King IV Commenting Platform

Filled Thursday, May 12, 2016

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Welcome to the official King IV Commenting Platform. After you have downloaded and reviewed the draft King IV Report here [if this link does not open, please copy and paste the following into your browser: https://c.ymcdn.com/sites/iodsa.site-ym.com/resource/resmgr/King_IV/King_IV_Report_draft.pdf], you will be able to enter your comments using this platform. The public comment process takes place in 2 phases, the first of which invites comment on the whole of the King IV Report, bar the Sector Supplements. The Sector Supplements are to be subjected to public comment during phase 2. This platform will remain open in respect of phase 1 for two months from 15 March 2016 to 15 May 2016. Phase two of the commentary process, being commentary on the sector supplements, will be opened on notice. Commenting terms and conditionsPlease note that this process is open and transparent. All comments submitted will be available for public view at http://www.iodsa.co.za/page/KingIVCommentLibrary and NO anonymous comments are permitted. Comments received are added to the library for public viewing weekly together with the identity of the individual or organisation on behalf of whom the submission is made. Only comments submitted through this platform will be considered for the finalisation of the King IV Report.

Do you agree to the King IV commenting terms and conditions?

Yes

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Personal Details Section:

*Title:
Mrs

*First Name:
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*I am commenting on behalf of:
An organisation

*Name of organisation:
Coronation Asset Management (Pty) Ltd in its capacity as an institutional investor

*Capacity within organisation:
Company General Counsel

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PART 1: Introduction and Foundational Concepts

PART 1: Introduction and Foundational Concepts
Add your comments for this part here:

Variable	Response
PART 1: Introduction and Foundational Concepts | 1. Introduction	We note that the committee has asked for comment specific to each section of the draft Code. Notwithstanding our concerns with some of the specific practices and principles, we also have some broader concerns that are not completely encompassed by our responses to the Comment Questions. We are therefore of the view that it is also important to include our broader and over-arching comments in our submission. We've included these with reference to the Introduction to Part 1 not necessarily because they specifically relate to the contents in the Introduction but rather because this seems to be the most appropriate section to record these concerns:We believe that :• The Code should address the fact that many boards have allowed themselves to become compliance structures over time and that compliance has come at the expense of business enterprise. To counter this:o We believe that the Code should emphasize value creation more. King IV places too much emphasis on risk management and the independence of directors and not enough on one of the most fundamental objectives for any company - that of achieving sustainable growth for all its stakeholders.o We believe that the Code should emphasize the primary objective of any supervisory board – that of holding the executives to account. The Code needs to emphasize that boards must prioritise having sufficiently skilled and experienced members and the required resources to challenge executives on issues of strategy and operational execution.• Although the Code recognises the well-understood risks of being too prescriptive, it fails in its attempts to avoid this. See too our comments in relation to Part 2 (Section 2.1), Part 3 (Section 4), Part 5 (Section 3.2) and other relevant comments raised on other sections of the Code.• Although the Code recognises the well-understood risks of being too mechanistic and 'one-size fits all' in its approach to governance, it fails in its attempts to avoid this. See too our comments on Part 3 (Section 4), Part 5 (Section 2.1 and Section 4.4) and other relevant comments raised on other sections of the Code.• The Code does not give enough direction on the need for all supervisory boards to focus on the long term, even if it is at the expense of short term results.• The Code implicitly, and in certain cases explicitly, endorses a very quantitative approach for supervisory boards in the process of fulfilling their responsibilities. We believe that this results in unintended and perverse outcomes in organisations. A much better outcome is that Boards prioritise the need to recruit members with business acumen and decades of business experience. This will

	give them the credibility to exercise judgement in a more holistic and qualitative manner in the process of fulfilling their responsibilities.
PART 1: Introduction and Foundational Concepts | 2. Objectives of King IV	(No response)
PART 1: Introduction and Foundational Concepts | 3. King IV definition of corporate governance	While it is our view that King IV is a substantial improvement on King III, we feel that Corporate Governance as defined in King IV with reference principally to ethical and effective leadership is too narrow and does not recognise sufficiently the commercial realities of business today. While it is hard to argue against the well-intended goals listed, including a focus on ethical culture, sustainable performance and value-creation, adequate and effective control and building trust in the organisation, these should be set against a backdrop of economic reality and the primary objective for all organisations to grow and create value for all their stakeholders. Although the need for courage is acknowledged under Part 5, Ethical Leadership, we feel that that the Code emphasises risk with not enough emphasis on the counterweight of value creation and the need for courageous decision making that appropriately balances risk and reward.In this regard, one may have reference to the business judgement rule as set out in section 76(4) of the Companies Act, 2008. This rule is essentially a deeming provision which states that a director shall be deemed to have fulfilled certain of his duties if he complied with certain requirements set out in section 76(4) of the Act. The purpose of the business judgement rule is to prevent directors being held liable, with the benefit of hindsight, for honest errors of judgement. Without it, it is arguable that decision-making may be stifled as directors will be too hesitant to take business decisions which are integral to entrepreneurship. This rule is progressive and implicitly recognises the "risk for reward" character of any business enterprise.
PART 1: Introduction and Foundational Concepts | 4. The underpinning philosophies of King IV	(No response)
PART 1: Introduction and Foundational Concepts | 5. Local and international developments since King III	(No response)

PART 2: Content Elements and Development

Add your comments for this part here:

Variable	Response
PART 2: Content Elements and Development | 1. Overview of the nine parts of the King IV Report	(No response)
PART 2: Content Elements and Development | 2. King IV Code elements	2.1 Practices, principles and governing outcomes:We welcome the move from a rules based to an outcome based approach, but remain concerned that the Code remains prescriptive through the recommended practices.This may have the unintended consequence that boards apply a tick-box approach to the recommended practices. All businesses are unique and a tick-box approach creates the risk that undue time and resources are spent on inappropriate practices simply because they are recommended by King IV. At the same time, appropriate practices may not be considered at all because they are not included in King IV.It is further our view that the recommended practices continue to introduce time consuming structures and reporting needs that occupy Boards to such an extent that little time is left for boards to fulfil their fundamental objective – that of holding executives to account on the commercial realities of business: being that of business strategy and the operational execution of that strategy.We therefore recommend that the “apply and explain” requirement be disclosed and measured at a principle rather than practice level. This will not only counter the “tick box” approach referred to above but will also give organisations the freedom to achieve the stated outcomes by implementing only the processes, structures and practices through which benefit could be gained.In this context we must remain mindful of the fact that some recent cases have referred to the practices expounded by the King reports as being the yardstick against which to measure directors' duties of care, skill and diligence (e.g. Minister of Water Affairs and Forestry v Stilfontein Gold Mining Company Limted and Others (7655/05 , 7655/05) [2006] ZAGPHC 47 (15 May 2006); South African Broadcasting Corporation Ltd and Another v Mpofu [2009] 4 All SA 169 (GSJ). Given this realistic possibility of the practices in the Code being picked up into binding

	case-law, the Code must be careful of being overly prescriptive otherwise this prescriptive approach may find application by the courts.
PART 2: Content Elements and Development | 3. Sector Supplements	(No response)
PART 2: Content Elements and Development | 4. Content development process	(No response)
PART 2: Content Elements and Development | 5. Drafting convention	(No response)
PART 2: Content Elements and Development | 6. Presentation features of King IV	(No response)

PART 3: Application of King IV

PART 3: Application of King IV

Add your comments for this part here:

Variable	Response
PART 3: Application of King IV | 1. Legal status of King IV	(No response)
PART 3: Application of King IV | 2. Scope of application of King IV	(No response)
PART 3: Application of King IV | 3. Proportionality – appropriate application and adaption of practices	(No response)
PART 3: Application of King IV | 4. Disclosure on application of King IV	King III acknowledged under the header “Voluntary basis for governance compliance” that there are examples of companies listed on the Johannesburg Stock Exchange that have not followed but have explained the practice adopted and have prospered. King III further stated that in these cases the Board ensured that acting in the best

	interest of the company was the overriding factor, subject always to the proper consideration of the legitimate interest and expectations of all the company's stakeholders. We value this statement and recommend that this principle be retained as a foundational concept in King IV.
PART 3: Application of King IV | 5. Transition from King III to King IV	(No response)

PART 4: King IV on a page

PART 4: King IV on a page

Add your comments for this part here:

(No response)

PART 5, CHAPTER 1: Leadership, Ethics and Corporate Citizenship

PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship

Add your comments for this part here:

Variable	Response
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship | 1.1 Ethical leadership	(No response)
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship | 1.2 Organisation values, ethics and culture	(No response)
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship | 1.3 Responsible corporate citizenship	(No response)

PART 5, CHAPTER 2: Performance and Reporting

PART 5CHAPTER 2: Performance and Reporting

Add your comments for this part here:

Variable	Response
PART 5CHAPTER 2: Performance and Reporting | 2.1 Strategy, implementation, performance	The Code refers to the use of performance criteria and measures against which the governing body can measure management's performance. We do not support the simple mechanistic use of Key Performance Indicators which often results in unintended consequences or perverse outcomes. A good example of this would be commonly-used return based metrics that don't acknowledge that short term returns can be achieved at the expense of long term returns or at the expense of growth or simply through the use of financial leverage.We recommend that this practice be altered to require a more holistic assessment of the organisation, the Board and the management team. (Also refer to the mention of "targets relating to sustainable value created across the whole of the economic, social and environmental context.") If supervisory Boards are staffed with credible individuals with business acumen and decades of experience, then they should not be afraid to make judgement calls that are more holistic and qualitative than a more quantitative process.
PART 5CHAPTER 2: Performance and Reporting | 2.2 Reports and disclosure	(No response)

PART 5, CHAPTER 3: Governing Structures and Delegation

PART 5CHAPTER 3: Governing Structures and Delegation

Add your comments for this part here:

Variable	Response
PART 5CHAPTER 3: Governing Structures and	(No response)

Delegation | 3.1 Role of the governing body	
PART 5CHAPTER 3: Governing Structures and Delegation | 3.2 Composition of the governing body	Principle 3.2 refers to the composition of the governing body encouraging a balance of the skills, experience, diversity, independence and knowledge required to discharge its roles and responsibilities. We agree with the principle, but are of a view that the practice notes place too much emphasis on the independence of non-executive directors and not enough emphasis on the need for good commercially minded Board members with sufficient business experience.Our concern is that the emphasis on appointing directors that meet the recommended practices for being classified as independent has resulted in governing bodies not having members who have the required business acumen and experience to allow the governing body to act as an effective check and balance for the executive in relation to business matters.Section 75 of the Companies Act 2008 has already introduced a modern and very tough measure to deal with conflicts of interest – if it is not followed, the board resolution and ensuing transaction is void. This section surely counters any concerns of conflict of interest.It is noteworthy that the Companies Act 2008, apart from being prescriptive around the membership of Audit Committees, steers clear of prescriptive requirements around the composition of the board in relation to non-executive directors and the independence of such non-executive directors. In our view, this approach is correct as it recognises that all directors have a fiduciary duty to act in the best interests of the company, irrespective of their classification as independent or non-independent and all directors would in any event be subject to liability under the Companies Act if they breached this duty.The application of the substance-over-form approach does to some extent address the concerns raised above but it is not sufficiently emphasised in King IV. We therefore recommend that the practice notes (paragraph 27 specifically) clarifies the intent of the substance-over-form approach to specify that a director does not need to meet all the criteria listed, if, in substance the director is regarded by both the Board and a reasonable and informed third party to be independent. This will serve to entrench and remove any doubt of the intention of the substance-over-form approach.
PART 5CHAPTER 3: Governing Structures and Delegation | 3.3 Committees of the governing body	(No response)

PART 5CHAPTER 3: Governing Structures and Delegation | 3.4 Delegation to management	(No response)
PART 5CHAPTER 3: Governing Structures and Delegation | 3.5 Performance evaluations	(No response)

PART 5, CHAPTER 4: Governance Functional Areas

PART 5CHAPTER 4: Governance Functional Areas

Add your comments for this part here:

Variable	Response
PART 5CHAPTER 4: Governance Functional Areas | 4.1 Risk and opportunity governance	(No response)
PART 5CHAPTER 4: Governance Functional Areas | 4.2 Technology and information governance	(No response)
PART 5CHAPTER 4: Governance Functional Areas | 4.3 Compliance governance	(No response)
PART 5CHAPTER 4: Governance Functional Areas | 4.4 Remuneration governance	Paragraph 34 states that the Board should oversee that the Social and Ethics Committee reviews fair and responsible executive remuneration practices in the context of overall employee remuneration. We disagree with this recommendation and suggest that the Social and Ethics Committee should have no involvement whatsoever in remuneration.Remuneration practices are the responsibility of the Remuneration Committee - this proposed practice will result in an unnecessary duplication of functions across the Social and Ethics Committee and the Remuneration Committee.Furthermore, the

KING IV

	Remuneration Committee has specifically been constituted for the purpose of considering and advising on remuneration practices – if members of the Remuneration Committee have been appointed who have the required competencies, strength and independence, they would be able to take full cognisance of all elements of fair and appropriate remuneration practices in their deliberations (including reviewing fair and responsible executive remuneration practices in the context of overall employee remuneration).Social and Ethics Committees have been established bearing in mind the intent of this committee. This has resulted in its members having a broad range of skills, competencies, experience and backgrounds. We encourage the benefits derived from this wide participation in the Social and Ethics Committee. We are of the view that the proposed practice will detract from this value as it is likely to result in a change in the composition of the Social and Ethics Committee with Remuneration Committees simply "doubling up" as the Social and Ethics Committee.Paragraph 38(f) refers to the need for the remuneration policy to include a justification of benchmarks. We recommend that this practice is altered to require a more holistic and qualitative assessment of the organisation, the Board and the management team. (Refer to comments on Part 5 principle 2.1 above.)In addition, paragraph 43 requires the Remuneration policy and implementation plan to be adopted through a non-binding vote of at least 75% of the voting shares to avoid further engaging shareholders. We believe that this hurdle is too high given that some shareholders abstain from voting. We recommend that the hurdle is changed to a 25% shareholders vote against the remuneration policy and implementation plan.As a comparison, reference may be had to the manner in which the drafters of the Companies Act, 2008 approached the approval of fundamental transactions: a 15% vote against the special resolution results in an ability to request the company to have the resolution confirmed by a court – section 115(3)(a). This is, it is submitted, a recognition of the notion that one should rather be focussing on which shareholders are expressly discontented with the resolution. As a general statement one could say that South Africa suffers from a great deal of shareholder apathy. As long as such apathy is prevalent it is submitted that the better approach to the approval of remuneration policies is to consider the extent of the negative votes.
PART 5CHAPTER 4: Governance Functional Areas | 4.5 Assurance	(No response)

PART 5, CHAPTER 5: Stakeholder Relationships

PART 5CHAPTER 5: Stakeholder Relationships

Add your comments for this part here:

Variable	Response
PART 5CHAPTER 5: Stakeholder Relationships | 5.1 Stakeholders	(Also refer Part 1, 4.5 Stakeholder inclusivity and responsiveness)King IV supports and was drafted on the premise of stakeholder-inclusive model which states that the best interest of the company is not necessarily equated to the interest of shareholders , and shareholders do not have predetermined precedence over other stakeholders. This is, in our view, a big departure from King III which focusses merely on the need for the Board to achieve the appropriate balance between its various stakeholders. We question whether the King Committee has jurisdiction to fundamentally alter the stakeholder hierarchy as currently determined by the common law where “best interests of the company” is still understood to mean the general body of shareholders as a whole and recommend that this position is reconsidered.
PART 5CHAPTER 5: Stakeholder Relationships | 5.2 Responsibilities of shareholders	Principle 5.2 states that the governing body of an institutional investor should ensure that the organisation responsibly exercises rights, obligations, legitimate and reasonable needs, interests and expectations as holder of beneficial interest in the securities of a company.Ultimately at common law shareholders do not owe a fiduciary duty to the company, and this is very strongly stated in recent case-law (e.g. Living Hands (Pty) Ltd NO and Another v Ditz and Others 2013 (2) SA 368 (GSJ). Thus any imposition of duties on shareholders must be considered in light of that default position and with a view to not straying away therefrom more than necessary.In addition to the above, it is our view that King IV has no jurisdiction over institutional investors nor is there a need to make the proposed recommendation. Institutional investors already have defined fiduciary responsibilities in management contracts with their clients and are regulated through detailed and internationally

recognised legislation that further define their responsibility. This principle should be removed.

PART 6: Sector Supplements

PART 6: Sector Supplements

Content on Part 6: Sector Supplements will be published and opened for commentary during May 2016.

PART 7: Application Register

PART 7: Application Register

Commentary on Part 7: Application register will be addressed in the Comment Questions section, Question 10.

PART 8: Glossary of Terms

PART 8: Glossary of Terms

Add your comments for this part here:

(No response)

Comment Questions (1-5)

Comment QuestionsQuestion 1 - Question 5

Question 1

The set objectives of the King IV Report are to: -promote good corporate governance as integral to running an enterprise and delivering benefits to it;broaden the acceptance of good corporate governance by making it accessible and fit for application by organisations of a variety of sizes, resources and complexity of strategic objectives and operations;reinforce good corporate governance as a holistic and inter-related set of arrangements to be understood and implemented in an integrated manner; andpresent good corporate governance as concerned with not only structure, policy and process but also an ethical consciousness and behaviour.To what extent would the draft King IV Report as it stands achieve each of these objectives?Please comment on how this could be optimised.

While it is our view that King IV is a substantial improvement on King III, we feel that Corporate Governance as defined in King IV with reference principally to ethical and effective leadership is too narrow and does not recognise sufficiently the commercial realities of business today. While it is hard to argue against the well-intended goals listed, including a focus on ethical culture, sustainable performance and value-creation, adequate and effective control and building trust in the organisation, these should be set against a backdrop of economic reality and the primary objective for all organisations to grow and create value for all their stakeholders.

(No response)

Although the need for courage is acknowledged under Part 5, Ethical Leadership, we feel that that the Code emphasises risk with not enough emphasis on the counterweight of value creation and the need for courageous decision-making that appropriately balances risk and reward.

(No response)

We believe that :

• The Code should address the fact that many boards have allowed themselves to become compliance structures over time and that compliance has come at the expense of business enterprise. To counter this:

o We believe that the Code should emphasize value creation more. King IV places too much emphasis on risk management and the independence of directors and not enough on one of the most fundamental objectives for any company - that of achieving sustainable growth for all its stakeholders.

o We believe that the Code should emphasize the primary objective of any supervisory board – that of holding the executives to account. The Code needs to emphasize that boards must prioritise having sufficiently skilled and experienced members and the required resources to challenge executives on issues of strategy and operational execution.

(No response)

Whilst the Code aims to be accessible and fit for application across varying organisations and therefore recognises the well-understood risks of being too mechanistic and 'one-size fits all' in its approach to governance, it fails in its attempts to avoid this. See too our comments on Part 3 (Section 4), Part 5 (Section 2.1 and Section 4.4) and other relevant comments raised on other sections of the Code.

(No response)

King III acknowledged under the header “Voluntary basis for governance compliance” that there are examples of companies listed on the Johannesburg Stock Exchange that have not followed but have explained the practice adopted and have prospered. King III further stated that in these cases the Board ensured that acting in the best interest of the company was the overriding factor, subject always to the proper consideration of the legitimate interest and expectations of all the company’s stakeholders. We value this statement and recommend that this principle be retained as a foundational concept in King IV to reinforce that no “one-size fits all” and to encourage the application of King IV across varying organisations.

(No response)

Question 2

Part 2 of the draft King IV Report: Content Elements and Development, deals with outcomes, principles and practices. Clear differentiation of these content elements is key to reinforcing qualitative governance which is outcomes driven rather than about mindless compliance. Is the rationale and the difference between these content elements clearly explained? Please provide suggestions on how this could be further enhanced.

In our view Part 2 does explain the differences between the contents elements and their rationale clearly and we welcome the move from rules based to an outcome based approach. However, we remain concerned that this explanation and rationale becomes diluted thereafter as it is not sufficiently entrenched in Part 5 of the Code. In particular, the Code remains prescriptive through the recommended practices.

(No response)

This may have the unintended consequence that boards apply a tick-box approach to the recommended practices. All businesses are unique and a tick-box approach creates the risk that undue time and resources are spent on inappropriate practices simply because they are recommended by King IV. At the same time, appropriate practices may not be considered at all because they are not included in King IV.

(No response)

We therefore recommend that the “apply and explain” requirement be disclosed and measured at a principle rather than practice level. This will not only counter the “tick box” approach referred to above but will also give organisations the freedom to achieve the stated outcomes by implementing only the processes, structures and practices through which benefit could be gained.

(No response)

Question 3

King IV uses the broader form of address namely: 'organisations'; 'governing body'; and 'those charged with governance duties'. Does this make the King IV Report more broadly relevant to all organisations and sectors?

The use of such generic terminology does assist in conveying the objective of King IV to encourage good corporate governance across different types of organisations and sectors.

(No response)

However, such terminology on its own will not result in a successful application of King IV across all organisations and sectors without addressing the other comments raised in this submission, namely: (1) entrenching the principle that no "one size fits all" across all parts of King IV (2) measuring the apply and explain requirement at a principle rather than a practice level so that different organisations and sectors do not inadvertently follow a rule based approach to the detriment of their businesses.

Question 4

The King IV Code recommends that as a minimum, the chief executive officer (CEO) and one other executive should be appointed to the governing body. Other than in King III, it does not specifically recommend the inclusion of the chief financial officer (CFO) as a member of the governing body. This allows flexibility for another executive to be appointed as a member of the board, depending on the nature and needs of the business.Would a recommendation specifically providing for inclusion of the CFO be more appropriate or is flexibility preferable in light thereof that organisations differ?

As set out elsewhere in our comments, we value the move away from a rules based to an outcomes based approach. One of our main concerns is that the recommended practices create the risk that King IV becomes too prescriptive. We therefore encourage this more flexible approach which is consistent with the principle that all organisations are unique and should decide for themselves which practices are most suited to their business needs.

Question 5

Do the independence criteria in Chapter 3 of the Code provide clear and useful guidance for assessment of independence on a substance over form basis?

The independence criteria do provide useful guidance, but we are concerned that the application of the substance-over-form approach is not sufficiently emphasised in King IV. We therefore recommend that the practice notes (paragraph 27 specifically) clarifies the intent of the substance-over-form approach to specify that an independent director does not need to meet all the criteria listed, if, in substance the director is regarded by both the Board and a reasonable and informed third party to be independent. This will serve to remove any doubt of the intention of the substance-over-form approach and will entrench the outcomes-based objective of King IV.

Comment Questions (6-10)

Comment QuestionsQuestion 6 - Question 10

Question 6

Will the new disclosure and voting requirements on remuneration in Chapter 4 of the Code lead to increased transparency and more meaningful engagement on remuneration between organisations and their stakeholders? Please provide suggestions for further enhancement.

We are of the view that the new disclosure and voting requirements will lead to increased transparency and more meaningful engagement with those organisations that have considered and concluded that these recommended practices are appropriate for their business.

(No response)

We note that paragraph 43 requires the Remuneration policy and implementation plan to be adopted through a non-binding vote of at least 75% of the voting shares to avoid further engaging shareholders. We believe that this hurdle is too high given that some shareholders abstain from voting. We recommend that the hurdle is changed to a 25% shareholders vote against the remuneration policy and implementation plan.

(No response)

Question 7

King IV introduces in Chapter 4 of the Code, the 5 lines on assurance in the place of the traditional 3 lines of defence. It also expands on the implementation of the combined assurance model. Will this assist with more effective co-ordination and alignment of assurance? Please provide suggestions for further enhancement.

(No response)

Question 8

The governing body as the focal point of corporate governance and is therefore the primary audience of the King IV Report. King IV requires the governing body of an institutional investor to ensure that the organisation exercises its rights as holders of beneficial interest in companies, responsibly.Does this principle establish the necessary linkage between King IV and the Code for Responsible Investing in South Africa (CRISA) so that governance is reinforced by all role players? How can King IV further reinforce responsible investing practices? (For access to CRISA go to www.iodsa.co.za.)

In our view, King IV has overreached in its efforts to link the Code with CRISA.

(No response)

Ultimately at common law shareholders do not owe a fiduciary duty to the company, and this is very strongly stated in recent case-law (e.g. Living Hands (Pty) Ltd NO and Another v Ditz and Others 2013 (2) SA 368 (GSJ). Thus any imposition of duties on shareholders must be considered in light of that default position and with a view to not straying away therefrom more than necessary.

(No response)

In addition to the above, it is our view that King IV has no jurisdiction over institutional investors nor is there a need to make the proposed recommendation. Institutional investors already have defined fiduciary responsibilities in management contracts with their clients and are regulated through detailed and internationally recognised legislation and codes (such as CRISA) that further define their responsibility.

(No response)

In particular, given the objectives of CRISA, there is no need for King IV to include this principle nor the related recommended practices. It should be noted that the Codes are "living" documents that over time may be amended and enhanced – this may result in the CRISA and King IV differing in their recommended practices over time. If it is felt that there is a need to expand on the principles and contents established by CRISA, this should be addressed by amending CRISA itself. This will avoid confusion and reduce the risk of uncertainty where two codes purport to address the same matter.

This principle should therefore be removed in its entirety. If the Committee wishes to establish a linkage between King IV and CRISA, King IV should simply make reference to the fact that it supports the principles and contents of CRISA.

(No response)

Question 9

King IV introduces 'risk and opportunity' governance to emphasise risk as being about uncertainty and the effect of it occurring or not occurring having a possible negative or positive effect on the organisation achieving its objectives.Is it useful to refer to risk and opportunity governance and will it reinforce it as a value-add rather than conformance exercise?

We welcome the reference to both risk and opportunity governance. In this regard, we feel that King IV does not place enough emphasis on opportunity and in particular value creation. As set out in our response to Question 1 and elsewhere in our submission, we believe that the Code should explicitly address the fact that many boards have allowed themselves to become compliance structures over time and that compliance has come at the expense of business enterprise. To counter this, we believe that the Code should emphasize:

(No response)

o value creation more. King IV places too much emphasis on risk management and the independence of directors and not enough on one of the most fundamental objectives for any company - that of achieving sustainable growth for all its stakeholders.

(No response)

o the primary objective of any supervisory board – that of holding the executives to account. The Code needs to emphasize that boards must prioritise having sufficiently skilled and experienced members and the required resources to challenge executives on issues of strategy and operational execution.

(No response)

In our view, however, "opportunity" governance should not fall within the mandate of the Risk Committee given the skill set and experience of its members but should simply fall within the objectives and tasks of the main board itself.

(No response)

Question 10

The application regime of King IV is 'apply and explain' as opposed to 'apply or explain' in King III. The main difference between the application regime of King III and King IV is that application of the principles is assumed in King IV as they are basic to good corporate governance. Furthermore, the 75 principles in King III have been replaced with 17 principles in King IV. For the 'apply and explain' regime, explanation is required in the form of a high level narrative of the practices that have been implemented and the progress made in the journey towards giving effect to each principle. Will 'apply and explain' encourage greater transparency and qualitative? Should disclosure on King IV application be required to be signed off by the governing body? (For further information on the application regime refer to Part 3: Application of King IV and to Part 7 for a template of the application register.)

We welcome the approach in King IV of reducing the 75 principles in King III to 17 principles.

(No response)

However, see our response to Comment Question 2 where we recommend that the “apply and explain” requirement be disclosed and measured at a principle rather than practice level.

(No response)

This will not only counter a “tick box” approach to corporate governance but will also give organisations the freedom to achieve the stated outcomes by implementing only the processes, structures and practices through which benefit could be gained. This freedom will, in our view, also encourage greater transparency.

(No response)

In our view, the Code whilst striving for a qualitative approach to corporate governance, implicitly, and in certain cases explicitly, endorses a very quantitative approach by endorsing the mechanistic use of Key Performance Indicators in the recommended practices. Not only does this detract from the objective of achieving qualitative outcomes but, in practice, also results in unintended and perverse outcomes in organisations where mechanistic Key Performance Indicates can be manipulated to the detriment of organisations.

(No response)

Survey Questions

Survey Questions

How much do you agree or disagree with the following statements, please give a reason for your answer.

You may need to scroll to the right to see all the options, depending on the size of the screen you are using.

		Why do you say that?
The King IV document is easy to understand	Agree	(No response)
The document meets the King IV objectives	Disagree	See relevant parts of our comments where we indicate why we are the view that King IV does not meet all of its objectives.
King IV is an improvement on King III	Agree	(No response)

END

Have you added all the comments you would like to add? If not please click on the section you would like to add comments to. Once you have done this you may return to this page and submit your comments.