



*Mining companies urged to steer clear of 'investment landmines'*

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Mining companies operating in higher-risk jurisdictions need to remain wary of potential “investment landmines” beyond corruption concerns.

That included local employment issues, monitoring political power structures and engaging stakeholders, Veracity CEO Steven Fox told an audience at a recent Canada-Southern Africa Chamber of Business corporate social responsibility (CSR) seminar.

Veracity advised clients on political, corruption and reputational risks, with Fox specialising in the mining, energy and telecommunications sectors. He also played a notable role in evidence gathering for investigators examining alleged corruption in BSG Resources' acquisition of Simandou mining rights, in Guinea.

“It’s incumbent upon you to go much deeper [in your investigations] to understand what’s really out there,” Fox reasoned. “If there’s smoke, will you also find fire?”

#### **TREAD CAREFULLY**

Corruption was often the first point of concern for companies operating in higher-risk jurisdictions, particularly in the African mining space. But Fox noted the divide between senior and midtier companies, which often had effective anticorruption policies and procedures compared with smaller junior companies.

Juniors were often good at geology and, if they had access to funding, taking projects to the development stage. “But it’s frequently the things between the geology and financing that fail to receive the necessary scrutiny and attention. Environmental, social and governance issues are important because it’s best to be prepared and ready for when something goes wrong,” Fox said.

Relying on the Internet to research persons, subcontractors or government bodies had been problematic for some, especially when the sources behind the information used were not properly assessed. Fox reminded the audience to ask themselves whether the material they examined was well-researched journalism or paid-for information, purposefully placed with positive or negative spin in mind.

“There can also be overreliance on Transparency International rankings. Conversely, some companies are deterred [from investing] by somewhat sensationalised media headlines,” Fox noted. “So ask lots of questions. Do your homework on the ground and do it in advance because this could save you from potential headaches later on.”

The most dangerous “investment landmines” existed in the most opaque, high-risk jurisdictions. In-depth research on regional affiliations, power blocs and allegiances mitigated the danger, while mining companies should keep themselves up-to-date with rapidly changing political landscapes.

“You should know who is up or down at any given moment and you also need to know who’s at the top. But also keep in mind that the mayors, governors and local chiefs can be just as important as the head of state,” Fox cautioned.

It was important to identify these and other stakeholders, and for companies to have thought about what their motivations were. “You have to know who you’re dealing with in order to get stakeholders on your side,” he said.

Inconsistencies and delays from governments should be expected, with mining companies identifying constraints on ministries or municipalities in the processing of red tape. Companies should be as flexible as possible to cope with any sudden shifts in policies or regulations.

#### **PAPERWORK PLEASE**

Mining and exploration companies needed to ensure no short-cuts were taken in dealing with bureaucracy and its various layers. “It’s also important to know the difference between what’s being said and what is real. Keep in mind a guy at the top might say ‘yes’ but plenty of others can also say ‘no’. In addition, take note that there can be differences between best practises and the law,” Fox warned.

When considering red tape, companies needed to know that all documentation was present and correct, and that it contained the appropriate signatures. This could prove important when a company was faced with possible shakedowns for not having the correct paperwork.

Tax levels were likely to be shifted and sometimes at short notice. However, the era of post-colonial strongmen was coming to an end, especially in Africa, with a groundswell of democratic change occurring across the continent. “Those well-trodden paths of corruption and oppression are decaying, which has many practical implications for [mining] investors,” Fox noted.

This change led to increased accountability of administrations. While this was a force for good, several risks had been engendered, including new forms of populism or the desire by administrations to implement policies that supported or assuaged influential groups or voting blocs. Through this, governments might act against a company’s interests or make it harder for them to identify and engage the right decision-makers.

Labour issues and who was being employed was often overlooked as a source of potential tension, especially if local people living near a project or operation came to feel that outsiders, or those from the capital, were being shown preferential treatment during the hiring process.

In addition, there were some advantages mining companies should recognise by hiring locally. The staff could become the company’s best advocates and help deter threats of corruption or political interference.

Mining companies also needed to familiarise themselves with the importance of free, prior and informed consent (FPIC) and the implications this could have on community relations. Fox noted the growing body of international law with regards to FPIC and that there had been a concurrent growth in the level of lawsuits related to this.

Failures to recognise the right of indigenous peoples to have a say in activities that affected traditional lands had resulted in both reputational and financial costs for various mining and exploration companies.

At worst, companies in this position could lose operating licences or have third-party financing removed. Therefore, the upfront cost of FPIC compliance was a small one compared with the potential costs of noncompliance, Fox calculated.

“Overall, try and take a holistic perspective to reduce your risk. Will it solve all your problems? No. But will it allow you to avoid some of the larger landmines? Probably yes,” he said. “However, this requires a great deal of upfront investment and commitment, not only in money but also in management’s time and devotion.”

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