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01

Introduction

The King Committee published the King IV Report on Corporate Governance for South Africa 2016 (King IV) on 1 November 2016. King IV is effective in respect of financial years commencing on or after 1 April 2017. King IV replaces King III in its entirety.

While we acknowledge that most companies suffer from regulation fatigue, we welcome this new version of the King Code as it not only provides a more practical, principle-based approach to good corporate governance, but also incorporates both global public sentiment and international regulatory change since King III was issued in 2009.

In our view, King IV is bolder than ever before. Firstly, the Code is principle based and follows an outcomes-based rather than rules-based approach. This is in line with current international sentiment which promotes greater accountability and transparency and speaks to the expressed view that the application of the Code should contribute to the performance and health (sustainability) of the company. In this regard it is clear that King IV aims to establish a balance between conformance and performance. The Code is further bold in its relentless effort to reinforce corporate governance as a holistic set of arrangements that concerns itself with ethical leadership, attitude, mind-set and behaviour. This echoes global developments in the conduct risk arena and also seeks to address and prevent recent examples of corporate failure. Lastly, the boldness of the Code is evident in the clear focus on transparency and targeted disclosures in all areas, specifically in the introduction of far more extensive executive remuneration disclosure than ever seen before. While we believe that this matter still warrants debate in the South African context, we acknowledge that the suggestions are in line with global developments and perhaps more relevant than ever before in a country where the income differential remains higher than desired.

In this document we specifically highlight our assessment of what is different and what is new, both in the underpinning philosophy and principles of King IV.

02

EXECUTIVE *summary*

From an application point of view, the King IV Report has been structured as a framework that can be applied more easily across listed and unlisted companies, profit and non-profits as well as private and public entities. As such the Code refers to "organisations" and "governing bodies". For purposes of this publication we refer to "companies" and "Board".

The approach of "apply or explain" of King III is replaced with "apply and explain" – application of all the principles is assumed and companies should explain the practices that have been implemented to give effect to each principle. Explanation should be provided in the form of a narrative account, with reference to practices that demonstrate application of the principle. The explanation should address which recommended or other practices have been implemented, and how these achieve or give effect to the principle.

So, what's new in King IV?

- King IV applies a principle-and-outcomes based approach, and moves away form a tick-box approach. The 75 King III principles have been consolidated into 16 principles, each aimed at the achievement of one or more very distinct governance outcomes. The focus in King IV is clearly on ensuring that the application of the principles achieves specifically identified outcomes, including ethical culture, good performance, effective control and/or legitimacy. Each principle is supported by a limited number of recommended practices, and requires specific disclosures.
- In line with international developments, remuneration has received far greater prominence in King IV. While King III required the remuneration policy to be tabled for a non-binding advisory vote of shareholders, King IV recommends that both the remuneration policy and an implementation report (stipulating the various aspects of remuneration together with a link to performance) be tabled for a non-binding advisory vote. The remuneration policy should set out the measures that the board commits to take in the event that either the remuneration policy or the implementation report, or both have been voted against by 25% or more of the voting rights exercised. Such measures should provide pro-active engagement with shareholders to address their concerns. The Board has been tasked to ensure fair and responsible executive remuneration practices in light of overall employee remuneration.

- In light of the prevalence of the Fourth Industrial Revolution, King IV has deliberately separated technology and information. King III first officially introduced IT Governance to Corporate Governance in South Africa and demanded a greater level of IT risk awareness at director level. King IV recognises information in isolation of technology as a corporate asset that is part of the company's stock of intellectual capital and confirms the need for governance structures to protect and enhance this asset.
- King IV recommends the establishment of a Social & Ethics Committee (SEC) as a prescribed Board committee as best practice for all organisations. King IV recommends that the role of this committee goes beyond the functions listed in the Companies Act, and be extended to include matters pertaining to ethical behaviour and ethics management. Also, King IV proposes greater integration between the role and function of the SEC and other Board committees.
- King IV emphasises the critical role of stakeholders in the governance process. Not only must the Board consider the legitimate and reasonable needs, interests and expectations of stakeholders as a matter that enjoys intrinsic value, but King IV now specifically recognises the role responsibilities of stakeholders - active stakeholders are required to hold the Board and the company accountable for their actions and disclosures.
- King IV has a strong focus on opportunity management in addition to risk management, and as such it tasks the Risk Committee with the identification of opportunities linked to certain risks. In addition it requires the Board to pay specific attention to opportunities in the process of strategic planning. Perhaps more significantly, the Code recommends overlap of membership of the Risk and Audit Committee's where these function as separate committees, for better functioning. If the roles are combined in a single committee, King IV requires that the audit committee should be satisfied itself that it dedicates sufficient time to this responsibility.
- King IV has acknowledged the need to assess and confirm the external auditor's independence, but does not specifically address audit firm rotation. King IV suggests that the audit committee oversees auditor independence, considering the impact of non-audit services, audit firm tenure and audit partner rotation. King IV proposes a number of specific disclosures which may be included in the Audit Committee Report, including any significant audit matters considered and how the committee has addressed the matters.
- Where King III included a separate principle in which a governance framework should have been agreed upon between the group Board and its subsidiary Boards, King IV deals with group governance differently in that it allocates responsibility for the implementation of a group governance framework to the holding company Board.

And, what's different?

- King IV has refined the concept and requirements of combined assurance by no longer prescribing the three lines of defence model. Instead it requires that the Board ensures that a combined assurance model is designed and implemented to cover the organisation's significant risks and material matters adequately through a combination of a number of assurance services and functions, including the organisation's line functions that own and manage risks, the organisation's specialist functions that facilitate and oversee risk management and compliance, internal auditors, internal forensic fraud examiners and auditors, safety and process assessors and statutory actuaries, independent external assurance service providers such as external auditors, other external assurance providers such as sustainability and environmental auditors or external actuaries, and external forensic fraud examiners and auditors and lastly regulatory inspectors.
- The concept of independence has evolved from King III where a list of disqualifications from independence was provided. King IV takes a more practical approach and focuses on the perception of independence by an informed third party, rather than factual independence or a tick-box approach.
- King IV further emphasises the fact that independence is predominantly a state of mind which is a moral characteristic and legal duty of all directors (executive, non-executive as well as independent non-executive directors).
- From a strategy and performance point of view King III encouraged the Board to play a prominent role in the strategy-development process, which has been controversial in that many Board members felt that management should develop the strategy, with the Board providing oversight to the process. King IV clarifies this position and specifically requires the Board to approve the formal strategy and then provide oversight over the policies and plans that are developed from the approved strategy.
- King III introduced the concept of the triple bottom-line reporting, where profit, planet and people were taken into consideration when reporting on performance. Since the release of the King III, there have been significant global developments in corporate reporting, notably the release of the Integrated Reporting Framework by the International Integrated Reporting Council (IIRC) in 2013. While there is no formal requirement to apply the IIRC's Integrated Reporting Framework, the concepts and principles introduced by the IIRC have been reaffirmed in the King IV Code and the philosophy of integrated thinking has been incorporated into the Code.

In the spirit of transparency, King IV emphasises the role of disclosure in managing stakeholder relationships. The disclosure requirements in the Code are far more onerous than previous requirements.

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The philosophy *behind* KING IV

The underlying theme of King III emphasised the Board's responsibility for business sustainability. These principles are now well embedded and, as described above, King IV brings a renewed focus on ethical leadership and good governance.

The philosophy of King IV is focused around:

- Sustainable development
- Integrated thinking
- Corporate citizenship
- Stakeholder inclusivity
- Company's role and responsibility in society

This philosophy is centred on three paradigm shifts in corporate governance:

- From financial capitalism to inclusive capitalism
- From short-term capital markets to long-term, sustainable capital markets
- From silo reporting to integrated reporting

Although the role of ethical leadership was recognised in King III, King IV brings a more refined focus in terms of the obligation of the organisation (to be accountable and transparent) as well as the accountability of the company as broader stakeholder within broader society.

The Board takes ultimate responsibility for the company as a juristic person and needs to be accountable.

- Responsibility – King IV echoes the approach in the Companies Act that emphasises the role of the company in society and its obligation to behave as a responsible citizen. The Board assumes ultimate responsibility for this obligation and has to embed this ethical character and culture in all the strategy, plans, processes and performance of the company. It is critical that the Board understands their obligation with regard to ethical character and culture, and that the Code specifically states that this obligation cannot be delegated.

- Stakeholder – the Board is accountable to all stakeholders for its company's ethical conduct through the stakeholder inclusive model. As defined by King IV, the Board should consider the legitimate and reasonable needs, interests and expectations of the stakeholders not merely as an instrument to serve the interests of the stakeholder but as a matter of intrinsic value. The intrinsic value of the broader stakeholder (as opposed to only the shareholder) in the creation of value remains prominent in King IV.

King III introduced Integrated Reporting (IR) to the SA market, and this was followed by international developments regarding IR. King IV uses this philosophy and terminology that has been developed with the view of building legitimacy and trust in the value creation process. King IV also incorporates the concept and importance of integrated thinking. The philosophy of integrated thinking is embedded throughout the Code and the practice recommended by the Code is to present the company's material information in an integrated manner by issuing a report annually.

04

The **objectives** *OF KING IV*

King IV's objectives are to:

- Promote corporate governance as integral to running an organisation and delivering governance outcomes such as an ethical culture, good performance, effective control and legitimacy
- Broaden the acceptance of King IV by making it accessible and fit for implementation across a variety of sectors and organisational types
- Reinforce corporate governance as a holistic and interrelated set of arrangements to be understood and implemented in an integrated manner
- Encourage transparent and meaningful reporting to stakeholders
- Present corporate governance as concerned with not only structure and process, but also with an ethical consciousness and conduct

05

What's *new?*

01

Approach and application of the Code

The King IV Code has been structured as a framework that can be applied more easily across both listed and unlisted companies, profit and non-profits as well as private and public entities. The King IV Code moves away from listing the prescribed requirements or recommended practices and focuses on the fundamental principles that need to be considered by each company. The approach seems to advocate for a move away from a tick-box approach to focusing on understanding the potential benefits and effective application of the principles instead.

The King IV Code highlights the desired governance outcomes. These outcomes are listed as ethical culture, good performance, effective control and legitimacy. The number of principles have been reduced to 16 (plus an additional principle applicable to institutional investors). Each principle is contextualised in terms of the recommended practices. The principles and intended outcomes are phrased in the Code so that they may be applied to all companies. The intention is for the recommended practices to be adapted based on the size, resources and complexity of strategic objectives and operations of the company in question. Furthermore, the application approach (how to) is published in the form of practice and guidance notes, as well as sector supplements. This should assist and enable companies of different sizes and natures (private sector, public sector, SME, non-profit, etc.) to apply the principles in their particular context.

King IV recommends that the company makes adequate disclosures pertaining to its application of the Code. Since it is assumed that all principles are applied, companies should endeavour to provide an explanation in the form of a narrative account, with reference to practices that demonstrate application of the principle. The explanation should address which recommended or other practices have been implemented, and how these achieve or give effect to the principle. In addition, specific disclosures are required under each of the 16 principles, and companies should ensure that they address these disclosures adequately. All disclosures should be updated annually at least, approved by the Board and published on accessible media and communication platforms. This is a fundamental shift from the current compliance driven disclosure requirement to outcome-based reporting for which the Board takes ultimate responsibility.

It is important to note that the legal status of King IV, as with its predecessors, is that of a set of voluntary principles and good practices. If a conflict between legislation and King IV exists, the law prevails. Therefore, the language of 'apply and explain', more appropriately conveys the intent of the King IV rather than 'comply or explain'.

02

Remuneration policy implementation and disclosure

In line with international developments, remuneration is receiving far greater prominence in King IV. As such, King IV is clear that the responsibility for fair and equitable remuneration rests with the Board.

While King III requires a company to have an approved remuneration policy that is voted on by shareholders in the form of a non-binding advisory vote, King IV takes this further by stipulating the minimum requirements of the remuneration policy.

The Code now requires the Board to oversee the implementation of a policy to:

- Attract, motivate, reward and retain human capital
- promote the achievement of strategic objectives within the organisation's risk appetite
- promote positive outcomes
- promote an ethical culture and responsible corporate citizenship

The Board should also ensure that the policy results in fair and responsible executive remuneration practices in the context of overall employee remuneration.

King IV recommends that the Board oversees ongoing dialogue with the shareholder based on the mutual understanding of what performance and value creation constitutes for the purpose of evaluating the remuneration policy. In order to properly draft the policy the Board will be required to properly articulate the link between strategy, sustainable value creation, performance and remuneration.

The policy and the implementation report will have to be approved by non-binding advisory vote by shareholders on a regular basis. Should there be a 25% or higher advisory vote against the adoption of the policy or implementation plan, the remuneration policy should set out the specific measures that the board commits to take to proactively attend to the underlying reasons for the vote. Such measures should include an engagement process to ascertain the reasons for the dissenting votes, as well as measures to address the legitimate and reasonable objections and concerns raised by shareholders. These steps may result in amendments to the remuneration policy, or clarifying or adjusting remuneration governance or processes.

In the event that either the remuneration policy or the implementation report, or both were voted against by 25% or more of the voting rights exercised, the Board should make specific disclosures in the background statement of the remuneration report of the following year. These disclosures should indicate with whom the company engaged, and the manner and form of engagement to ascertain the reasons for dissenting votes, and the nature of steps taken to address legitimate and reasonable objections and concerns.

In addition and in accordance with the Companies Act, the fees of the non-executive director must be approved by special resolution by the shareholders within the previous two years.

King IV requires a three part disclosure relating to remuneration including the remuneration background statement, policy and implementation.

- The background statement disclosure includes the context considerations and decisions as well as the opinion of the remuneration committee on whether the implementation of the policy achieved its stated objectives.
- The overview of the remuneration policy should include the elements and design of the remuneration system, the achievement of fairness and responsibility in the context of overall employee remuneration and the justification of benchmarks. Specific disclosures are required for executive directors to illustrate the application of the remuneration policy under different performance scenarios – these may include a description of the framework and performance measures used to assess the achievement of strategic objectives and positive outcomes, including the relative weighting of each performance measure and the period of time over which it is measured. King IV recommends the use of performance measures that support positive outcomes across the triple context (financial, environmental, social) in which the organisation operates, and/or all the capitals that the organisation uses or affects. This is a departure from linking remuneration to financial performance only, and requires an account of the performance measures and targets used as a result of which awards of variable remuneration have been made.
- Remuneration implementation disclosure includes the remuneration paid to or accrued to executive directors and prescribed officers as well as to illustrate the link between remuneration and the contribution by directors and prescribed offers to the value created across the whole of the economic, social and environmental context within which the company operates.

The remuneration committee will have to take cognisance of the above as this will inform the effectiveness of the committee as a whole and will be considered in the performance assessment of the individual committee members. The mandate of the committee has moved beyond the design of executive remuneration packages and now includes the justification of the link between remuneration, value creation and performance within the social, economic and environmental context. The remuneration committee will have to assist the Board with the dialogue with the shareholders to ensure they are comfortable with the correlation between directors' performance, their individual and collective contribution to value creation and associated remuneration.

03

Deliberate separation of technology and information

King III for the first time officially introduced IT Governance in South Africa and demanded a greater level of IT risk awareness at director level. It recommended that in exercising their duty of care, directors should ensure that prudent and reasonable steps have been taken with regard to IT governance.

In light of the prevalence of the Fourth Industrial Revolution, King IV takes this theme further and recognises information separate from technology as a corporate asset that is part of the company's stock of intellectual capital and confirms the need for governance structures to protect and enhance this asset.

Technology is described in the Code as a way in which to access, protect and manage information, but it is also much more than an information management system. The Code also focuses on the disruptive nature of technology on long-term business models and highlights the significant risk this poses to companies.

The Code recommends that the Board governs both technology and information so that these support the company in achieving its purpose and strategic objectives.

The Board is specifically tasked with approving and overseeing the technology and information policy of the company. The overseeing of these policies should be in relation to:

- Integration of people, technologies, information and processes across the organisation
- Integration of technology and information risks into organisation-wide risk management
- Arrangements to provide for business resilience
- Proactive monitoring of intelligence to identify and respond to incidents, including cyber-attacks and adverse social media events
- Management of the performance of, and the risks pertaining to, third-party and outsourced service providers
- The assessment of value delivered to the organisation through significant investments in technology and information, including the evaluation of projects throughout their life cycles and of significant operational expenditure
- The responsible disposal of obsolete technology and information in a way that has regard to environmental impact and information security
- Ethical and responsible use of technology and information
- Compliance with relevant laws

Interestingly, the Board is required under King IV to periodically carry out a formal review of the adequacy and effectiveness of the organisation's technology and information function. Although the assessment of the technology function is reasonably common practice, the formal assessment of the information function is still less common. It is critical that this process is carefully considered and that the nature of this assessment is properly planned. It is our view that the assessment should extend beyond and assessment of the control environment and include a view on the effectiveness of the information strategy of the organisation.

Lastly, the Code requires disclosure on the structures and processes for information and technology, the key focus areas, the mechanisms for monitoring technology and information management as well as to give an indication of how the organisation's current and future objectives are affected by digital development.

04

Social and ethics committee as a prescribed Board committee

In terms of the Companies Act certain companies are required to appoint a social and ethics committee (SEC). Even if the SEC is not required as per the Companies Act, King IV recommends the establishments of the SEC as best practice for all companies. It should be noted that the composition requirement is somewhat stricter than the requirement of the Companies Act, in that King IV requires that a majority of the members should be non-executive directors.

King IV expands the role of the SEC beyond what is outlined in the Companies Act by including the oversight of ethics in its mandate which is not expressly covered in the Companies Act.

The social and ethics committee should ensure, monitor and report in respect of company ethics, responsible corporate citizenship, sustainable development and stakeholder inclusivity. In essence, the key function of this committee is to act as the social conscience of the business and to ensure that the company behaves like a responsible corporate citizen.

05

Stakeholder responsibilities

King IV emphasises the critical role of stakeholders in the governance process. Not only must the Board consider the legitimate and reasonable needs, interests and expectations of stakeholders as a matter that enjoys intrinsic value, but active stakeholders are required to hold the Board and the company accountable for their actions and disclosures. King IV points out that it adopts the stakeholder inclusive model (as was the case in King III). In terms of this model the needs, expectations and interests of stakeholders are not subject to or dependent on shareholder interests.

The Board should ensure that it provides strategic direction and the necessary policy to enable proper management of the stakeholder relationships. The Board should oversee the effective management of stakeholder relationships that affect value creation and the achievement of the company's strategic objectives. The Board should exercise ongoing oversight of the management of stakeholder relationships, in particular, that it results in methodologies for identifying individual stakeholders and stakeholder groupings, determination of material stakeholders, management of stakeholder risk as an integral part of organisation-wide risk management, formal mechanisms for engagement and communication with stakeholders, including the use of dispute resolution mechanisms and associated processes, and measurement of the quality of material stakeholder relationships, and appropriately responding to the outcomes.

With respect to companies specifically, King IV proposes a number of specific measures to ensure effective engagement with shareholders, including steps to ensure that the company encourages shareholders to attend general meetings, attendance of these meetings by the chair of the Board and the chairs of respective Board committees as well as their active participation in meetings. King IV further proposes that the designated partner of the external audit firm should also attend the general meeting.

Active shareholding is emphasised and encouraged in King IV. The Report indicates that the Board of institutional investors should ensure that the company responsibly exercises its rights obligations, legitimate and reasonable needs, interest and expectations, as holders of beneficial interests in the securities of a company. The institutional investor has a fiduciary duty to those that invest in the funds, and as such the Board of the institutional investor should hold Boards or companies where they invest to account on the application of the voluntary codes of governance.

Retirement funds are currently among the most significant institutional investors in South Africa. The ultimate beneficiaries of the funds are the individual members of retirement funds who have become the new owners of capital. The Boards of retirement funds are key financial decision-makers and invest more than R2.3 trillion annually on behalf of the abovementioned individuals. The sphere of influence of institutional investors, as custodians of members' assets, is therefore profound. As far as institutional investors specifically are concerned, they carry fiduciary duties towards the ultimate beneficiaries on whose behalf they invest. These fiduciary duties involve the Boards of institutional investors who are accountable to these beneficiaries for preserving and creating value in the same way as companies are accountable to their providers of capital. As such, the Boards of institutional investors need to take an active interest in the companies in which they invest, and hold the Board of those companies accountable to create sustainable value in the short-, medium- and long-term. The Code for Responsible Investing in South Africa (CRISA), Regulation 28 of the Pension Fund Act, United Nations backed Principles for Responsible Investment (PRI) and other related initiatives provide an enabling framework for institutional investors to engage and hold investee companies accountable for sustainable returns.

06

Risk

Aligned with the King III Code, risk management, opportunity recognition and enablement remain a key focus within the King IV Code. Through the assessment of risk, key opportunities should be considered by companies and their governance oversight structures. Similar to the King III Code, internal audit should audit and express an opinion over the risk and opportunity management function and process.

King IV has emphasised the importance of risk management to assist the company in considering the interdependences of risk. The Board should consider what constitutes excessive risk taking and set the level of risk appetite and tolerance. The Board and associated committee/s should have the appropriate level of oversight and approval. King IV recommends that there should be overlap in membership between the audit and risk committee and that the risk committee should constitute at least three directors majority being non-executives.

While opportunity and risk management is regarded as the responsibility of the Risk Committee, King IV recognises that opportunities do not always originate from current risks. This is particularly true for strategic opportunities which is typically considered when setting the organisational strategy at Board level.

Ultimate risk and opportunity management rests with the Board the company and the implementation of the policy is delegated to management. King IV does not refer to the role of the chief risk officer or the CEO in the risk and opportunity management process. The Board should oversee the adequacy and effectiveness of risk and opportunity management and this should focus on the company's resilience to withstand vulnerabilities including recovery plans.

The level of disclosure regarding the effectiveness of the risk and opportunity management process has increased. King IV is calling for companies to disclose the processes for managing risk and opportunity, key focus areas, mechanisms for monitoring the effectiveness of risk and opportunity management and how uncertainties have affected performance and future strategies.

07

Auditor independence and the audit committee

King III recommended that the audit committee be responsible for recommending the appointment of the external auditor and overseeing the external audit process. Globally there have been developments regarding the assessment of the auditor's independence as well as the implementation of audit firm rotation in certain jurisdictions. King IV has acknowledged the need to assess and confirm the external auditor's independence, but does not specifically address audit firm rotation.

The King IV Code suggests that the audit committee oversees auditor independence. This aligns with the publication of the rule by the Independent Regulatory Board for Auditors that the number of years for which the audit firm has been the auditor of the company be disclosed in the auditor's report. In addition, the audit committee will need to disclose any significant audit matters considered and how the committee has addressed the matters. In terms of the auditing standards, the auditor is required to address all key audit matters, among other issues, in order to provide the user of the annual financial statements with some context when they assess said statements. The additional disclosure should be considered for inclusion in the audit committee report and will need to include:

- a statement as to whether the audit committee is satisfied that the external auditor is independent. The statement should specifically address:
  - the policy and controls that address the provision of non-audit services by the external auditor, and the nature and extent of such services rendered during the financial year
  - the tenure of the external audit firm and, in the event of the firm having been involved in a merger or acquisition, including the tenure of the predecessor firm
  - the rotation of the designated external audit partner
  - significant changes in the management of the company during the external audit firm's tenure which may mitigate the attendant risk of familiarity between the external auditor and management
- significant matters that the audit committee has considered in relation to the annual financial statements, and how these were addressed by the committee
- the audit committee's views on the quality of the external audit, with reference to audit quality indicators such as those that may be included in inspection reports issued by external audit regulators
- the audit committee's views on the effectiveness of the chief audit executive and the arrangements for internal audit

- the audit committee's views on the effectiveness of the design and implementation of internal financial controls, and on the nature and extent of any significant weaknesses in the design, implementation or execution of internal financial controls that resulted in material financial loss, fraud, corruption or error
- the audit committee's views on the effectiveness of the CFO and the finance function
- the arrangements in place for combined assurance and the committee's views on its effectiveness

08

Group Governance

King III included a separate principle in which a governance framework should have been agreed upon between the group Board and its subsidiary Board.

King IV deals with group governance differently in that it allocates responsibility for the oversight of the implementation of a group governance framework to the holding company Board. The group governance framework should be approved and adopted by each subsidiary Board. As such, King IV confirms that directors owe their fiduciary duties to the company where they serve as director – in short, the subsidiary Board needs to ensure that it acts in the best interest of the subsidiary when applying group policy. King IV suggests several matters which should be addressed in the group governance framework including the delineation of the rights and role of the company and the extent of the adoption of governance and operational policies across the group.

06

What's different?

01

Combined Assurance Model

King IV has refined the concept and requirements of combined assurance. The model introduces the concept of horizontal and vertical relationships with reference to the depth and reach of the assurance provider. The model activities are coordinated to allow the matrix of assurance providers to enable effective control environment and integrity of reports.

King IV recommends that the audit committee should establish the combined assurance model, as well as oversee the implementation of the combined assurance. The audit committee should oversee the scope of the model as informed by the material risks and opportunities.

The combined assurance model within the King III Code which was introduced through the principle of 'the audit committee should ensure that a combined assurance model is applied to provide a coordinated approach to all assurance activities'.

King IV has refined the concept and requirements of combined assurance by no longer prescribing the traditional concept of the three lines of defence. Instead it requires that the Board ensures that a combined assurance model is designed and implemented to cover adequately the organisation's significant risks and material matters through a combination of a number of assurance services and functions, including the organisation's line functions that own and manage risks, the organisation's specialist functions that facilitate and oversee risk management and compliance, internal auditors, internal forensic fraud examiners and auditors, safety and process assessors and statutory actuaries, independent external assurance service providers such as external auditors, other external assurance providers such as sustainability and environmental auditors or external actuaries, and external forensic fraud examiners and auditors and lastly regulatory inspectors.

The integrated combined assurance model has been allocated specific objectives within the King IV Code, primarily to assist the Board in assessing the adequacy and effectiveness of the internal control environment and assessing the integrity of the information used for reporting and decision-making. The combined assurance model and the components therein will therefore need to not only align the internal risk and control components but will need to consider external stakeholder reporting.

Through the combined assurance model greater emphasis will be placed on providing assurance of the reliability of external reporting, i.e. primarily the Integrated Report. King IV requires the Board to apply its mind to this. The ability of the combined assurance model to provide this level of assurance will greatly depend on the effectiveness of such a model.

02

Definition of independence of directors

The concept of independence has evolved from the position in King III. Whereas King III provided a list of disqualification from independence, King IV takes a more practical approach and focuses on the perception of independence, rather than factual independence or a tick-box approach. King IV emphasises the fact that independence is predominantly a state of mind which is a moral characteristic and legal duty of all directors.

Although the value of the inclusion of independent directors on the Board is widely recognised and practised, there is a growing concern that the over-emphasis of independence may lead to the under-valuation of industry skill and experience, as some may regard these two concepts as mutually exclusive. However, the composition of Board is approached from different angles to ensure not only a balance of power, but also from a diversity point of view. As such, King IV points out that a balance can only be created if the composition of the Board accounts for a balance of required skills, experience, diversity, independence and knowledge of the company. Independence, though important, is but one consideration. All of these factors (including independence) collectively yield a balanced Board. All directors, including the independent directors, should have a comprehensive understanding of the industry within and the business of the companies that they serve.

As pointed out previously, King IV adopts a conceptual approach to independence, i.e. the level of independence of any particular director should be viewed and judged from the perspective of an informed third party. The key question to be answered here is whether or not, in the perception of an informed outsider, a director has an interest, relationship, association or position which may lead to biased decision-making.

As mentioned above, King III provided a list of which indicates the criteria for disqualification from being classified as independent. In King IV, the focus is on the perception of an informed third party, and the list of criteria provided acts merely as a guide to consider on a substance-over-form basis. The list of factors to be collectively considered during the independence inquiry includes, but is not limited to instances where a director:

- is a significant provider of financial capital, or ongoing funding to the company; or is an officer, employee or a representative of such provider of financial capital or funding
- participates in a share-based incentive scheme offered by the company
- owns securities in the company the value of which is material to the personal wealth of the director
- has been in the employ of the company as an executive manager during the preceding three financial years, or is a related party to such executive manager
- has been the designated external auditor responsible for performing the statutory audit for the company, or a key member of the audit team of the external audit firm, during the preceding three financial years
- is a significant or ongoing professional adviser to the company, other than as a member of the Board
- is a member of the governing body or the executive management of a significant customer of, or supplier to, the company
- is a member of the governing body or the executive management of another company which is a related part
- is entitled to remuneration contingent on the performance of the company

Interestingly, the approach adopted in King IV seems to be in line with the approach adopted in section 94 of the Companies Act where the requirements for membership of the audit committee are set out. In this section it is made clear that the view of an informed third party is decisive in application of the criteria. (It is interesting to note that shareholding per se, or representing of a shareholder, is in itself not a disqualification for audit committee membership in terms of the Companies Act).

King IV further recommends that a lead independent director should always be appointed. Functions allocated to this role includes leading in the absence of the chairman, serve as a sounding board to the chairman , strengthen independence of the governing body if the chairman is not independent and lead the performance appraisal of the chairman.

03

Strategy and performance

King III encouraged the Board to play a prominent role in the strategy-development process and to approve both long-term and short-term strategies. This involvement in the strategy-development process has been controversial in that many Boards felt that management should develop the strategy with the Board providing oversight of the process.

King IV clarifies this position and specifically requires the Board to approve the formal strategy by which the company's core purpose and longer-term direction is set, and then provide oversight over the policies and plans that are developed from the approved strategy. These policies and plans should include the scope within which business decisions are taken and should provide the criteria and measures against which the Board intends to assess management's performance.

Similar to King III, the Code encourages the disclosure of the company's purpose and longer-term direction and also its performance in terms of the value created for itself and its stakeholders. This disclosure is in line with the requirements of Integrated Reporting, but should - under King IV - be considered carefully in the context of the related disclosure requirements on executive remuneration.

04

Integrated thinking and the Integrated Report

King III introduced the concept of the triple bottom line reporting, where profit, planet and people were taken into consideration when reporting on performance. Financial performance in the short term needed to be balanced by the impacts and effects on the environment and society within which the organisation operated.

The King III dedicated a chapter to sustainability reporting, elevating the sustainable agenda to the highest governance level within a company. The King III Code discussed concepts that were interrelated when considering the sustainability agenda including stakeholder engagement, risk and performance and sustainable strategy deployment. King III required that the Board should ensure the integrity of the company's Integrated Report.

The concepts and principles introduced by the Integrated Reporting Framework by the IIRC (International Integrated Reporting Council) in 2013 have been reaffirmed in the King IV Code. King IV has incorporated the philosophy of integrated thinking into the Code while reaffirming the governance oversight and involvement required. King IV recognises the need for companies oversight bodies to consider their value creation and preservation story within the context of the 6 capitals (as introduced in the Framework). The Code has reaffirmed the importance of the ability to manage and monitor performance, risk and opportunities across the 6 capitals through the company's business model while taking key stakeholder consideration into account.

King IV introduces the importance of the combined assurance model in achieving credibility over the Integrated Reporting process and outcome. The assurance over external reporting has been highlighted within King IV and the responsibility of the Board/audit committee to provide the necessary oversight over this process. King IV specifically addresses assurance over reporting that is not regulated for example Integrated Reporting assurance. Considering the risk within unregulated reporting the Board/audit committee should consider whether the process or data will be assured, determine the boundary of such assurance, the level of assurance, and the criteria against which the assurance will be evaluated. The Board/audit committee will need to consider the assurance requirement over future-orientated information.

King IV requires companies to disclose the description and nature of the assurance work performed over the published reports, other than financial statements, as well as the assurance conclusion.

While the King IV Code has underpinned the concepts of Integrated Reporting and thinking, the Code does not seem to guide companies in the Integrated Reporting disclosure requirements. The Code introductory sections makes reference to the IIRC Integrated Reporting Framework and the need for companies to embrace the principles and disclosure elements of the framework. The individual outcome disclosure requirements however do not make a direct link to the disclosure in the Integrated Report. Often reference is made to the organisation's report and external reporting. It appears that the objective of making the Code applicable to different types of companies, private and public, large and small, for profit and NGOs, has impacted on the ability to make direct reference to the companies' report as the primary means of disclosure.

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Disclosure

In the spirit of transparency, King IV emphasises the role of disclosure in managing stakeholder relationships. The disclosure requirements in the Code are far more onerous than previous requirements.

Examples include:

- the additional disclosure required with regard to the implementation of the remuneration policy
- disclosure of the results of a formal review of the company's risk management
- disclosure of the extent of adoption and implementation of policies and procedures of the holding company by subsidiaries as well as the effectiveness of ethics management
- disclosure of race and gender targets from a board composition point of view

The impact of these additional disclosures should not be underestimated. In many instances, and in particular more controversial matters such as the remuneration policy implementation, the disclosure of loss of office payments and the mechanisms used to assess the effectiveness of ethical governance will have to be carefully assessed and managed.

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Conclusion

Deloitte welcomes this new version of the King Report as it not only provides a more practical, principle-based approach to good corporate governance, but also incorporates both global public sentiment and international regulatory change since King III was issued in 2009. The Code is principle based and follows an outcomes-based rather than rules-based approach. This is in line with current international developments which promotes greater accountability and transparency and speaks to the expressed view that the application of the Code should contribute to the performance and health (sustainability) of the company.

Our clients often debate the aspirational nature of corporate governance in South Africa taking into consideration the relative stage of development of our economy and the cost burden that progressive governance brings. While we are sensitive to the impact on global competitiveness from a cost perspective, we feel that it is fitting for South Africa to aspire to an internationally leading corporate governance code to compensate for the lack of political governance impacting on investor confidence.

We believe that King IV is bolder than ever and the very clear focus on ethical leadership, transparency and sustainable growth is to be commended. It is our view that companies that strived to comply with the spirit of King III will adjust to King IV with relative ease.

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