5.8	3

Developing an Effective Compliance Program

How can companies operate and grow their business while remaining in compliance with a growing variety of anti-corruption laws and regulations?



Developing an Effective Compliance Program

Policies

Policies

- Code of conduct
- Risk assessment
- Tone from the top
- Properly tailored

Procedures

- Anti-corruption controls
- Documentation procedures
- Standardized contracting

Technology

- Storing, organizing, retrieving data
- Flagging anomalous transactions
- Responding to complaints
- Complying with privacy laws

Resources

- Strategic allocation
- Internal investigations
- Due diligence
- Periodic audits



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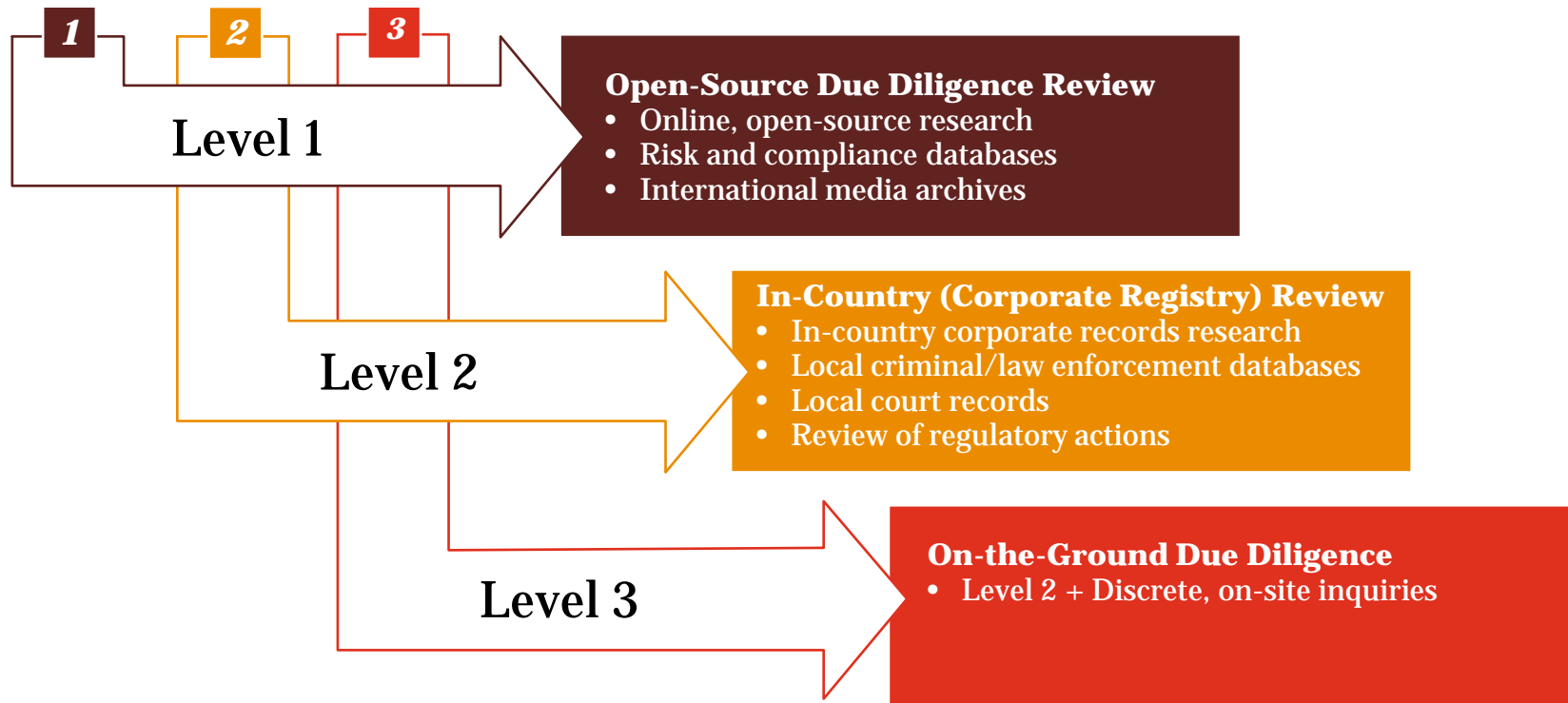
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Developing an Effective Compliance Program

Resources

Due Diligence



Developing an Effective Compliance Program

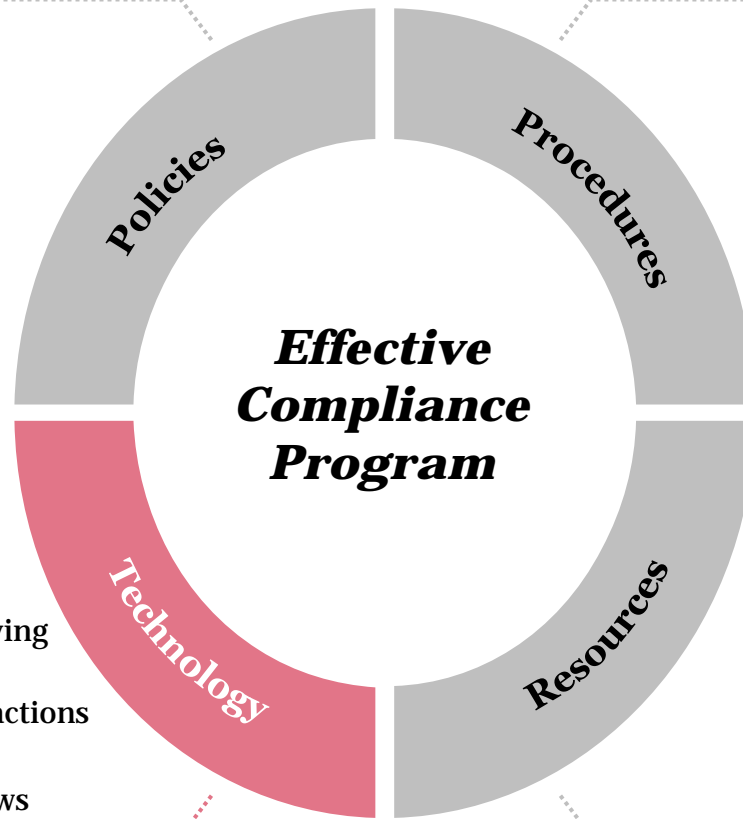
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Questions?