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Foreign Institutional Investment in India: What a Portfolio Manager Needs to Know About the Past, Present, and Potential Future of India

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Informational Advantages in an International World—Kurtzman & Yago's *Global Edge: Using the Opacity Index to Manage the Risks of Cross-Border Business*

*ILMR Editors**

I. INTRODUCTION

Are you or someone you know interested in international transactions or overseas business? If so, this book could become a useful part of your professional library. In *Global Edge: Using the Opacity Index to Manage the Risks of Cross-Border Business*,[1] Joel Kurtzman and Glenn Yago provide helpful economic analysis of international business conditions, which promises to facilitate the decision-making aspect of international business. The authors call this economic analysis the "Opacity Index"—a scale of relative and differentiated risks of global business dealings. The book's purpose is not to provide specific answers to definite problems (the authors do not pretend to have written a comprehensive instruction manual on international business). Instead, the authors highlight and alert the reader to globalization's potential problems and ramifications on the success—or failure—of a business venture. For instance, the book does not explain how to overcome problems related to corruption, but rather quantifies the economic effect of corruption in a particular country, allowing a decision-maker to factor the effect into the cost- benefit analysis of a transaction.

Although this book is based on extensive and complex economic data, the book's format includes only the results of the authors' research, not the underlying research or raw data. The condensed format makes this book more accessible to the general reader. However, because the

* The BYU ILMR editors responsible for writing and editing this book review include Michael Cummings, Dorothy Hatch, Tyler Lake, Natalia Martins, and Kyle Woods. All five are Juris Doctor candidates at Brigham Young University's J. Reuben Clark Law School.

1. JOEL KURTZMAN & GLENN YAGO, GLOBAL EDGE: USING THE OPACITY INDEX TO MANAGE THE RISKS OF CROSS-BORDER BUSINESS (Harvard Business School Press 2007). The book contains 220 pages (plus an introduction) and the ISBN is 1-4221-0346-3.

authors keep their raw data somewhat private, the reader also needs to trust the authors' methodology in order to trust their conclusions. Despite this difficulty, the book's authors are largely successful at presenting their message in a coherent, usable fashion—a plus for those busy people who will most benefit from reading and applying the book's principles. The authors' wish is that after reading *Global Edge*, "people in business, government, and NGOs will begin to see the world differently, enabling them to craft better strategies, develop better tactics, and make better decisions about what really matters."[2]

While the book may not completely alter the reader's worldview, it is helpful enough to warrant the time and effort necessary to examine and implement its principles.

II. AN OUTLINE OF THE BOOK

Kurtzman and Yago begin their book with an introduction defining and describing the Opacity Index and its potential usefulness for business, civic, and humanitarian leaders. This introduction sets the tone for chapters 1 and 2, which discuss the risks of globalization and costs of opacity. Following this discussion of the generalized risks of international business dealings, the authors discuss each of the CLEAR factors (Corruption, Legal, Enforcement, Accounting, and Regulations) in chapters 3 through 6. Chapter 7 discusses the particularized applications of the CLEAR factors for business success. Chapter 8 contains a sampling of the opacity profiles of a handful of countries. Finally, chapter 9 addresses broader issues regarding opacity's importance.

III. THE OPACITY INDEX

What is opacity? It is the "lack of clear, accurate, formal, clear-cut, and widely accepted practices in the broad arena where business, finance, and government meet."[3] According to Kurtzman and Yago, those involved in business, finance, and government must study these

2. *Id.* at xx.

3. *Id.* at xiii.

problems because opacity can "retard the progress of globalization, slow down growth, and add a great many unanticipated costs to doing business."[4] This is true (according to basic economic theory) because efficient decision-making occurs only when an individual possesses all relevant information. Inefficient decisions, on the other hand, can occur in the face of uncertainty about potential risks, a complete lack of information regarding a potential risk, or worse, erroneous information regarding the risk (nature, frequency, magnitude, etc.). An understanding of the Opacity Index, which "offers a new concept of what matters in the global economy and a new system for rating and thinking about risk," can help businesses, governments, and individuals overcome the informational deficit and make better, more efficient, and more profitable business and policy decisions.[5] But the authors make clear that "Opacity risk alone is not the enemy of business; the true enemy is the ignorance or inability to measure and assess it."[6]

Assuming the authors are correct, the Opacity Index's most useful purpose is that an individual considering a business transaction or venture in an opaque country can calculate the cost of opacity—how profitable his or her business needs to be in order to outweigh the risks of opacity.[7] Unfortunately, exact figures are difficult to determine, due to dynamic economic change. Even many of the authors' case studies demonstrate that a country with a bleak economic future may, with time, catch up with the most economically advanced countries.[8] The converse is true with a country with a bright economic future. Therefore, some of the book's information is already inaccurate. For example, the authors wrote that Hugo Chavez (the left-wing president of Venezuela) is "all bark and no bite" when it comes to expropriation of U.S. business interests;[9] however, in early 2008, Chavez expropriated, among others,

4. *Id.* at xiii.

5. *Id.* at xiii. Although *Global Edge* does not contain detailed economic analyses for every nation on earth, the Authors have attempted a comprehensive analysis, and the book purports to address 90.3% of the global GDP.

6. *Id.* at 187.

7. *Id.* at 32.

8. *Id.* at 57–58.

9. *Id.* at 12.

Exxon-Mobil's assets in Venezuela.[10] Despite the problems of economic fluctuations and subsequent changes in the indices, the general principles in the book will be valid unless every country becomes perfectly transparent, an event unlikely to ever occur.

IV. THE RISKS OF GOING GLOBAL/COSTS OF OPACITY

Kurtzman and Yago identify the need for the Opacity Index by introducing the risks associated with involvement in international business opportunities. To illustrate these risks, the authors share the experience of an acquaintance from the United States who tried to introduce a U.S. computer program to China. The American acquaintance was not surprised by any part of the investment process until the software code was stolen by a Chinese company with which the Americans were working. When the Americans pursued legal remedies against the Chinese company, the presiding judge (prior to the litigation) told them that if they pursued the litigation in Chinese courts, witnesses and other individuals would begin to disappear and the U.S. company would eventually be asked to leave China. As an alternative, the judge suggested that the American company settle the dispute outside of court, because this was in keeping with the Chinese way of doing business.[11] Traditional risk assessment is normally inadequate, especially in high-risk countries like China. Instead, "corruption, impaired legal systems, poor economic and enforcement policies, and flawed accounting standards" are essential factors to consider, but are often overlooked by firms that help companies go global.[12] Kurtzman and Yago further argue that unenforced regulations pose a higher risk to international business opportunities than revolutions, coups, or terrorism,[13] meaning that the accumulated costs of doing business in a highly opaque country have a

10. Caroline Binham and Joe Carroll, *Exxon's $12 Billion Venezuela Asset Freeze Overturned*, BLOOMBERG, http://www.bloomberg.com/apps/news?pid=20601086&sid=ahEO3V_lPHKQ&refer=news (discussing the ongoing legal battles between Venezuela and Exxon).

11. *Id.* at 1–2.

12. *Id.* at 2.

13. *Id.*

more severe effect on international business than do the more discrete but highly reported political events of a country.[14] Events such as war and terror do not typically injure business in the long run, even though these events may immediately stop business activities and cause a drop in the financial markets.[15]

In anticipation of skepticism, the authors identify the biggest challenge they faced in expressing the point of the book: the "data point of one" problem.[16] The problem occurs when people tend to make decisions based on personal success stories rather than on rational examination of the risk of doing business in a country. This problem is most evident when an individual has done business and had no problems with a particular country that rates poorly on the Opacity Index. The person may then argue that the Opacity Index itself is inaccurate because he has not personally experienced any of the problems that the Index identifies. However, the authors suggest that, despite this single bit of disconfirming data, when all of the CLEAR elements are accounted for a more rational analysis would indicate that some countries pose a substantially higher level of risk than others. The authors wrote this book to help make people aware of and consider the risks of doing business internationally.[17]

Chapter 1 contains a table that succinctly represents the authors' Opacity Index findings. According to the Opacity Index, the United Kingdom, Finland, Hong Kong, the United States, and Denmark are the five most transparent countries. Towards the bottom of the list are countries such as Saudi Arabia, Indonesia, Lebanon and Nigeria.[18] The table is helpful because it evaluates each country's five CLEAR factors

14. *Id.* at 17–18.

15. *Id.* at 18.

16. *Id.* at 3. The authors tell the story of Sir Brian Urquhart, a World War II soldier who jumped out of an airplane only to discover that his parachute had malfunctioned. He lived to tell his story, but never once recommended jumping out of an airplane without a parachute. The authors worry about, and the book was written for, those considering "falling through the air with a chute that won't open."

17. *Id.* at 3.

18. *Id.* at 6–7, tbl.1-1. The Opacity Index (and related discussion) is also available at the Kurtzman Group website at www.kurtzmangroup.com.

and assigns each factor a rating. The table then gives the opacity score for the country and ranks it in comparison to the other countries considered in the study. The table is believable, but a comparison of the scores (i.e., the exact way that one country receives a corruption score of sixteen and another country a three) is not intuitive, and a certain level of trust is needed to accept that the research the authors completed and the conclusions they reached are accurate. The authors' failure to lay out a specific methodology for calculating the scores heightens this problem. However, the table provides a good picture of which countries are opaque and which are transparent; the details of the methodology will most likely be unimportant unless a company is choosing between countries with nearly identical scores.

The authors clarify risks associated with international business by distinguishing between large-scale, low-frequency risks and small-scale, high-frequency risks. Large-scale, low-frequency risks are those typically seen in newspaper headlines—earthquakes, political coups, terrorism, and war. Although these events may appear significant (and often are), the actual cost to business is small compared with small-scale, high-frequency risks. For example, terrorism, a large-scale, low-frequency risk, has a short-term cooling effect as opposed to imposing large and substantial long-term costs.[19] Following the terrorist events in New York, Madrid, Bali, and London, market activity experienced an immediate negative effect, but the markets revived again as soon as the immediate threat of terrorism passed.[20] Small-scale, high-frequency risks such as "corruption, fraudulent transactions, bribery, legal and regulatory laxities, unenforceable contracts, [and] breaches of codes of conduct" are factors that more substantially affect the cost of doing business in a foreign country.[21]

The Opacity Index offers more analysis than that provided by political analysts.[22] The Index does not just indicate that there are risks

19. *Id.* at 17.
20. *Id.* at 18.
21. *Id.* at 11.
22. *Id.* at 15–16.

associated with doing business in a foreign country, it also estimates or predicts the cost of that risk.[23]

In chapter 2, Kurtzman and Yago give a general warning and specific details as to the increased costs associated with the increase in a country's opacity. Speaking generally, the authors state that those in business often do not take into account the costs associated with small-scale, high-frequency risks in high-opacity countries.[24] Business leaders often do not understand the detailed foreign operations of the companies for which they work; this lack of knowledge causes an increased cost build-up associated with doing business in these countries. The authors state that most companies need help identifying and defining the risks they assume when doing business in foreign countries. The common practice of decentralizing a company's management often results in increased efficiency and a faster decision-making process; but, decentralization and its accompanying lower level of opacity discovery has the side effect of greater risks and higher costs.[25]

Higher opacity scores correlate directly to a number of negative consequences for growth. The authors found that with each increase of one point on the Opacity Index, the following occurs on average:

> [1] A decrease in average per capita income of $986 a year
> [2] Lower net foreign investment as a percent of GDP by 1 percent
> [3] Lower Capital Access Index scores by 0.06 points
> [4] Lower bank assets as a percent of GDP by 4 percent
> [5] Lower stock market capitalization as a percent of GDP by 0.9 percent
> [6] Lower stock market trades value as a percent of GDP by 0.9 percent
> [7] Increased average borrowing interest rate by 57 basis points
> [8] Increased inflation rate by 0.46 percent[26]

23. *Id.* at 32. In an earlier rendition of the Index, an "Opacity Premium" was provided to put the cost of doing business in foreign countries into specific, economic terms. *See* Kurtzman, Global Costs of Opacity, 46 MIT SLOAN MGM'T REV. 41 (2004).

24. *Id.* at 39.

25. *Id.* at 41.

26. *Id.* at 41–42.

The authors present evidence from studies in which high opacity directly correlates to negative business consequences. For example, one study found that "the countries with low per capita GDP's tend to have higher levels of opacity on average, whereas richer countries have lower levels."[27] Another study found that Foreign Direct Investment, which improves economic growth, is affected negatively by opacity. Opacity also increases capital costs and slows financial system development. Finally, opacity can lead to a "hidden tax," which is caused by the increased cost of doing business in an opaque country.[28]

To demonstrate the costs of opacity, the authors compare and contrast two countries—Finland and Russia—to show the distinction between countries on different ends of the opacity spectrum. Finland's score is seventeen, while Russia's score is forty-five. The countries were in similar situations at the time of the Cold War; both countries had invested heavily in education and were poor despite significant natural resources.[29] At the end of the Cold War, however, the two countries followed different developmental paths. Russia declined economically after the Cold War because of corruption, insufficient legal protections, and poor regulation. Russia suffered economically despite its rich oil resources. In contrast, Finland has developed a vibrant economy due to institutional strength, effective regulation, and a lack of corruption. Although Finland was not involved in the telecommunications industry during the period of the Cold War, it has become a leader in the industry. This is due, at least in part, to Finland's transparency.[30]

V. THE CLEAR FACTORS

A. Discussion of the Factors

To present their Opacity Index, the authors chose the clever acronym CLEAR, which stands for the five factors the authors believe govern

27. *Id.* at 45.

28. *Id.* at 55. A hidden tax is a non-governmental increase in the cost of doing business. *Id.*

29. *Id.* at 57.

30. *Id.* at 57–58.

transparency: Corruption, Legal, Enforcement, Accounting, and Regulation. The acronym is convenient and easy to remember; however, the difference between the legal and enforcement factors is somewhat dubious.[31]

The authors use a standard format for discussing the factors. First, they introduce the factors, then they explain the way each is measured, and finally they provide case studies that show each factor's importance. Each country receives a score for all five factors, but the underlying analysis is missing. To better understand the Opacity Index as a whole, the authors briefly describe each of the individual factors—a useful exercise. The following sections describe each factor in turn.

1. Corruption

Corruption is defined as "the abuse of entrusted power for private gain."[32] The authors report that corruption rears its head in two main ways: a leader who helps the economy principally for private gain and bureaucrats who charge additional fees to perform their jobs. In most cases, bribes provide little assurance that bureaucrats will actually perform as requested—the official accepting the bribe may refuse to act or may demand a sum larger than originally sought.[33] Bureaucratic delays and red tape are sometimes added to encourage bribery and corruption, thus wasting the time and resources of those unwilling to pay the bribe. Bribery also acts as a disincentive to business transparency and encourages organized crime.[34] Other indirect costs of corruption include slowed economic growth, misallocation of human capital, distortion of government expenditure, reduction in the efficacy of aid, and greater market volatility.[35]

The corruption index measures not only the pervasiveness of corruption but also its arbitrariness: highly pervasive and non-arbitrary

31. The authors discuss legal and enforcement opacity together.

32. *Id.* at 62 (quoting About Transparency International: What is Corruption?, http://transparency.org/about_us).

33. *Id.* at 63.

34. *Id.* at 65–67.

35. *Id.* at 67–68.

corruption is preferable to highly pervasive and arbitrary corruption. When corruption is widespread, the authors recommend trying to avoid doing business in the country because "[j]ail or a large fine [assessed in one's country of origin] is a terrible price to pay for abiding by another country's conventions."[36] If entering a corrupt market is necessary, it is better to enter that market through a country with a lower corruption score (e.g., getting to China via a presence in Hong Kong or Singapore).[37]

While the authors detail the problems associated with corruption and conclude that resisting its pressure is the best way to run a business,[38] they largely refrain from making moral judgments about this issue. Kurtzman and Yago use the term "honorable" to describe a man who refused to accept a bribe in exchange for a favorable settlement,[39] but at the same time point out that consistent bribery may provide benefits for a business.[40] By leaving the reader to make up his or her own mind about right and wrong when bribery is involved, the authors avoid both sounding dogmatic and offending people in countries where bribery may be looked upon as culturally or morally acceptable and a natural component of doing business. Additionally, the authors shatter any illusion the reader may have that corruption is an issue unique to emerging countries by pointing out that the United States is by no means guiltless when it comes to this pervasive problem.[41]

2. The Legal System

Legal opacity occurs when legal mechanisms fail to protect rights. This can result from legal complexity and confusion with regard to the laws and their intent and from procedural complexity with regard to how a law is carried out (e.g., number of written filings to get a case heard).[42]

36. *Id.* at 81.
37. *Id.* at 81.
38. *Id.* at 80–81.
39. *Id.* at 62.
40. *Id.* at 72.
41. *Id.* at 79–80.
42. *Id.* at 88–89.

To measure legal and enforcement opacity, the authors use World Bank data, in particular focusing on the protection of property rights. The authors also use data from other sources to understand the efficacy of dispute resolution and the protections businesses, investors, and others enjoy in various countries.[43]

3. Enforcement

Enforcement opacity[44] is related to legal opacity and occurs when courts do not effectively enforce existing laws and contracts.[45] The authors claim that enforcement opacity increases costs that arise when organized crime is intertwined with a country's understanding of legal enforcement and adds to the time it takes to provide goods and services to customers. To measure enforcement opacity, the authors consider factors such as freedom of the press and the monetary cost of enforcing a contract.[46] In addition to summarizing and defining enforcement opacity, the authors include case studies on the enforcement difficulties encountered in various countries. These case studies include descriptions of intellectual property battles in China, decreased patent enforcement in Canada, and failed copyright recognition obligations in the Andean countries of Bolivia, Columbia, Ecuador, and Peru.[47] The studies also highlight common problems and provide an opportunity for businesspeople to identify potential issues that may help them avoid a similar fate.

4. Accounting Standards and Governance

Accounting opacity occurs when a government allows scurrilous accounting practices to flourish in a particular country. These countries allow practices such as round-tripping, stuffing, and laundering to inflate

43. *Id.* at 91.

44. Kurtzman and Yago also refer to this factor at times as "economic" opacity. This is merely a change in nomenclature, as the criteria used to measure it do not change. *See* Kurtzman, *Global Costs of Opacity*, 46 MIT Sloan Management Review 39–40 (2004).

45. KURTZMAN & YAGO at 94–96.

46. *Id.* at 96.

47. *Id.* at 96–104.

revenues and raise the perceived value of a company, thereby decreasing the relative value of a company not committing such fraud.[48] The authors consider factors such as the amount spent on audits, the stringency of insider-trading laws, and the amount of protection afforded to shareholders to arrive at the score for accounting opacity.[49] According to the authors, when accounting laws are not enforced, accountants have little incentive to follow international standards and to avoid conspiring to commit accounting fraud.[50] The authors point out that opaque accounting makes shares and assets less liquid, which results in fewer proceeds and higher overall capital costs.[51]

5. Regulation

Regulatory opacity is perhaps the most complex and amorphous of the CLEAR factors. It measures negative factors such as barriers to creation, disillusion, or restructuring of a company; highly controlled labor and capital markets; and government ownership of financial institutions.[52] However, it also takes into account positive regulation such as foreign investor protections, creditors' rights, and transparency requirements.[53] Finally, it takes into account the extent to which regulation stems from private interests rather than from the purpose of encouraging competition.[54]

The authors claim that regulatory opacity causes private and public interests to become fused, leading to organized corruption. To decrease regulatory opacity, regulations that further transparency (e.g., governance regulations) need to be increased, while regulations that inhibit competition or provide barriers to market entry need to be decreased.[55]

48. *Id.* at 109–10.
49. *Id.* at 112, 114.
50. *Id.* at 116.
51. *Id.* at 119.
52. *Id.* at 123–24.
53. *Id.* at 124.
54. *Id.* at 124–25.
55. *Id.* at 125.

To evaluate regulatory opacity, the authors use a number of factors: (1) whether investors get clear information about companies in which they want to invest; (2) whether dispute resolution procedures are available; (3) whether regulations are complex and contradictory; (4) whether regulatory hurdles obstruct new companies; and (5) whether regulations protect established businesses or foster competition and market dynamics.[56] Furthermore, the authors look to see how robust the capital market of the country is and consider government systems for debt distribution, capital flow restrictions, debt clearinghouses, restrictions and disclosure standards for brokers, and standards for independent regulatory and supervisory agencies.[57]

The authors claim that high opacity can negatively affect labor markets and job creation and can discourage entrepreneurship.[58] High opacity can also result in lower overall quality of government,[59] more restricted political rights,[60] worse bureaucratic performance,[61] increased corruption,[62] slower productivity,[63] resource misallocation,[64] and lower overall economic growth.[65] High opacity can also cause financial repression by distorting resource allocation and diverting government funds from other ventures that would otherwise have received funding.[66]

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56. *Id.* at 132.
57. *Id.* at 134.
58. *Id.* at 128.
59. *Id.* at 128.
60. *Id.* at 129.
61. *Id.*
62. *Id.*
63. *Id.*
64. *Id.*
65. *Id.* at 127.
66. *Id.* at 129–30.

B. Application of the CLEAR Factors in International Business Decision-making

1. Concrete applications of CLEAR

In chapter 7, the authors discuss how CLEAR can be applied to achieve business success. The authors begin by considering the example of Israel. Located in an area of conflict, Israel would appear to be a bad area to develop a business. Admittedly, it is not among the top tier of transparent and low-risk countries. However, Israel is considered an *Edge* nation (a nation subject to very few hidden costs); it was ranked #22 in 2005 due in part to its growth, stock market, and venture capitalism.[67]

The authors argue that CLEAR can offer relevant firsthand data, instead of a biased perspective. Specifically, the authors explain that relying on the media for data regarding a country is rarely a good idea because the media makes a business of reporting events, which means that they depend on television viewer ratings. The media relies on stories highlighting high-impact, low-frequency events to boost ratings.[68] For example, in the mid-1980s, Sri Lanka seemed to be a good place to invest. The country's "literacy was nearly 100%, income was distributed equally, and quality food and water were plentiful."[69] Investors took advantage of the country's educated, inexpensive workforce. Although there were no actual reports of problems, the prevalence of violent crime signaled an impending civil war.[70] The Sri Lanka example shows that the media does not always give a full or accurate depiction of events abroad. Using CLEAR, a company can focus on individual problem areas before deciding whether or not to invest in a particular market; CLEAR eliminates the need to rely on potentially biased or inaccurate media.[71]

67. *Id.* at 144.
68. *Id.* at 145–46.
69. *Id.* at 147.
70. This occurred before the Opacity Index had been developed.
71. *Id.* at 148.

Chapter 7 also discusses the use of capital markets as predictors of business success; the markets themselves are usually accurate indicators. The authors discuss the Middle Eastern market as a place to invest. In the past, people from this region were accustomed to investing their money in other markets such as New York, London, and Hong Kong.[72] However, this money has been staying within the region in the last few years; as a result, market growth is expected to continue. Another important factor to take into consideration is CLEAR's insight into access to capital. Entrepreneurial capital measures "the strength of a country's financial institutions and their ability to move money where it is needed most" and "whether there is an entrepreneurial class of people who are making personal bets on the future."[73] Access to capital (according to the Milken Institute's Capital Access Index[74]) can be measured by whether personal assets (e.g., mortgages, loans for building businesses) are being put at risk. The authors view these investments as a way to control fates and futures.[75]

Many countries score poorly due to poor legal protection of intellectual property. This is particularly problematic in the field of pharmaceuticals where patented drugs are copied and sold at a discount in countries such as India, China, and Malaysia. Although outside pharmaceutical companies bear the burden of research and development, they have very little protection going into such countries.[76]

The Opacity Index has been developed to help policymakers and businesses alike. Policymakers can use the Index to try to open their economies. Mexico, for instance, has done so by putting the Opacity Index on its government website. Businesses should consult the Index before investing in countries that may be at higher risk than businesses expect.

72. *Id.* at 148.

73. *Id.* at 150.

74. Joel Kurtzman is a senior fellow at the Milken Institute.

75. *Id.* at 152.

76. *Id.* In most countries (and under WTO's TRIPS) pharmaceuticals are not protected to the same degree as other intellectual property.

2. CLEAR profiles for selected countries

In chapter 8, the authors summarize the opacity ratings for individual countries to facilitate contrast and comparison. The authors also provide reasons for the ratings and suggest ways for countries to improve their individual ratings.

Finland is among the countries that have done well on the Opacity Index. Finland's small population, high per capita GDP, and regulation requirements make the country "a leader across all CLEAR dimensions of the Opacity Index."[77] Finland has low levels of corruption, low levels of black-market activity, and high enforcement of intellectual property laws. In 1999, Finland passed the Openness of Government Activities Act to make government information public.[78]

The United States is another country that has fared well in the Opacity Index. However, the authors have several critiques of the U.S. system despite the relatively favorable conditions in the United States. They note Enron's bankruptcy as having "revealed serious shortcomings in both the structure and the application of GAAP accounting standards to complex transactions."[79] Some U.S. capital markets have been losing to London due to legislation being "too much, too stringent, and too expensive."[80] That companies can off-load assets and liabilities from their balance sheets is another problem. Because derivative pricing is impractical, there is no consistent standard of evaluating assets in intellectual property, brands, and goodwill.[81]

Indonesia is among the countries at the bottom of the Opacity Index. However, the authors do not consider the country hopeless; they foresee a positive future for Indonesia if the country receives necessary encouragement.[82] Indonesia needs to develop and reform its legal system. The Indonesian people desire to hold the wealthy accountable (e.g., contract enforcement)—especially those who have illegally made

77. *Id.* at 161.
78. *Id.* at 162.
79. *Id.* at 164.
80. *Id.*
81. *Id.* at 165.
82. *Id.* at 171.

their businesses profitable. Although Indonesia has tried to address this problem by implementing bankruptcy laws, the laws appear to be ineffective. The authors believe that to handle these problems adequately, Indonesia needs to update its laws, address corruption, and consistently regulate industries.[83]

In this chapter's last section, the authors demonstrate how some countries are using lessons derived from their opacity scores to help stimulate growth. For instance, to compete internationally, the Bank of China, China Construction Bank, and the Industrial and Commercial Bank of China operate as joint-stock banks. China has also created more regulatory agencies to oversee the banking industry and has deregulated interest rates.[84] However, because Chinese banks hold almost 69% of financial assets, companies investing in China may be unable to secure other sources of funding if banks start having trouble. Corporate bonds and stocks only account for about 20% of China's financial assets.[85]

VI. CONCLUSION

Businesspeople seeking to enter markets in foreign countries should consider the CLEAR factors before investing. Through CLEAR, the authors give businesspeople the opportunity to look at a compilation of firsthand data when deciding which countries offer the least risk for a particular type of market. The Opacity Index is a systematic method to compare risks and opportunity costs across various countries. Furthermore, policymakers may use the CLEAR factors to assess the risks potential businesses face coming into the policymakers' countries, enabling them to strategize a way to improve those conditions and to help stimulate their economies.

Global Edge presents the benefits of the Opacity Index in a concise, accessible manner. Although the book does not provide much data or methodology, it successfully informs readers of an additional tool for evaluating risk.

83. *Id.* at 171–72.

84. *Id.* at 173.

85. *Id.* at 175.