



King IV Commenting Platform

Filled Monday, May 16, 2016

Page 1

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 conditions Please 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



Page 2

Personal Details Section:

***Title:**

Mr

***First Name:**

André

***Last Name:**

Visser

***I am commenting on behalf of:**

An organisation

***Name of organisation:**

ADAMS & ADAMS ATTORNEYS

***Capacity within organisation:**

PARTNER - HEAD: CORPORATE & COMMERCIAL DEPARTMENT



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	(No response)
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	(No response)
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

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	(No response)
PART 2: Content Elements and Development 3. Sector Supplements	(No response)



PART 2: Content Elements and Development | 4. Content development process

PART 2: Content Elements and Development | 5. Drafting convention

PART 2: Content Elements and Development | 6. Presentation features of King IV

response)

(No response)

(No response)

(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

Although, the King report itself describes it as a voluntary code of principles and practices, it does have a solid legal basis. Section 76 of the Companies Act 71 of 2008 specifically refers to obligation on directors to take reasonably diligent steps to become informed about any matter that relates to the exercise of their care, skill and diligence and to take such a decision on a rational basis. The King IV report forms one of the documents that would apply/satisfy the requirement of materials that a director must consult under those circumstances. In addition, Regulation 43 places a positive obligation on companies obliged to appoint a social and ethics committee to consider whether the company is a good corporate citizen, which by impaction obliges compliance with guidelines such as the King IV report. Accordingly, a reference to the obligations in Section 76 and Regulation 43 could strengthen the application of the King IV report.

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

(No response)



IV | 4. Disclosure on application of 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	(No response)



PART 5 CHAPTER 2: Performance and Reporting | 2.2 Reports and disclosure

(No response)

PART 5, CHAPTER 3: Governing Structures and Delegation

PART 5 CHAPTER 3: Governing Structures and Delegation

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 3: Governing Structures and Delegation 3.1 Role of the governing body	(No response)
PART 5 CHAPTER 3: Governing Structures and Delegation 3.2 Composition of the governing body	<p>The King IV report could have dealt with the issue of Transformation (and the implications of the BEE regulations) a whole lot stronger than it has. The purpose of the King report should be to provide guidance to the governing body of a corporate entity. It is therefore of critical importance that these entities understand their transformation responsibilities both from legislative and moral perspective. The only aspect of the report that really deals with transformation in some way is principle 3.2, which provides that one of the factors that should be considered in determining the number of members of the governing body and the appointment procedure for appointing members of the governing body is diversity. This, in my view, is insufficient, particularly as the report does not really deal with what constitutes diversity. I feel that the report has an opportunity to advocate transformation principles that are more substantive rather than procedural as transformation is a major challenge for a number of entities. Furthermore, it is only going to be more challenging in the future to do business in South Africa if you can't demonstrate a genuine commitment to transformation. A suggestion for what the report should include regarding transformation is the following: The introduction of a requirement that a transformation committee is established, which should be a standalone committee in addition to the committees listed in principle 3.3 of the report; That the transformation committee should be tasked with drawing up a transformation road map that includes a commitment by the governing body to reach certain milestones; That there should be some kind of synergy between the transformation</p>



committee and the social and ethics committee in focusing the CSI objectives of the company towards transformation. I believe that quite a few entities already have transformation committees and these entities may therefore welcome guidance from the King Report on how to improve the effectiveness thereof. Furthermore, entities that do not have transformation committees may value some insight on how to establish such a committee.

PART 5 CHAPTER 3:
Governing Structures and Delegation | 3.3
Committees of the governing body

(No response)

PART 5 CHAPTER 3:
Governing Structures and Delegation | 3.4
Delegation to management

(No response)

PART 5 CHAPTER 3:
Governing Structures and Delegation | 3.5
Performance evaluations

(No response)

PART 5, CHAPTER 4: Governance Functional Areas

PART 5 CHAPTER 4: Governance Functional Areas

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 4: Governance Functional Areas 4.1 Risk and opportunity governance	(No response)
PART 5 CHAPTER 4: Governance Functional Areas 4.2 Technology and information	The King IV follows the international integrated reporting counsel framework in respect of the 6 (six) capital model, these being financial, manufactured, intellectual, human, social and relational and nature capital. Although these models are merely propositions and each organisation needs to identify the resources that it uses or affects. It is



governance

stated that the IC codes are purposed with not only providing structure and process but an ethical consciousness and behaviour. It is therefore in our view important that the codes act as a tool in assisting directors to navigate their responsibilities to be cognisant of the ethical standard required and to put in place practices aspiring to these standards. In light of this, our comment is that principle 4.2 is a necessary step in bringing about the cognisance of risk areas requiring directors' attention and the division of technology and information is practically important. In addition the inclusion of cyber security risk is equally important. However, bearing in mind that intellectual capital is an extremely important resource which functions differently from any other resource. It is very important that it is clearly defined. Much of the risk with intellectual property is an organisation arises from inadequacy of strategic governance around that intellectual property largely due to it becoming largely lost in the murky terminology used. The King IV codes provide an excellent opportunity to refocus directors and instil the clarity of thinking essential to the protection of these assets, which principle 4.2 strives to do this in the division of information from technology. It conflates intellectual property as part of either technology or information and the recommended practices do not go much further to highlight the distinction. Although it is important to guide against thinking in silos an error in classification could have the inadvertent result of directors in complying with this principle failing to identify intellectual capital as requiring its own distinct practices going beyond information technology and information governance. The requirement for such strategic thinking is becoming more crucial in our countries knowledge economy aspirations and a lack thereof presents a (arguably) higher although more subtle risk than cyber security. We would suggest giving intellectual capital a greater voice in the codes by firstly dividing it from technology and information perhaps in the form of a third sphere such as knowledge assets and recommending specific practices for directors in this respect such as practices dealing with the creation, identification, protection, enhancement, and strategic positioning or commercialisation in respect of such knowledge assets. This year has put the reputational dangers of not having a clear social media policy firmly in the spot light, and it is therefore surprising that the report does not really deal with this issue. Arguably the biggest asset of a company is its reputation. What we have seen of late is that this reputation can be damaged due to the conduct of a person who may only have had a limited connection to the company. Although the report does deal with information technology, social media is not dealt



with in this section. I therefore believe that social media should be a standalone principle, which advocates responsible use of social media, provides the governing body with suggestions on how to monitor risk with regards to social media and provides measures to mitigate a potential social media fall out. In conclusion, I think big business would have measures to address the aforesaid issues. That being said, there has been a big movement towards smaller companies adopting the principles advocated by the King Report and therefore the reports insight on these issues may provide these smaller.

PART 5 CHAPTER 4:
Governance Functional
Areas | 4.3 Compliance
governance

(No response)

PART 5 CHAPTER 4:
Governance Functional
Areas | 4.4 Remuneration
governance

(No response)

PART 5 CHAPTER 4:
Governance Functional
Areas | 4.5 Assurance

(No response)

PART 5, CHAPTER 5: Stakeholder Relationships

PART 5 CHAPTER 5: Stakeholder Relationships

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 5: Stakeholder Relationships 5.1 Stakeholders	(No response)
PART 5 CHAPTER 5: Stakeholder Relationships 5.2 Responsibilities of shareholders	(No response)

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 Questions Question 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.

(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.

(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?

(No response)

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?

(No response)

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?

(No response)



Comment Questions (6-10)

Comment Questions Question 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.

(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.)

(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?

(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.)

(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	(No response)	(No response)
The document meets the King IV objectives	(No response)	(No response)
King IV is an improvement on King III	(No response)	(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.