



# King IV Commenting Platform

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*Filled Monday, May 16, 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](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



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**Personal Details Section:**

**\*Title:**

Mr

**\*First Name:**

Des

**\*Last Name:**

Mahony

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

An organisation

**\*Name of organisation:**

4 Africa Exchange

**\*Capacity within organisation:**

Chief Operating Officer



**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 comment
PART 1: Introduction and Foundational Concepts   2. Objectives of King IV	No comment
PART 1: Introduction and Foundational Concepts   3. King IV definition of corporate governance	No comment
PART 1: Introduction and Foundational Concepts   4. The underpinning philosophies of King IV	The description of accountability in Part 1 (4.1) states that "The governing body should be responsible for its decisions and actions by stakeholders." The governing body should not simply assume responsibly for the actions of stakeholders as a matter of course. This sentence appears to suggest that the governing body must assume vicarious liability for all actions of stakeholders, whomever they may be. This would be unfair to the governing body. This sentence should be rephrased. The second paragraph in Part 1 (4.5) states "decision making supports he enhancement" and should be amended to "the enhancement".
PART 1: Introduction and Foundational Concepts   5. Local and international developments since King III	Despite the title in Part 1 (5.3) concerning the balanced composition of governing bodies and independence, the focus of the Draft King IV Report is on independence of governing bodies as opposed to balanced composition (e.g. gender equality and transformation). These are real and substantive issues for most organisations and any corporate governance framework should adequately acknowledge and



address them. An option is to provide that entities should establish transformation and gender committees as committees of the board, or as subcommittees of the social and ethics committee.

**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 comment
PART 2: Content Elements and Development   2. King IV Code elements	No comment
PART 2: Content Elements and Development   3. Sector Supplements	No comment
PART 2: Content Elements and Development   4. Content development process	No comment
PART 2: Content Elements and Development   5. Drafting convention	The Draft King IV Report is not specific on the standards to be applied in most of the policies and frameworks that have to be developed for the purposes of implementing stated principles and practices. Although this does assist in giving organisations the freedom to develop polices/frameworks that are tailored specifically for the particular organisation, this does mean however that there is not a particular standard or criteria to refer to in implementing these policies and frameworks. It would be useful for minimum criteria to be specified (potentially in the Sector supplements) in order to avoid open ended interpretations. The format of the document requires revision including clear divisions between sections, sentences and sections should be consistently separated and there needs to be consistent use of punctuation (commas, full stops and semi-colons etc)



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

The Draft King IV Report is based on the "apply and explain" philosophy in contrast to the "apply or explain" philosophy in the King III Report. The "apply and explain" philosophy seems to imply that the organisation is expected to apply all the principles, but not necessarily all the recommended practices, in the Draft King IV Report, and there ought to be high-level explanations on how such principles are being applied despite the relevant practice not being followed. However, this is not so clear from the King IV draft and it is suggested that the exact interplay of "apply and explain" and the proportionality principle be expressed clearer

### 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 comment
PART 3: Application of King IV   2. Scope of application of King IV	No comment
PART 3: Application of King IV   3. Proportionality – appropriate application and adaption of practices	No comment
PART 3: Application of King IV   4. Disclosure on application of King IV	The "apply and explain" philosophy as explained above is not clear on whether explanations are required for those practices that have not been implemented at all. Its interplay with proportionality should be expressed clearer
PART 3: Application of King IV   5. Transition from King III to King IV	No comment



**PART 4: King IV on a page**

**PART 4: King IV on a page**

Add your comments for this part here:

No comment

**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	The recommended practice 2 states that there should be disclosures of the mechanism by which the governing body holds itself to account for ethical guidance. This recommended practice is unclear on what such a mechanism should entail
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship   1.2 Organisation values, ethics and culture	No comment
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship   1.3 Responsible corporate citizenship	No Comment

**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,	The recommended practice 6 provides for continuous assessment by an organisation of the outcomes of its operation. The assessment is described in wide terms. It is unclear who must perform the



implementation,  
performance

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

assessment, when such an assessment must be performed and the level of independence this assessment requires.

It should be made clear in the Draft King IV Report that the level of disclosure required is high-levelled and intended to give an idea of what the organisation is doing in so far as King IV is concerned. Consideration should also be given to distinguishing between different types of "stakeholders" for purposes of disclosing information. Reference is made to "material stakeholders" in the definition of "stakeholders" in the Glossary section of the Draft King IV Report but it is unclear who is likely to be such a "material stakeholder."

## 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 Delegation   3.1 Role of the governing body	No comment
PART 5CHAPTER 3: Governing Structures and Delegation   3.2 Composition of the governing body	Recommended practice 9(g) provides that when determining the appropriate number of members of the governing body, "diversity" should be considered. Greater detail should be provided concerning what exactly "diversity" entails
PART 5CHAPTER 3: Governing Structures and Delegation   3.3 Committees of the governing body	The mandatory rotation of the audit committees and the disclosure of information requirements must not disregard the relevant and applicable provisions of the Companies Act, 2008. We suggest that this be included in under "Auditor and audit requirements" and it must be stated that these requirements be in accordance with the relevant provisions of the Companies Act, 2008. Recommended practice 38 provides that the governing body may establish committees and delegate their authority. Recommended practice 48 refers to reports that may be produced for such committees. Guidance should therefore be provided setting out the governing body's access to such reports. Recommended practice 51 provides that the audit committee has the ultimate decision making



power for statutory duties however recommended practice 47 provides that any delegation to a committee does not discharge the governing body of its accountability. Note that this is also possibly inconsistent with the Companies Act, 2008, section 94(9), in that the latter provides that the board retains overall responsibility except only insofar as the appointment, fees and terms of engagement of the auditor are concerned. Clarity and refinement needs to be provided regarding ultimate accountability in respect of statutory duties imposed on committees and the role of the governing body in respect of these duties

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

No comment

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

No comment

## 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	Recommended practice 6 refers to a policy and the adoption of appropriate standards and frameworks, all of which have not been defined nor specified as to what is appropriate. We suggest that the wording be "reasonably acceptable and reasonable standards and framework." Recommended practice 8 should provide for the management of reputational risk (e.g. employees' utilisation of social media impacting the organisation).
PART 5 CHAPTER 4: Governance Functional Areas   4.2 Technology and information governance	It is unclear what the scope of the strategic policy on the use of technology and information must entail in recommended practice 13. The periodic formal review of the technology and information function of the organisation in recommended practice 18 is not adequately explained and therefore it is unclear what it aims to achieve. Principle 4.2 should also address issues relating to the protection of personal information and





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

the right to privacy (e.g. Protection of Personal Information Act 4 of 2013).

No comment

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

No comment

PART 5CHAPTER 4:  
Governance Functional  
Areas | 4.5 Assurance

Recommended practice 56 wording regarding a "senior manager" that is "independent from management" is confusing and should be revised.

## 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	The Draft King IV Report's emphasis on the crucial role of stakeholders in the governance process is important but it does not clearly distinguish between types of "stakeholders" besides occasional reference to "material stakeholders" (currently undefined).
PART 5CHAPTER 5: Stakeholder Relationships   5.2 Responsibilities of shareholders	No comment



## **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**

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Add your comments for this part here:

The standing committees (audit, risk and opportunity, remuneration, nomination and social and ethical outcomes) need to be separately defined.

(No response)

Stakeholder: Reference is made to internal, external and material stakeholders in the Report. We suggest that the definition refer to external, internal and material stakeholders and separate definitions for each of these would also be useful.

(No response)

Governing body: This should be defined to give specific examples of who the governing body of an organisation is, for instance in the case of a company its board of directors, a trust the board of trustees, a statutory public entity its accounting authority, etc.

(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.

The Draft King IV Report will likely result in improved corporate governance because of the practical and principled approach it adopts

#### 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.

The differences between outcomes, principles and practices is sufficiently explained.

#### 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?

We believe the use of inclusionary language such as "organisations" and "governing body" widens the ambit of the document's application which means that it should become more accessible to a range of entities



#### 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?

The inclusion of a CFO would seem important for any organisation, but bearing the different governing structures within different organisations, another capable officer within an organisation can be a capable member

#### 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 Draft King IV Report takes a practical approach to the issue of independence and we support the determination being made from the perspective of an informed third party (i.e. conceptual approach)

#### 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 comment

### 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](http://www.iodsa.co.za).)

No comment

### 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 view reference to opportunity as meaning upside risk and therefore it should be considered together with downside risks (traditional risk factors). We are therefore in agreement with the combined consideration

### 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.)

While "apply and explain" is intended to encourage transparency and quality, we cannot disregard the fact that explanations given on a high level could essentially be over-emphasised and thereby defeat this philosophy of the King IV Report. Also, this philosophy assumes that the organisations are complying with all the principles and have to some extent seen certain progress, but what about those principles and practices that have not been applied?

### 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	Agree	(No response)
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.**