2 CPD points

GUIDANCE NOTE

October 2025

KING V – APPLICATION TO STATE-OWNED ENTITIES

CONTENTS

Introduction

This guidance applies to state-owned entities (SOEs) that are companies and fall within the classifications of major public entities (Schedule 2) as well as national and provincial government business enterprises (Schedule 3B and 3D) that are companies.

While this guidance may also inform the governance of other types of public entities (e.g. Schedule 3A national public entities and 3C provincial public entities), the nuances of these entities, which often operate as statutory bodies or service delivery arms of government, are not covered in detail.

SOEs are established in terms of enabling legislation (e.g. the SABC Act, the Airports Company Act). Many of these are incorporated as companies under the Companies Act, with the state as the sole or majority shareholder, and in addition, fall under the Public Finance Management Act (PFMA). These legal regimes affect the applicable governance structures, terminology and compliance obligations of the SOE.

While the King V Code on Corporate Governance (the Code) is intended to be applied across all types of organisations, including those in the public sector, the governance practices need to be interpreted proportionally and in context. This guidance paper outlines the key areas of nuance for SOEs, referencing where statutory obligations prevail and how the Code can complement existing public sector governance frameworks.

Terminology

Term used in King V	Relevant term for SOEs
Organisation	Company or entity or SOE (may be established as a company, public entity, or Schedule 2 or 3 entity under the PFMA).
Governing body	Board of directors or accounting authority (as defined under the PFMA).
Chief Executive Officer (CEO)	CEO / Managing Director (MD) / Accounting Officer (where applicable).
External auditor	Auditor-General South Africa (AGSA) or a private audit firm appointed in terms of the Public Audit Act or Companies Act (depending on classification). Some SOEs appoint external auditors via tender processes subject to AGSA oversight or Companies Act provisions.

Shareholder	Executive authority (e.g., Minister, MEC or relevant organ of state representing the government as shareholder).

In addition to the terminology defined above, it is important to understand the various oversight structures involved in the governance of SOEs and the accountability of the board to each of these structures. The relationships between these parties can be complex, and a clear understanding of their roles and oversight responsibilities provides the context for applying the King V principles.

- Shareholder ministry (executive authority): Represents the state's shareholder interest and enters into the shareholder compact with the SOE (where applicable); and provides oversight of the achievement of the mandate and financial performance.
- Policy ministry (if separate from the shareholder ministry): Responsible for policy development and oversight of policy implementation in the SOE's sector.
- Cabinet: Approves strategic priorities and key policy directions that guide SOE mandates.
- Parliament: Provides ultimate oversight over SOEs, primarily through the Standing Committee on Public Accounts (SCOPA) on audit and financial matters and the relevant portfolio committees on service delivery and policy implementation matters.
- National Treasury: Provides oversight under the PFMA, including budget approvals and monitoring financial sustainability.

As the accounting authority, the board is directly accountable to the SOE itself and, through the PFMA, to the executive authority and ultimately parliament.

Typical corporate governance application considerations

The recommended practices of the Code apply to SOEs, with the following areas of emphasis or nuance.

Principle 1: Leadership

Principle 1: The board leads ethically and effectively as the focal point of corporate governance in the SOE.

Characteristics and values (Recommended practices 1-2)

The board of an SOE serves as the accounting authority and carries fiduciary responsibilities in terms of the PFMA. It is to be noted that the legal duties of the board members of an SOE are, as a matter of law, owed to the entity itself and not the party by whom they are appointed. Therefore, board members are required to exercise independent judgement in the best interests of the SOE, even when appointed by the executive authority. For an SOE incorporated under the Companies Act, these fiduciary duties are further reinforced by the statutory directors' duties provisions. The recommended practices on the characteristics and values of the board members are thus directly applicable to SOEs.

Dimensions of governance obligations (Recommended practices 3-5)

The board of an SOE should fulfil all functions of its governance obligations in line with these recommended practices. Of particular importance is ensuring that a board charter clearly sets out the role and responsibilities of the board.

Performance evaluation of the board (Recommended practices 6-9)

The board of an SOE should ensure that its own performance (including its committees, chairperson and individual members) is evaluated regularly, as recommended in these recommended practices. Annual board performance assessments are often recommended or required by the shareholder or National Treasury frameworks. Due to the important role that SOEs play, the continued effectiveness of these boards is critical.

Principle 2: Ethics

Principle 2: The board governs the ethics of the SOE in a way that enables an ethical culture and responsible corporate citizenship.

Organisational ethics (Recommended practices 10-14)

The board should ensure that the ethics of the SOE are overseen effectively in accordance with the recommended practices on organisational ethics. Ethical lapses in SOEs not only undermine organisational performance but may also erode public trust, resulting in the misuse of public resources and compromised service delivery.

Responsible corporate citizenship (Recommended practices 15-18)

By virtue of their public interest mandates, SOEs are set up to be responsible corporate citizens as a core aspect of their purpose, not merely as a matter of compliance. Furthermore, many SOEs are funded, either partially or fully, through the fiscus. As such, they are accountable to the public and to the state organs that represent the interests of these citizens. The recommended practices on responsible corporate citizenship are consequently critical for SOEs.

Organisational ethics and corporate citizenship are essential, not only to ensure good governance, but to build trust, confidence, legitimacy and socio-economic value on behalf of the state.

Principle 3: Strategy, performance and sustainable value creation

Principle 3: The board ensures that the SOE's purpose, strategy and business model support performance that creates sustainable value within the SOE's economic, social and environmental context.

Strategy, performance and sustainable value creation (Recommended practices 19-22)

The strategic priorities of government, as decided by cabinet, are devolved to the appropriate minister or member of the executive committee and department, and then issued as a policy directive to the relevant SOEs charged with delivering against that policy[1].

The boards of SOEs therefore develop strategic plans (referred to as corporate plans) within the framework of these policy mandates, and the recommended practices should be interpreted with this context in mind.

The executive authority, or shareholder ministry, is concerned with the achievement of the SOE's mandate, including, where applicable, its provision of services, financial viability and return on investment. The policy minister, on the other hand, is responsible for policy development and oversight of its implementation. If the policy ministry and the executive authority (shareholder ministry) are different offices, it is important to maintain clarity on their respective roles and avoid directives that compromise the SOE's financial viability or conflict with the shareholder mandate. The board should facilitate open engagement with both offices to ensure alignment on strategic priorities and to reconcile any conflicting expectations.

The mandate of an SOE outlines its envisaged contribution to economic, social and service delivery challenges, which by necessity also includes matters that affect the natural environment. This is congruent with the Code advocating that organisations create value within the triple context of the economy, society and the environment. This requires the balancing of priorities by the board to achieve commercial objectives as well as deliver on strategic objectives.

It is incumbent on the board of an SOE to be proactive in obtaining clarity on strategic objectives, targets and key performance indicators. Even where not required in terms of regulation, it is recommended that

[1] Governance Oversight Role Over State Owned Entities; http://www.treasury.gov.za/publications/other/soe/governance%20oversight%20Role.pdf; p.7

a written agreement or shareholder compact between the entity (as represented by its board) and the shareholder be entered into to give effect to this.

Principle 4: Reporting

Principle 4: The board ensures that external reports issued by the SOE enable stakeholders to make informed assessments of how the SOE creates, preserves and erodes value within its economic, social and environmental context over the short, medium and long term.

Reporting (Recommended practices 23-27)

SOEs are subject to detailed and prescriptive reporting obligations in terms of the PFMA, related Treasury Regulations, and where applicable, the Companies Act.

These include the preparation and submission of:

- Annual reports, incorporating audited financial statements and performance reporting.
- Quarterly financial and performance reports.
- Corporate plans with three-year forward-looking strategic and financial projections.

Many SOEs, particularly those incorporated under the Companies Act and those operating on a commercial basis, have also adopted the practices recommended in the Code. These include the publication of integrated reports and sustainability reports. While not required by legislation, such practices contribute to enhanced transparency, stakeholder confidence and legitimacy, and are encouraged where feasible. In addition, any SOE that wishes to claim application of King V must disclose their implementation using the King V Disclosure Framework.

Where an SOE has bonds listed on the JSE, the reporting obligations arising from the debt listings requirements must also be considered.

Principle 5: Composition of the board

Principle 5: The board ensures that its composition is balanced with respect to the mix of competencies, diversity and independence that enables it to discharge its obligations objectively and effectively.

Composition (Recommended practices 28-33)

The balanced composition of the board, including the appropriate mix of skills, experience, diversity, independence and sector knowledge, is a key factor in determining the performance and governance effectiveness of an SOE. As such, the recommended practices on composition apply to SOEs.

To ensure continuity and institutional memory, succession planning and staggered board rotation are essential. In practice, many SOEs experience full board removal and replacement at one time, which can undermine stability and weaken institutional knowledge and therefore the effectiveness of the board and overall governance. Good practice is for board appointments and rotations to be staggered, allowing for an orderly transfer of knowledge and preservation of the collective skillset of the board. This also enables long-term strategic focus rather than abrupt shifts driven by political changes.

Nomination, election and development of board members (Recommended practices 34-37)

While the appointment of members of the board is typically the prerogative of the executive authority, the recommended practices with regards to the appointment of members of the board and the role of a nomination (or equivalent) committee in this process, remain relevant to SOEs. Even if the board does not have the final say in the appointments of its members, it should proactively engage on its membership needs, ensure that the necessary considerations take place and that these are clearly communicated. It should actively seek to collaborate with the shareholder to ensure that appointments are merit-based, transparent and aligned with the needs of the SOE. Appointments should also be made on time to ensure effective oversight of the entity.

The SOE and the shareholder ministry should be transparent regarding the processes followed for the appointment of board members. A rigorous, fair and transparent process should be followed, with an independent nominations (or equivalent) committee being essential to uphold integrity, impartiality and public trust.

The board should also take an active role in the ongoing development of its members as recommended by the practices on the development of board members. Because SOE boards are frequently populated through political appointments, directors may arrive with varying levels of governance experience and sector knowledge. This makes professional development not just good practice, but essential to enable boards to discharge their duties effectively.

Induction programmes are also particularly important to familiarise new members with the complex legal, regulatory, and political environment in which SOEs operate.

Independence and conflicts (Recommended practices 38-44)

Independence is especially important in SOEs due to the potential for political or stakeholder influence over the board. While all members of the board are required to act with independence of mind, it is good practice for the board to include a sufficient number of non-executive members who are independent in character and judgement and free from relationships, interests or associations that may unduly influence or appear to influence their decisions in the best interests of the SOE.

The board should ensure that robust processes are in place to identify, disclose and manage conflicts of interest, whether actual or perceived. The board of an SOE should also adopt a conflict of interest policy that includes disclosure obligations, recusal procedures and consequences for non-compliance. This is particularly relevant in SOEs where the scale of public resources involved and the intersection of political and commercial interests create heightened risks of undue influence, corruption and reputational harm if conflicts are not properly managed.

Chairperson and lead independent member of the board (Recommended practices 45-50)

In line with the Code, the roles of chairperson and chief executive should be separate to ensure a balance of power and to support a culture of independent oversight. The chairperson of an SOE should be an independent non-executive member.

The board should appoint a lead independent member to strengthen the independence of the board and provide leadership in cases where the chairperson may be conflicted. The chairperson plays an essential role in setting the tone at the top and ensuring the effective functioning of the board, particularly in maintaining a focus on ethical leadership, long-term value creation for the SOE within its context and accountability to the public interest.

Principle 6: Committees of the board

> **Principle 6: The board ensures that arrangements for delegation to committees and individuals within its own structures promote the objective and effective discharge of its obligations.**

Committees of the board (Recommended practices 51-75)

These recommended practices on the committees of governing bodies are applicable to SOEs, subject to relevant legal provisions. It is important to note that, in terms of the PFMA and National Treasury regulations, certain powers and approvals are reserved for the board and cannot be delegated. In addition, some matters may require approval or concurrence by the executive authority (shareholder ministry) or

National Treasury or, in certain cases such as with major investments or mandates, the approval of cabinet. The board should ensure that these reserved powers and approvals are clearly documented and understood when establishing delegation frameworks and committee mandates.

For many SOEs, the AGSA serves as the external auditor. In such cases, the audit committee does not oversee the external auditor's appointment or independence in the same way as a private sector board would. However, the audit committee's responsibilities in oversight of combined assurance, internal controls, financial reporting, risk and audit findings remain essential and supported by the practices in the Code.

Furthermore, the composition of an audit committee of an SOE is prescribed by legislation and will prevail over the recommended practices in the Code. The practices recommended for the execution of the duties of the audit committee apply and give full effect to legislated duties.

Somewhat unique to SOEs, investment or procurement committees are often established where there are strategic investment responsibilities or capital-intensive mandates. The general practices in the Code that relate to committees will apply to these additional committees.

In relation to other committees recommended in the Code:

- A committee responsible for risk governance is common in commercially orientated SOEs or where risk exposure is high. This is sometimes combined with the audit committee.
- A committee responsible for nomination governance is present in some SOEs and is encouraged for succession planning, board and committee composition input and board evaluation.
- A committee responsible for remuneration governance is common in SOEs to oversee executive remuneration. It is often required in shareholder compacts.
- A social and ethics committee is required for SOEs incorporated as companies.

The board should regularly review the effectiveness, composition and relevance of its committees as recommended.

Principle 7: Appointment and delegation to management

Principle 7: The board ensures that the appointment and delegation to management promote operational effectiveness that the respective roles and decision-making powers of the board and management are clearly defined.

CEO appointment and role (Recommended practices 76-80)

In the case of SOEs, the executive authority (shareholder ministry) often has the power under enabling legislation, founding documents or shareholder compacts, to appoint the CEO.

As a matter of good practice, the appointment of the CEO of an SOE should be a robust and transparent process that involves the board even if the shareholder has the right to make the final appointment. Appointments should be based on a shortlist that has been assessed and recommended by the Board.

The board should ensure that the letter of appointment clearly sets out that:

- The CEO is accountable to the board for the performance of duties.
- The board has the authority to take disciplinary action, including removal, on justifiable grounds such as non-performance or misconduct.

Delegation to management (Recommended practices 81-83)

The PFMA and National Treasury regulations set out specific responsibilities that are reserved for the board and cannot be delegated, as well as responsibilities of the accounting authority and the accounting officer.

When establishing delegation frameworks and defining roles, the board should ensure that these statutory provisions are clearly understood and applied, and that there is no ambiguity in accountability between the board, the CEO and the executive authority.

Professional corporate governance services to the board (Recommended practices 84-90)

SOEs are typically required by their enabling legislation or founding documents to appoint a company secretary. The company secretary plays a pivotal role within the SOE's governance structures, not only providing administrative support, but also professional corporate governance services to the board, including guidance on legislative and regulatory compliance, the principles of good governance and the duties of individual board members.

Principle 8: Risk

Principle 8: The board governs risk in a way that enables the SOE to sustain and optimise its strategy and objectives.

Risk (Recommended practices 91-94)

The recommended practices regarding risk governance are applicable to SOEs and should be implemented. Under the PFMA and National Treasury regulations, the accounting authority must maintain effective systems of financial and risk management and internal control and facilitate regular risk assessments.

Given the public interest nature of SOEs, the risk profile often includes political, social, regulatory, operational and financial risks, which necessitate mature risk governance structures.

Principle 9: Compliance

> **Principle 9: The board governs compliance with applicable laws and adopted policies, non-binding rules, codes and standards in a way that promotes ethics and responsible corporate citizenship.**

Compliance (Recommended practices 95-99)

SOEs are subject to a complex legal and compliance environment, including obligations under the PFMA, National Treasury regulations, enabling statutes and, where applicable, the Companies Act and even the JSE debt listings requirements if they have bonds listed.

It is therefore essential that SOEs adopt integrated compliance frameworks, with oversight structures that ensure adherence to relevant legislation, regulations and codes of good practice, in line with the recommended practices in the Code.

Principle 10: Data, information and technology

> **Principle 10: The board governs data, information and technology in a way that enables the SOE to sustain and optimise its strategy and objectives.**

Data, information and technology (Recommended practices 100-110)

The recommended practices which relate to the governance of data, information and technology should be applied to SOEs as they would to any other organisation.

Given the public service nature, regulatory responsibilities and attendant risk profiles of SOEs, the effective governance of information systems, data integrity, cybersecurity and the effective and ethical use of technology is especially important.

Principle 11: Remuneration

> **Principle 11: The board ensures that the SOE remunerates fairly, responsibly and transparently to promote sustainable value creation by the SOE within its economic, social and environmental context.**

Remuneration (Recommended practices 111-118)

These recommended practices relating to the governance of remuneration are applicable to SOEs. For those that are registered as companies, the requirements on remuneration in the Companies Act may also be applicable.

In line with the Code and given their public interest nature and reliance on public funds, SOEs should ensure that remuneration is fair, responsible and aligned with performance, while also being transparent and defensible to the public.

Principle 12: Assurance

Principle 12: The board ensures that assurance functions and services promote an effective internal control environment and safeguard the integrity of external reports issued by the SOE.

Assurance (Recommended practices 119-131)

The recommended practices on assurance apply to SOEs. A combined assurance model should be adopted to coordinate efforts across management, internal assurance providers and external assurance providers.

In terms of the PFMA and treasury regulations, SOEs are required to establish an independent internal audit function.

An external audit of SOEs is typically conducted by the AGSA in terms of the Public Audit Act. In some cases, particularly where the AGSA has opted not to perform the audit directly, external audit firms may be appointed, either by AGSA or through the SOE's own tender processes, subject to the applicable legal framework. The recommended practices that relate to external audit should be interpreted in this context.

Principle 13: Stakeholders

Principle 13*:* The board adopts a stakeholder-inclusive approach in the execution of its duties in the long-term best interests of the SOE within its economic, social and environmental context.

Stakeholder relationships (Recommended practices 132-136)

Government is a key stakeholder of SOEs in three distinct roles: firstly, as shareholder (executive authority/shareholder ministry) responsible for the state's ownership interest and the shareholder compact; secondly, as policymaker (policy ministry) responsible for sector policy and oversight of its implementation; and thirdly, as regulator (where applicable) concerned with the industry practices, pricing structures and the interests of consumers[2]. These various roles may overlap and should be distinguished by the SOE in its stakeholder management to avoid confusion.

The board should ensure that there is clear role clarity between these different capacities of government, particularly distinguishing between the shareholder role (executive authority), the policy role (policy ministry) and the regulatory role. In addition, the SOE together with cabinet and the executive authority are accountable to the National Assembly and particularly the SCOPA on its audit reports and the portfolio committees for service delivery performance.

To manage these complex relationships, the board should put in place structured engagement protocols and agreements (such as the shareholder compact) that clearly define the respective roles, expectations and decision-making boundaries. It is equally important that the operational interfaces between the SOE and the relevant government department reflect this role clarity in practice. This includes ensuring that engagements are conducted through the correct channels and mandates — for example, distinguishing when the department acts as supplier, customer, policy authority or shareholder representative. This will assist with avoiding conflicting instructions and will support the board in exercising its duty to the SOE.

In addition to its relationship with government, the SOE has a wide range of other stakeholders like employees, customers, suppliers, affected communities, industry bodies and the broader public. Given the strategic importance and public visibility of many SOEs, stakeholder expectations are often high and complex. It is therefore important that the board oversees that stakeholder management is approached systematically and provides for how the organisation communicates and engages with stakeholders, responds to material concerns and builds confidence and trust, aligned to these recommended practices.

Shareholder engagement (Recommended practices 137-144)

As far as its relationship with government as shareholder is concerned, the board of an SOE should ensure that it has been agreed in the shareholder compact or similar agreement what the authority and role of the board and the shareholder are. Generally, the shareholder should provide direction on policy to the SOE, and the board should govern its effective implementation by the entity. The shareholder compact or such other agreement should provide for an alternative dispute resolution procedure if the board and the shareholder are in dispute on the interpretation thereof.

[2] Governance Oversight Role Over State Owned Entities. http://www.treasury.gov.za/publications/other/soe/governance%20oversight%20Role.pdf; p.5

Although state-owned entities (SOEs) are not legally required to hold annual general meetings (AGMs) in the same manner as private companies, some (mostly Schedule 2 major public entities) elect to do so as a matter of good governance and transparency.

Relationships within groups of organisations (Recommended practices 145-150)

Many SOEs operate within broader organisational groupings, either as holding entities with subsidiaries or as part of a portfolio of entities reporting to the same executive authority. In such cases, the board of the holding or controlling SOE should give effect to the recommended practices for group governance in conjunction with the subsidiary organisations. This includes establishing a formalised group governance framework that set out the roles, responsibilities and accountabilities between the SOE and its subsidiaries or related entities, ensuring alignment in policies, strategic direction, risk appetite and values.

While the parent body (such as a department or holding SOE) may provide overarching direction, each board within the group retains its duty and must act independently in the best interests of its specific organisation. The group governance approach should strike a balance between group-level integration and subsidiary-level autonomy; and ensure that the appointment and composition of subsidiary boards are appropriate to the nature and complexity of the subsidiary's business.

Conclusion

Good governance in SOEs is essential to safeguard public resources, ensure effective delivery on strategic government mandates and maintain public and investor confidence. Strong governance helps prevent undue political interference, promotes ethical and accountable leadership and supports the legitimacy and long-term success of SOEs in fulfilling their unique public-interest roles.

Governing bodies are encouraged to continuously reflect on their practices, strengthen governance maturity, and contribute to improved organisational performance and national development outcomes.