



ARTICLE

The benefits, risks and limitations of lifestyle audits

South Africa

The 'lifestyle audit' is a buzzword on the South African anti-corruption agenda. In 2018, incumbent president Cyril Ramaphosa called for lifestyle audits on people in positions of responsibility. Some state employees, including members of the Western Cape cabinet and South Africa's national power company Eskom, have already been subjected to lifestyle audits.



The South African Revenue Service (SARS), which has been conducting lifestyle auditing for years, announced it would undertake lifestyle audits to recover undisclosed taxes. In 2019, auditing giant KPMG introduced lifestyle audits for its employees to promote integrity and identify possible abuses of internal processes and client contracts.

Introduction

For public and private-sector investigators, some legal restrictions and nuances need to be navigated. In our view, lifestyle audits should not be ad hoc or be used to make definitive assessments. They are more effective as part of an overall monitoring programme or screening process to red flag areas of concern warranting further investigation.

“Lifestyle audits are a valuable tool in the fight against fraud and corruption, but they come with risks that must be carefully considered when relying on them.”

<http://www.thepresidency.gov.za/parliamentary-qa/president-cyril-ramaphosa-oral-replies-national-council-provinces-11-september-2018>

<https://www.dailymaverick.co.za/article/2019-11-28-eskom-to-subject-2000-more-staff-to-lifestyle-audits-as-fight-against-corruption-intensifies/>

<https://businesstech.co.za/news/wealth/460176/calls-for-lifestyle-audits-on-rich-south-africans-living-in-mansions-and-driving-expensive-cars/>

<https://www.news24.com/fin24/companies/financial-services/kpmg-now-doing-integrity-checks-lifestyle-audits-ceo-20190801>

The Lifestyle Audit: A Description



A lifestyle audit is a comparative exercise in which a person's legitimate income is measured against their lifestyle

If the audit reveals a disjunct between a person's known financial affairs compared to their lifestyle and spending patterns—"living beyond their means"—then there is the heightened risk that the person is receiving alternative income.

This income may be from sources that present a conflict of interest or potentially illicit activities, including fraud, collusion, embezzlement, bribes, kickbacks, and tender rigging

The Limitations



Corporate and state investigators face challenges in recovering information and evidence. Plenty of valuable data is available for recovery, but some are not. Information may not necessarily be digitised, rendering desktop checks ineffectual.

If digitised, data may require specific permissions and consents to be accessed. Manual retrieval of records may be possible, but this can often be costly and/or time-consuming. There may also be significant legal or diplomatic hurdles to recovering information. A potent example is offshore structures, including trusts and bank accounts.

For private-sector investigators, recovering information is more challenging as they do not necessarily have legislative powers enjoyed by law enforcement and regulatory bodies such as SAPS and SARS. Although private-sector investigators can find a raft of information without resorting to legal compulsion (such as subpoenas), they face specific difficulties acquiring bank statements, tax returns, criminal records, telephone records, mortgage loans, email data, trust information, etc.

Public-sector investigators, particularly in South Africa, face their own challenges. These can include difficulties regarding inter-departmental cooperation, coordinated access to costly subscription databases and case volumes creating additional time pressures

The Risks



Arguably the biggest risk is that people may misunderstand or misconstrue the purpose and expectations of lifestyle audits. Audits should not be used to make a definitive finding of a person's guilt or innocence. At best, lifestyle audits should state that either there are no red flags or that there are red flags warranting further, more complex investigation. Unfortunately, lifestyle audits occasionally have been politically and institutionally weaponised, which undermines their usefulness.

A second key risk is that investigators may not be au fait with the subtleties of the investigative process, and an innocent person can be incorrectly maligned or incriminated, or a wrongdoer mistakenly exonerated. By way of example, a person can have a showy vehicle, expensive suit or expensive house through a range of legitimate means: careful saving, inheritance, ceasing of expenses like mortgage payments or school fees, tax avoidance, wealthy relatives, strategic investments, gambling or lottery winnings and diversified income from side businesses such as home rental.

A person could also accumulate assets by becoming highly leveraged—they may have an upmarket car and be deeply in debt. Although debt carries its own concerns, it remains a legitimate means of acquiring assets. Investigators need to recognise that appearances deceive, people boast, the designer suits may be fake, the flash tech may come from a friend overseas (where it's cheaper). They also need to discern that people may engineer their social media to create an illusion of wealth or that the children at expensive private schools may have bursaries or scholarships.

The final risk is that organisations may become overly reliant on lifestyle audits in the fight against corruption. As indicated above, lifestyle audits are best used systematically in conjunction with other anti-corruption interventions and require comprehensive self-disclosure to make the process time and cost-efficient.

They are by no means a comprehensive answer to the anti-corruption agenda. Critical interventions should include monitoring plans at all levels of an organisation, division of duties and responsibilities, training, limited powers to override systems and increased supervision of higher-risk roles such as those in finance and supply chain.

The Benefits



While there are restrictions and risks, it is worth noting that lifestyle audits can be rewarding in the fight against corruption and are a valuable tool in promoting public and private sector accountability.

They are a valuable means of identifying concerns warranting further investigation. Lifestyle audits can aid in identifying incongruous wealth, which is an important red flag owing to its being a common indicator of possible fraud or corruption. They can also act as a meaningful deterrent. Employees aware they may have to account for their ill-gotten gains could feel disincentivised to act illegally. Part of the lifestyle audit process involves identifying a person's possessions. Where a person is suspected of illicit activity, it is possible to attach their goods to prevent them from divesting the assets while a full investigation is being concluded. This process is enhanced if investigators already have a list of pursuable assets.

Conclusion

With these caveats in mind, lifestyle audits have several benefits in the fight against corruption when utilised as a part of a broader anti-corruption programme. Although valuable, they come with informational, administrative and evidential restrictions, making any experienced investigator cautious about making definitive assessments about a person's affairs.

“Lifestyle audits remain an important component of any comprehensive fraud and risk management strategy.”

GEORGIE NIVEN

Consultant
Forensic Litigation Consulting
georgina.niven@fticonsulting.com
+27(0) 66 430 6716
FTI Consulting South Africa

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. FTI Consulting is an independent global business advisory firm dedicated to helping organisations manage change, mitigate risk and resolve disputes: financial, legal, operational, political & regulatory, reputational and transactional. FTI Consulting professionals, located in all major business centres throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges and opportunities. For more information, visit www.fticonsulting.com and connect with us on Twitter (@FTIConsulting), Facebook and LinkedIn. www.fticonsulting.com © 2021 FTI Consulting, Inc. All rights reserved.