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Combatting corruption to create a sustainable path of future growth for South Africa

Business success – and survival – relies largely on developing a strategy and timeline that takes into account various scenarios, considers several mitigating and aggravating factors, makes certain assumptions, spotlights possible threats, and charts a course for the future.



Three years ago, very few, if any, C-Suite executives factored in, a global pandemic such as the COVID-19, and come April 2019, most five-year strategies had to be tossed out the window.

For example, in some cases, companies' five-year projections on digitalisation and digitisation were telescoped into three months. Those who survived revealed that more than being strategic, they needed to be resilient.

As President and Chief Executive Officer FTI Consulting Steven Gunby said,

“The world’s financial, political and social landscapes continue to shift, and businesses face an increasingly complex and interconnected range of strategic challenges to their security and growth.”

A company’s ability to successfully mitigate these risks and threats – its resilience – through informed insights and solid preparation for whatever comes next is what will ensure its survival.

The FTI Consulting South Africa Resilience Barometer report published in October 2021¹ set out to chart the areas making the top of the board meeting agenda for South African executives – the C-Suite – and provide fact-based and timely insights to enable clear-headed decisions in a volatile and changing environment.

Globally, we found that the most common threat listed by our counterparts was the potential emergence of new, vaccine-resistant COVID-19 variants.

In South Africa, it was listed fourth. Our top concerns are unemployment and corruption.

¹ <https://ftiresiliencebarometer.com/featured/details/south-africa-october-2021>

55%

The prevalence of corruption ranked slightly below that of rising unemployment. Corruption is seen – rightly so – as presenting a significant challenge for the future success and growth of South African businesses, with 55% believing that it will increase from its already unacceptably high levels.

“The country’s progress away from the lost decade plus of state capture is inconclusive given significant corruption scandals that have plagued the past two years. Corruption in state owned enterprises and across local government where annually resources are lost to wasteful expenditure demonstrate insufficient political will to aggressively combating corruption.”

says Karam Singh of Corruption Watch.

This perception is magnified by the pandemic-enforced disruptions to business models, increased digitisation and digitalisation, and hybrid and remote working environments – the Work From Home (WFH) scenario – among other aggravations.

These situations of rapid and dramatic change have facilitated the spread of corruption and abuse by fraudsters.

83%

Not surprisingly, 83% of respondents would like to see greater transparency and increased availability of ultimate beneficial ownership (UBO) information to help in the fight against corrupt activity that hamstrings businesses.

However, despite the widespread negative economic impacts of the COVID-19 pandemic, the current political climate provides a unique opportunity to reinvigorate the country’s fight against corruption.

Petrus Marais, Head of South Africa Practice at FTI Consulting South Africa said,

“Addressing corruption and the misappropriation of state resources must remain a priority. By curbing – hopefully eradicating – corruption, businesses would be able to expand and flourish, which means increasing employment, greater prosperity, and a more equitable and sustainable future for all.”

It is encouraging to hear the robust anti-corruption statements from the senior leadership in both government and the ANC and the initiatives and proposals of several courses of intended action.²

These are needed to protect state resources and implement good governance procedures regarding public finances, including the promise of criminal prosecution for the perpetrators.

The cabinet and the governing party have proposed several anti-corruption measures, including requiring officials to step down from public office if charged. And while the police services and prosecution authorities remain under-resourced, we are starting to see consideration for non-trial resolution of criminal matters, such as plea bargains and deferred prosecution agreements, to speed up the imposition of penalties and sanctions.

The challenge here is that law reform must take place to provide the prosecution authorities with more latitude the negotiate deferred prosecution agreements.

Such reforms must be coupled with a campaign to promote a culture of self-disclosure on the part of corporate actors who uncover wrong-doing and potential criminal liability for misconduct.

In October 2021, the Financial Action Task Force (FATF), along with Transparency International, made recommendations to the Treasury dealing with beneficial ownership,³ which they consider poses a high-risk situation enabling criminal activity. (In 2003, South Africa became a member of the FATF, an international body that promotes policies and standards to combat money laundering, terrorist financing, and other nefarious activities.)⁴

Beneficial ownership transparency must be seen as part of a broader set of measures to reform procurement corruption in South Africa where the country lags behind in creating a transparent, open and corruption proof system.

² https://www.gov.za/sites/default/files/gcis_document/202105/national-anti-corruption-strategy-2020-2030.pdf

³ <https://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-fatf-plenary-october-2021.html>

⁴ https://www.gov.za/sites/default/files/gcis_document/202105/national-anti-corruption-strategy-2020-2030.pdf

Fronting in particular is pervasive and very few of those either implicated or found guilty of procurement fraud are debarred from doing continued business with government as per existing laws. From fronting to money laundering, ensuring beneficial ownership transparency initiatives implemented, monitored and enforced must inform South Africa's future anti-corruption response.

56,7

According to the report, South Africa scores 56.7 in the World Bank Control of Corruption Index. This is well below the FATF average (76.7).

20%

Several reports, including from the South African Auditor General, reveal millions of dollars lost in procurement irregularities yearly and claims (unsubstantiated) that roughly 20% of GDP is lost to corruption.⁵

\$6 Bln

The South African Reserve Bank National Risk Assessment (NRA) focuses on 20% – 25% of government procurement being lost annually; equivalent to about \$6 billion.⁶

The Financial Action Task Force (FATF) recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard. FATF strongly recommend that South Africa pursue money laundering and terrorist financing in line with its risk profile, including so-called "State Capture", the corruption practices involving businesses and politicians conspiring to influence South Africa's decision-making process to advance their own interests.

State Capture helped generate substantial corruption proceeds and undermined key agencies with roles to combat such activity.

Recent initiatives have started to address the situation, including replacing key staff and increasing resources at law enforcement and judicial agencies.

The Mutual Evaluation Report stated that while some money laundering (which includes corruption and State Capture activities) cases have been identified, there remained significant weaknesses in the country's Anti-Money Laundering (AML), Combating the Financing of Terrorism (CFT), and Counter Financing of Proliferation (CPF) systems.⁷

South Africa is expected to take remedial steps within 18 months to address deficiencies identified in the report.

FATF further stated,

“The country's Financial Intelligence Centre effectively produces operational financial intelligence. Law enforcement agencies use this for criminal investigations and to trace assets but lack the skills and resources to proactively investigate money laundering or terrorist financing.”

“While authorities carry out some successful money laundering investigations, the proactive identification and investigation of laundering networks and professional enablers is not really occurring.”

“South African authorities have achieved some good results confiscating criminal proceeds. However, they have struggled to recover assets from 'State Capture' and proceeds that moved to other countries.”

⁵ <https://www.oecd.org/gov/ethics/Corruption-Public-Procurement-Brochure.pdf>

⁶ <http://www.treasury.gov.za/publications/other/Mutual-Evaluation-Report-South-Africa.pdf>

⁷ <http://www.treasury.gov.za/publications/other/Mutual-Evaluation-Report-South-Africa.pdf>

These findings will further erode confidence in South Africa's ability to combat money laundering and financial crime.

Combating corruption at every level is vital, not only to guarantee the basic human rights enshrined in our constitution but to attract the investment needed to fuel future economic growth.

The business community – and society at large – remains optimistic that a demonstratable “line in the sand” has been drawn. What we now wish to see is decisive action taken to push back against corruption, fraud and the malfeasances of state capture.

The views expressed in this article are those of the author(s) and not necessarily the views of FTI Consulting, its management, its subsidiaries, its affiliates, or its other professionals.

PETRUS MARAIS

Head of South Africa Practice
FTI Consulting South Africa
petrus.marais@fticonsulting.com

KARAM SINGH

Incoming Executive Director
Corruption Watch
karams@corruptionwatch.org.za