POLICY DISCUSSION PAPER

GOOD GOVERNANCE AFRICA

Policy Discussion Paper for the Enhancing Accountability Programme – Technical Assistance Facility (TAF)

Private Sector Anti-Corruption in South Africa Post-Zondo: Implications for Local and International Business, Current Reform Trajectory, and Strategic Value for the Conference

July 2026

ENHANCING ACCOUNTABILITY

Funded by the European Union

GGA Good Governance Africa

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Executive summary

The Zondo Commission fundamentally changed the anti-corruption landscape for South Africa's private sector. Its findings made clear that state capture was not only a public-sector failure; it was also enabled by private firms, advisers, auditors, consultants, and intermediaries who manipulated procurement, governance, and influence channels for commercial gain. The Commission's post-2022 reform agenda has therefore shifted the compliance burden for companies from voluntary ethics to a harder model of enforceable accountability, especially in public procurement, corporate governance, whistleblowing, and cross-border compliance. Government's 2022 response explicitly recognised the "central role" of private-sector actors in state capture and committed to reforms targeting companies, directors, procurement systems, political funding, and bribery prevention.[1]

Integrity, competitiveness and collective action

The post-Zondo discussion should also frame anti-corruption not only as punishment or compliance, but as a competitiveness strategy. In the South African context, this is important because state capture showed that corruption weakened markets, distorted procurement, damaged investor confidence, and imposed real operational costs on firms through failures in electricity, logistics and public institutions. The policy message should therefore be that corruption avoidance increases competitiveness, protects investment, reduces transaction costs and strengthens market trust.[2]

The economic rationale is that corruption increases uncertainty, due-diligence and monitoring costs, distorts competition, and weakens confidence in counterparties and public institutions. Collective action through chambers and business associations helps address the problem that individual firms may be unable to change market norms alone: associations can establish common standards, provide shared tools and training, create peer accountability, and engage government around consistent enforcement. International guidance recognises collective action as a multi-stakeholder means of raising integrity standards

1 Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, Commission reports (2022); The Presidency, Response by President Cyril Ramaphosa to the Recommendations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State (October 2022); Public Affairs Research Institute, Assessment of Implementation of State Capture Commission Recommendations, Appendix S to the National Anti-Corruption Advisory Council Final Report (2025).

2 M Burger-Scheidlin & R Kolevsohn, 'Integrity Is Good Business: Why Corruption Avoidance Creates Competitive Advantage' (unpublished discussion paper, 2026); see also Good Governance Africa, 'Integrity as a Competitive Advantage – Business Chambers Programme' (14 July 2026); Eskom Holdings SOC Ltd, Integrated Report 2023 (2023); Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, Report Part II vol I: Transnet (2022).

and promoting fair competition, while South African business initiatives demonstrate how such platforms can translate policy into practical supplier support.[3]

The Zondo Commission's findings on Eskom, Transnet and other SOEs demonstrate that corruption is not simply a legal breach; it becomes a direct economic cost to business. Procurement manipulation, political interference and weak internal controls contributed to electricity insecurity, freight bottlenecks, delayed projects and declining confidence. This supports the argument that post-Zondo reforms should combine enforcement with prevention, procurement reform, stronger board accountability and institutional capability-building.[4]

What has been done?

The most important shift is legislative. South Africa has enacted a new "failure to prevent corruption" offence through Section 34A of Prevention and Combating of Corrupt Activities Act (PRECCA), inserted by the Judicial Matters Amendment Act 15 of 2023. This creates liability where a person associated with a private-sector entity bribes another person to obtain or retain business or a business advantage, unless the company had "adequate procedures" in place to prevent that conduct. This is a major policy development because it moves South African law closer to modern corporate liability regimes seen in the UK and other jurisdictions. South Africa has also enacted the Companies Second Amendment Act 17 of 2024, which extends time limits for delinquency proceedings against directors implicated in serious misconduct. In procurement, the Public Procurement Act 28 of 2024 has been passed to create a single framework for public procurement, including debarment tools, although National Treasury has confirmed that the Act's provisions are not yet in force and will commence by proclamation in phases.[5]

Enforcement and consequence management have also advanced. By July 2025, the presidency reported that 48% of the 60 actions in the president's Zondo response plan were complete or substantially complete, 23% were on track, and 29% were delayed but receiving attention. The same report stated that government recoveries linked to state capture had reached nearly R11 billion, with R10.6 billion under restraint or preservation, and that the Companies and Intellectual Property Commission had completed reviews of 10 private-sector entities implicated in state capture, with six investigations ongoing. It also confirmed the 10-year ban on Bain & Company from doing business with the South African state. National Treasury's current restricted supplier register shows Bain & Company South Africa Incorporated listed from 5 September 2022 to 4 September 2032 for corrupt and fraudulent practices in competing for the SARS contract.[6]

What is still being done?

Reform remains incomplete. The Public Procurement Act is not yet operational, so the full benefits of the new framework, including stronger debarment architecture, are still pending. Government is also continuing a broader redesign of South Africa's anti-corruption architecture, while the Investigating Directorate Against Corruption (IDAC), created through the National Prosecuting Authority Amendment Act of 2024, is now permanent and operational. The Presidency has identified further priorities including accelerating prosecutions, finalising whistleblower reforms, completing SARS Act amendments, and finalising anti-corruption architecture proposals. For the private sector, this means the compliance environment is becoming stricter, but some of the most important institutional supports and enforcement pathways are still consolidating.[7]

3 Organisation for Economic Co-operation and Development, United Nations Office on Drugs and Crime & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (2013); Organisation for Economic Co-operation and Development, Compliance Without Borders Handbook: A Collective Action Initiative (2023); National Business Initiative, Ethical Supplier: Landscape Mapping of the SME Space in the South African Context (2025); National Business Initiative, Integrated Annual Report 2023–2024: Ethical Leadership and Anti-Corruption Programme (2024); Business Unity South Africa, 'Progress reported in government and business partnership, including the Joint Initiative against Crime and Corruption' (2 August 2023).

4 Judicial Commission, Commission reports (n 1 above); Eskom Holdings SOC Ltd, Integrated Report 2023 (n 2 above); Judicial Commission, Transnet report (n 2 above).

5 Prevention and Combating of Corrupt Activities Act 12 of 2004, as amended by sec 34A inserted by the Judicial Matters Amendment Act 15 of 2023; Judicial Matters Amendment Act 15 of 2023; Companies Second Amendment Act 17 of 2024; Department of Trade, Industry and Competition, 'The dtic welcomes proclamation of Companies Amendment Acts' (7 January 2025); Public Procurement Act 28 of 2024; National Treasury, 'Media Statement: Commencement of Public Procurement Act, 2024' (13 August 2024).

6 The Presidency, Progress Report on Implementation of Actions in the President's Response to the Recommendations of the State Capture Commission (July 2025); National Treasury, Restricted Supplier and Tender Defaulter Report.

7 National Treasury, 'Commencement of Public Procurement Act' (n 5 above); The Presidency, Progress Report (n 6 above); National Prosecuting Authority, 'NPA Amendment Act and IDAC Bill signing' (27 June 2024); National Prosecuting Authority Amendment Act 10 of 2024; National Prosecuting Authority, Strategic Plan 2025–2030 (2025); National Anti-Corruption Advisory Council, Final Report 2025 (2025).

Key issues for the private sector

Five issues now define the post-Zondo private-sector agenda. First, procurement integrity: corruption risk remains highest where firms interact with the state through tenders, implementing-agent arrangements, emergency procurement, subcontracting, and politically exposed networks. Second, director and executive accountability: boards can no longer treat corruption as a management-only risk. Third, adequate procedures under Section 34A of the Prevention and Combating of Corrupt Activities Act (PRECCA) now matter as a legal defence, not just a governance preference. Fourth, third-party and cross-border risk is rising, especially for multinationals using agents, distributors, consultants, and joint-venture partners. Fifth, whistleblowing and internal reporting systems are now essential because both state and private reforms increasingly depend on early detection and protected disclosure. These themes are consistent with the Zondo follow-up reform programme and with the private-sector focus of the proposed dialogue in the concept note, which aims to translate global integrity standards into practical guidance for firms operating in procurement and cross-border environments.[8]

Boards should treat corruption avoidance as enterprise risk management, not as a narrow legal function. Adequate procedures should include risk-based procurement controls, conflict-of-interest checks, third-party due diligence, beneficial ownership screening, protected disclosure channels, training, monitoring, investigation protocols and board-level reporting. These controls are also commercial assets because they improve reliability, investor confidence and eligibility for credible public and private procurement opportunities.[9]

Who are the key players?

The principal state actors are the Presidency, National Treasury, National Prosecuting Authority (NPA) and Investigating Directorate Against Corruption (IDAC), Special Investigating Unit (SIU), Directorate for Priority Crime Investigation (the Hawks), Financial Intelligence Centre (FIC), South African Revenue Service (SARS), Companies and Intellectual Property Commission (CIPC), South African Institute of Chartered Accountants (SAICA), Independent Regulatory Board for Auditors (IRBA), and the National Anti-Corruption Advisory Council. On the business side, organised business and business-association actors are increasingly relevant. The EU Chamber of Commerce and Industry in Southern Africa represents European business and advocates for an attractive, rules-based investment climate while coordinating EU companies and bilateral chambers around common policy positions. The National Business Initiative is already active in private-sector anti-corruption through its Ethical Leadership and Anti-Corruption programme and its Ethical Supplier project, which focuses on systemic corruption in procurement and practical tools for companies and small, medium and micro enterprises (SMMEs). Business Unity South Africa (BUSA) has also developed anti-corruption tools for small businesses and participates in the Joint Initiative against Crime and Corruption with government and business. These bodies are important because they can translate law and policy into business norms, supplier standards, training, peer pressure, and collective action.[10]

International organisations and comparison with other countries

International companies operating in South Africa generally do not apply a wholly separate anti-corruption model here; they tend to bring global compliance systems into the South African market. Those systems are usually built around risk assessment, third-party due diligence, gifts and hospitality controls, training, internal reporting, investigations, and remediation. That is consistent with Organisation for Economic Co-operation and Development (OECD) guidance, which states that an effective anti-corruption compliance programme should be based on a risk assessment tailored to the company's circumstances. Multinationals headquartered in the US or UK also operate under extraterritorial regimes such as the United States Foreign Corrupt Practices Act (FCPA) and the United Kingdom Bribery Act 2010, meaning their South African operations are often held to the same baseline controls used elsewhere. The comparison point is therefore not

8 Prevention and Combating of Corrupt Activities Act 12 of 2004 (n 5 above); Public Procurement Act 28 of 2024 (n 5 above); The Presidency, Progress Report (n 6 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); United States Department of Justice & United States Securities and Exchange Commission, A Resource Guide to the US Foreign Corrupt Practices Act 2 ed (2020); United Kingdom Ministry of Justice, The Bribery Act 2010: Guidance (2011).

9 OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); Organisation for Economic Co-operation and Development, Companies' Assessments of Anti-Corruption Compliance (2025).

10 The Presidency, Progress Report (n 6 above); National Business Initiative, Ethical Supplier (n 3 above); National Business Initiative, Integrated Annual Report 2023–2024 (n 3 above); Business Unity South Africa, 'Progress reported in government and business partnership' (n 3 above).

that firms use different standards in South Africa, but that enforcement conditions, procurement exposure, political-economy risks, and supplier ecosystems may require stronger local tailoring here than in lower-risk jurisdictions. South Africa's new Section 34A pushes local law closer to that international standard.[11]

A competitiveness framing is particularly relevant to international business because investors and global value chains increasingly price governance risk. In South Africa, companies that can evidence strong anti-bribery, whistleblowing, procurement and third-party controls are better positioned for environmental, social and governance (ESG) due diligence, public procurement participation, development finance scrutiny and cross-border partnerships. The local context therefore requires global standards to be tailored to South Africa's post-Zondo risks, especially state-owned enterprise (SOE) exposure, politically connected intermediaries, emergency procurement and supplier integrity.[12]

Main policy implications post-Zondo

Post-Zondo, the policy message to the private sector is clear: "ethics" is no longer enough. Companies doing business with the state, state-owned entities, or regulated sectors must now be able to evidence robust anti-bribery controls, board oversight, auditable procurement compliance, protected reporting systems, and third-party due diligence. For multinationals, South Africa is increasingly a convergence jurisdiction where domestic law, procurement reform, foreign-bribery rules, AML expectations, and investor scrutiny overlap. For local companies, especially suppliers and SMMEs, the main challenge is capability: many firms face real compliance burdens and need practical tools, templates, proportionate controls, and collective support rather than abstract legal messaging. This is why business-association leadership matters.[13]

Integrity is not only a compliance burden but a driver of sustainable competitive advantage. Honest business practices reduce uncertainty, lower monitoring costs, improve trust with regulators and partners, and strengthen long-term resilience. This complements the Zondo reform trajectory by moving the private sector from reactive scandal management to proactive value protection. For SMMEs and suppliers, the challenge is to make integrity practical, affordable and proportionate rather than treating compliance as a costly corporate formality.[14]

Who has been blacklisted, and what is the current state?

The clearest post-Zondo blacklisting outcome remains Bain & Company South Africa's 10-year restriction from state business, confirmed both by the Presidency and the Treasury restricted supplier register. Beyond Bain, the current picture is more mixed: government has reported completed CIPC reviews of 10 implicated entities and six ongoing investigations, but a broader, transparent list of all post-Zondo corporate exclusions has not yet emerged at the same level of clarity. The current state is therefore one of partial but real progress: stronger laws, some high-profile sanctions, improving recoveries, and more investigations, but not yet a fully settled enforcement regime across all implicated companies.[15]

South Africa has made real progress after Zondo, but credibility depends on visible implementation. This includes operationalising the Public Procurement Act, issuing clearer guidance on adequate procedures, accelerating enforcement against implicated firms, strengthening whistleblower protection, and supporting companies to build practical prevention systems. Without implementation, reform risks remaining policy-based rather than market-changing.[16]

11 Prevention and Combating of Corrupt Activities Act 12 of 2004 (n 5 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); US Department of Justice & US Securities and Exchange Commission, FCPA Resource Guide (n 8 above); UK Ministry of Justice, Bribery Act Guidance (n 8 above).

12 OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); National Business Initiative, Ethical Supplier (n 3 above); OECD, Companies' Assessments of Anti-Corruption Compliance (n 9 above).

13 Prevention and Combating of Corrupt Activities Act 12 of 2004 (n 5 above); Public Procurement Act 28 of 2024 (n 5 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); National Business Initiative, Ethical Supplier (n 3 above); US Department of Justice & US Securities and Exchange Commission, FCPA Resource Guide (n 8 above); UK Ministry of Justice, Bribery Act Guidance (n 8 above).

14 Burger-Scheidlin & Kolevsohn, 'Integrity Is Good Business' (n 2 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); OECD, Compliance Without Borders Handbook (n 3 above); OECD, Companies' Assessments of Anti-Corruption Compliance (n 9 above).

15 The Presidency, Progress Report (n 6 above); National Treasury, Restricted Supplier and Tender Defaulter Report (n 6 above).

16 Prevention and Combating of Corrupt Activities Act 12 of 2004 (n 5 above); Public Procurement Act 28 of 2024 (n 5 above); National Treasury, 'Commencement of Public Procurement Act' (n 5 above); The Presidency, Progress Report (n 6 above); National Anti-Corruption Advisory Council, Final Report 2025 (n 7 above).

How can this dialogue add value?

The conference adds value in a very practical way. It can convert a largely legal and investigative post-Zondo conversation into an operational compliance agenda for business. Properly designed, it can help companies understand the new Section 34A standard, procurement red flags, how to define "adequate procedures," how to manage third parties, how to align South African controls with FCPA/UK Bribery Act expectations, and how to build workable whistleblowing and supplier-integrity systems. It can also convene the right coalition: chambers, business associations, compliance officers, boards, civil society, and investigators. That aligns closely with the stated objective of the proposed dialogue: strengthening private-sector capacity to prevent and mitigate corruption risks in public procurement and cross-border operations through practical knowledge-sharing and dissemination of operational tools. In short, the conference can help shift the market from reactive scandal management to preventive integrity systems.[17]

This dialogue is positioned around a positive business case: integrity improves competitiveness. This makes the dialogue more attractive to boards, chambers, investors, SMMEs and multinational firms because it speaks to commercial survival, market access and investor confidence, not only legal exposure. Practical sessions will include corruption avoidance as a business strategy, post-Zondo procurement risk, Section 34A adequate procedures, whistleblower systems, third-party due diligence, ESG/investor expectations and collective action through business associations.[18]

Conclusion

The post-Zondo era has created a new policy settlement for private-sector anti-corruption in South Africa. The direction of travel is unmistakable: higher corporate accountability, harder procurement rules, more exposure for directors, rising convergence with international anti-bribery practice, and growing expectation that business associations and chambers must actively shape ethical market conduct. The remaining challenge is implementation. South Africa now needs faster operationalisation of procurement reform, more visible enforcement against implicated firms, clearer guidance on "adequate procedures," and stronger support for SMEs and suppliers. A focused private-sector accountability conference is therefore timely: it can close the gap between reform on paper and compliance in practice.[19]

17 Prevention and Combating of Corrupt Activities Act 12 of 2004 (n 5 above); Public Procurement Act 28 of 2024 (n 5 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); OECD, Compliance Without Borders Handbook (n 3 above); National Business Initiative, Ethical Supplier (n 3 above); US Department of Justice & US Securities and Exchange Commission, FCPA Resource Guide (n 8 above); UK Ministry of Justice, Bribery Act Guidance (n 8 above).

18 Burger-Scheidlin & Kolevsohn, 'Integrity Is Good Business' (n 2 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); OECD, Compliance Without Borders Handbook (n 3 above); National Business Initiative, Ethical Supplier (n 3 above); National Business Initiative, Integrated Annual Report 2023–2024 (n 3 above); OECD, Companies' Assessments of Anti-Corruption Compliance (n 9 above).

19 Prevention and Combating of Corrupt Activities Act 12 of 2004 (n 5 above); Public Procurement Act 28 of 2024 (n 5 above); National Treasury, 'Commencement of Public Procurement Act' (n 5 above); The Presidency, Progress Report (n 6 above); OECD, UNODC & World Bank, Anti-Corruption Ethics and Compliance Handbook for Business (n 3 above); OECD, Compliance Without Borders Handbook (n 3 above); National Business Initiative, Ethical Supplier (n 3 above); National Anti-Corruption Advisory Council, Final Report 2025 (n 7 above).

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Notes

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