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EXPROPRIATION WITHOUT COMPENSATION

– WHAT INVESTORS SHOULD DO

BY MAGNUS HEYSTEK | INVESTMENT STRATEGIST & DIRECTOR, BRENTHURST

The National Democratic Revolution is real. Ignore it at your peril.

Giving financial advice is hazardous and potentially risky at the best of times. Any investment strategy you map out for a client can be affected by a sudden crash in the equity markets, a shock increase in interest rates, an earthquake/tsunami or a fund manager absconding with a large chunk of your money.

The investment advice you give is always (or should be) tailored to the tolerance to risk, available assets and investment objectives of a particular client.

Once this myriad of elements have been considered, one is able to construct a logical and workable investment strategy with a good chance of a successful outcome.

And then there are factors that no investor or advisor can control, an extreme element such as the total collapse of markets or an outbreak of war.

History is full of such examples.

Some investors may invest just before such an event – outcome bad, whereas some investors invest after such an event and at much lower asset values – outcome very good.

In South Africa, the investment landscape is more complicated and full of non-financial issues. Investors in the SA market – whether equity, bonds, property or business – have an additional element of added insecurity in the form of a very complex and nasty historical past, which over the past 30 years has been dealt with in the form of BEE, collapse of infrastructure, rampant theft and corruption and a business-unfriendly government, still seeing itself as a liberating force intent on redistribution of wealth rather than the creation of new greenfield ventures.

At the same time, the country is left exposed to global tailwinds or destructive hurricanes over which it has very little control. From 2002 to 2008, the country was the recipient of one of the largest and most enduring commodity booms, driven by China's demand for commodities – of which we, fortunately, have plenty under the ground – which led to the massive rise in exports, capital flowing into the country and the local currency booming, with its purchasing power rising from a level of R13/USD in 2001 to almost R5.50 seven years later.

SOCCER WORLD CUP 2010

At the same time, the mood and confidence of investors and the populace were boosted by the construction boom in preparation for the Soccer World Cup (SWC) in 2010. Who can forget the feeling of national pride and unlimited euphoria when the eyes of the world were focused on South Africa during that time? I still have a vuvuzela in my bar at home, providing me with fond memories of that serene time in our existence.

Against this background, it doesn't surprise that the Johannesburg Stock Exchange's (JSE) performance was one of the best in the world from 2000 to 2010, if not the best. Such was the outperformance that an investment on 1 January 2000 on the JSE would have outperformed the rest of the world, including Wall Street, over the next 25 years.

But all the running was in the first 10 years. Some fund managers still use this chart to make an investment case for the JSE. Sadly, this is mischievous.

Two things need to be pointed out: the timing of the period was very fortuitous – Wall Street was on a massive high in 2000 (which was followed by a spectacular dot com bust), while emerging markets (which includes the JSE) were coming from a very low point after the 1998 emerging market crisis. So, starting points make a difference.

As I have written here many times before, over the past 15 years, it has been a case of US markets (Nasdaq, Dow Jones 100 and S&P 500) absolutely outpacing all world markets, including the JSE, LSE and European markets.

The usual risks remain in 2025. US interest rates, the price of gold, stock market valuations, a new presidential regime in the United States and a still lingering war in Ukraine. They haven't gone away.

EWC RISK TO YOUR INVESTMENTS

From a South African point of view, a sudden and potentially more disastrous issue has emerged: the signing of the Expropriation Without Compensation Bill (EWC) by ANC President Cyril Ramaphosa. After many decades of intense debate over the issue of land, the worst-case scenario – if you are white and a landowner – has arrived: the government can expropriate your property (which is NOT only land) at nil compensation.

Over many years, I and most other well-informed investors have read and reread documents drawn up by various interest groups, ranging from the FW de Klerk Foundation, SA Institute for Race Relations (IRR), most political parties, Sakeliga and many others. I have also spent considerable time watching and rewatching the webinars hosted by Dr Anthea Jeffries from the IRR, in addition to reading her book on the National Democratic Revolution. Like her, I have long believed that the threat from the NDR is real and that steps need to be taken to protect oneself from it.

Most of these groupings pleaded with government to handle this issue carefully, lest it led to severe disruptions in financial markets, a collapse in confidence and an outflow of capital. Historical precedents for such a scenario were found all over Africa – in Zimbabwe, Uganda, Angola and Mozambique, to name a few.

The issue of EWC was also foremost in the policy set of radical political parties such as the MK party and the EFF. Both these parties stated very firmly that expropriation would include banks, the reserve bank and all the land to be put under the control of the government.

Now that EWC is law, what is the outcome likely to be? Does it change anything at all, and how should investors react?

It all depends on who you ask.

William Saunderson-Meyer (WSM) writes in his weekly column in PoliticsWeb that "the EWC Act is the most venal piece of legislation that he has seen for a very long time".

Peter Bruce, esteemed former editor of the Financial Mail, writes in his weekly column that the "outcome is likely to be bad", creating the opportunity for some bad players within the ANC to take advantage of this legislation.

Sakeliga, the DA, the IRR and many others all slammed the legislation, pointing out the potential for abuse and a collapse of confidence, the stock market and the currency. Ernst van Zyl, spokesman for AfriForum, was quoted as saying, "Trust the ANC when they say they will expropriate property without compensation."

VESTED INTERESTS

On the other hand, there were spokesmen representing their industries, such as Samuel Seeff, chairman of the Seeff Property Group, saying, "EWC is a non-event and will blow over very quickly and will have no effect on property prices at all. It's a time to buy." (as quoted in Moneyweb, 11 February 2025)

Earlier in the week, Old Mutual published a puffery piece about the prospects for the JSE, pointing to improved economic growth rates and rising economic activity forecasting great returns and an even stronger rand. But not a word about EWC, the BELA Act or the National Health Insurance Act (NHI). It's like these threats don't exist. Such is the nature of propaganda.

The most sobering piece of commentary was from Dr Frans Cronje, chairman of Frans Cronje Private Clients, his own research consultancy. In an unusually downbeat interview with Alec Hogg, he warned that the situation (with Donald Trump and the USA taking aim at the ANC and its policies) was dire, potentially leading to a 1985 period of sanctions against the country.

I have listened to and seen many of Dr Cronje's talks over many years, and this was the most downbeat I have ever seen him. The previous time I listened to him was at the BizNews Conference in Hermanus in March last year, where he was very optimistic about the outlook for SA.

The asset management industry hasn't said a word on EWC and its potential impact on markets. I listened to two podcasts this week (Rezco and Coronation) and it was as if EWC does not exist.

Rezco chairman Rob Spanjaart was uber-bullish on the prospect of the JSE over the next 3 years – "20% growth per annum over 3 years" – and made no comment on EWC or the outflow of capital by foreign investors over the past seven years, which continued unabated through 2024. His fellow presenter glossed over this question by jokingly saying something along the lines of "they don't know what we know", the refrain used by UFC cage fighter Dricus du Plessis.

Meanwhile, my inbox has literally been flooded with emails from concerned investors asking what action they should take with regards to their investments.

HERE, FOR THE SAKE OF BREVITY, IS THE SUMMARY OF MY ADVICE, IN GENERAL:

The risk posed by remaining overwhelmingly invested in South Africa is extremely high. Do not believe anyone who tries to tell you otherwise. They don't have your interests at heart and are not concerned about the long-term outcomes of their advice.

In a worst-case scenario, widespread confiscation of property (be it land, housing, businesses or whatever) will lead to a massive outflow of capital and potentially a reintroduction of foreign exchange controls.

The EWC Act, unless it is successfully challenged in court, empowers about 400 ANC officials across all centres of government (national, provincial and local) to expropriate property in the poorly defined "public interest".

I can foresee widespread misapplication of these powers, if and when the EWC policy is rolled out countrywide. The ANC has shown that it cannot be trusted with such limitless powers, as the Zondo Commission has clearly spelt out. This is what Bruce is referring to. Imagine low-level government officials able to confiscate land on the flimsiest of excuses. And remember, verbal testimony in a Lands Court will carry the same weight as documentary evidence. Do you see the problem that I see?

Make use of the R1m Single Discretionary Allowance per taxpayer for the whole family as soon as possible. This allowance, which has not been adjusted in 10 years, is the best and quickest way to create an offshore account. There is minimal paperwork, and it takes a day to move this money to an offshore destination where it can be invested in countless ways in a range of hard-currency investments, which have been great investments over the past 15 years.

If you have more capital to export – up to R10m per taxpayer – apply for permission to also take it offshore. This process is a bit more complicated, with more paperwork required – reporting on assets, liabilities, source of funds, etc. I have assisted countless investors with this process over the past 10 years and more – the outcomes have been excellent, more than doubling and even trebling the returns, in comparison to the local market.

***Consider any future property purchase outside of the Western Cape very carefully.** If you are still holding several properties, consider selling them. They have been poor investments anyway.

Consider moving to the Western Cape, which is clearly a much better-managed province than all the other provinces. The property market in the Western Cape is booming, while the rest of the country is in a plunge, with untold properties unsellable.

Take a careful look at the asset allocation of your various investments. Consider converting your retirement annuities (RAs), which are controlled by Regulation 28 of the Pension Funds Act, and move your two-thirds capital to a living annuity, if you are 55 years and older, where you are (still) allowed 100% offshore exposure. Stop any further contributions to retirement annuities, if emigration is a possibility in your future. The tax-free investment is a far better option. Don't fall for the lure of the so-called "tax savings of an RA" - they become capital traps when you decide to emigrate**.**

"Plan for the worst and hope for the best" has been my motto (and advice) for many years. It's now paying off.

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