

# KING V CODE ON CORPORATE GOVERNANCE FOR SOUTH AFRICA

## EXECUTIVE SUMMARY OF FUNDAMENTAL CONCEPTS

### Definition of corporate governance

Corporate governance, for the purposes of King V, is defined as the exercise of ethical and effective leadership by the governing body towards the achievement of the following governance outcomes for the organisation:

|                         |  |
|-------------------------|--|
| <b>Ethical culture:</b> | The shared values, beliefs and practices within the organisation that promote ethical behaviour and decision making.   |
| <b>Performance:</b>     | The organisation creating value within its economic, social and environmental context in a sustainable manner.   |
| <b>Conformance:</b>     | Effectiveness, consistency and discipline with respect to adherence by the organisation to laws, regulations and adopted standards as well as the establishment and monitoring of the system of internal controls. |
| <b>Legitimacy:</b>      | The organisation having a good reputation and being trusted as a result of responsible corporate citizenship and strong stakeholder relationships.   |

The definition refers to ethical leadership and effective leadership as the two complimentary and reinforcing dimensions of sound governance:

**Ethical leadership** is exemplified by the governing body cultivating the characteristics of integrity, competence, responsibility, accountability, fairness and transparency.

**Effective leadership** is results-orientated and entails the governing body directing the organisation's performance and value creation in its economic, social and environmental context.

### Fundamental concepts and philosophies

Refer to [Glossary](#) for the definition of terms used in King V.

#### Integrated thinking

King V advocates integrated thinking which takes account of the combination, connectivity and interdependencies between the range of factors that affect an organisation's ability to create value over time.

The necessity for integrated thinking is apparent when one acknowledges that all organisations function as integral and embedded components of the economy and society in which they exist. In turn, organisations and the economy, as well as other social systems are integrated and embedded parts of the natural environment upon which these entirely depend. As a consequence of this integration or embeddedness, organisations affect and are affected by the health of society and the planet.

Integrated thinking operates as a thematic strand across the diverse domains or subject matter of governance that the Code encompasses: ethics and corporate citizenship, strategy and performance, reporting, governing body composition, governing body committees, delegation, risk and compliance, information and technology, remuneration, assurance, and stakeholder relationships. Where principles and practice recommendations in the Code refer to the economic, social, and environmental context within which the organisation operates or, from a more granular perspective, to the relationships and resources that organisations utilise and influence, these denote integration.

## **Ubuntu, corporate citizenship and stakeholder inclusivity**

The adoption of the integrative or embeddedness paradigm as a reflection of the contextual realities within which organisations function, has far-reaching implications for how organisations should be governed. It is on the basis of this paradigm that King V asserts that organisations should create value not only for themselves but also in their economic, social and environmental context. The philosophies and ideologies of Ubuntu, corporate citizenship and stakeholder inclusive approaches (as opposed to adhering to the primacy of the interests of the providers of financial capital) are all expressions of the tenets of integrated thinking.

## **Sustainable development**

Sustainable development - understood as development that meets the needs of the present without compromising the ability of future generations to meet their needs - is a primary ethical and societal imperative to which all organisations should contribute. Contributing to sustainable development is an appropriate response by organisations in recognition of their integration and embeddedness within economic, social and planetary systems, as well as their reliance on the vitality of these systems for their own survival.

*Refer to Fundamental Concepts (link to be inserted in King V when published) for more information.*

## **Structural components of the Code**

Understanding the relationship between governance outcomes, principles and practices is key to mindful application of the King V Code.

### **Governance outcomes**

Since King V is an outcomes-based code, the governance outcomes - Ethical Culture, Performance, Conformance and Legitimacy - should be used as criteria by which to evaluate the consequences and value of governance efforts at the organisation. Sound governance is not indicated by how many boxes can be ticked at the level of practices implemented. Instead, it is about how effectively those practices have supported the achievement of the aspirations of the principles and ultimately the realisation of the governance outcomes.

### **Principles**

Each principle addresses a domain or subject matter of corporate governance (ethics and corporate citizenship, strategy and performance, reporting, governing body composition, governing body committees, delegation, risk and compliance, information and technology, remuneration, assurance, and stakeholder relationships) and together the principles establish a holistic framework of governance. With respect to each domain or subject matter, the principle embodies the aspirations of the governance of that domain and it guides towards what end the governance practices should be implemented. Principles are phrased so that they are fundamental to sound corporate governance and hold true across all organisations.

### **Practices**

The governing body's execution of its governance role is depicted as the undertaking of a series of four key responsibilities that echoes the dynamism of the organisational cycle:

- Steering the organisation and setting its strategic direction.
- Approving policy and planning that give effect to the direction provided.
- Overseeing and monitoring of implementation and execution by management.
- Ensuring accountability for organisational performance by means of, among others, reporting and disclosure to stakeholders.

The first three of these responsibilities are used as the basis for organising the recommended practices in support of each principle. The practices that ensure that there is accountability through disclosure on the commitments and performance by the organisation on each principle are addressed in the Disclosure Template which should be viewed as an integral part of the implementation of the Code.

## Application of the Code

King V is applicable to all organisations regardless of their form of incorporation. The principles and intended governance outcomes are suitably phrased so that they embody the essence of governance and they are therefore universally applicable across sectors.

Practices as recommended in King V are aimed at the level of leading practice and, therefore, may be scaled and otherwise adapted by organisations in accordance with proportionality considerations such as the size of operations, the nature and complexity of the business model and the organisation's economic, social and environmental impact. An overriding condition of proportional application is that the practices linked to a specific principle should be implemented in a manner that, considering the organisation and its context, reinforces and actualises the aspirations articulated in that principle.

## Disclosure Regime

The disclosure regime operates on an “apply and explain” basis. This means that application of principles is assumed; implementation of recommended practices – adopted or not - should be explained in a narrative format for how, taken as a whole, they achieve or actualise the associated principle.

A [Disclosure Template](#) now accompanies the Code which details both the form and content for disclosure on the application of the principles and the explanation of the practices. The template should be regarded as an integral part of its implementation.

*Refer to Application and Disclosure Regime (link to be inserted in King V when published) for more information.*

# ETHICAL AND EFFECTIVE LEADERSHIP

**PRINCIPLE 1:** The governing body leads ethically and effectively as the focal point of corporate governance in the organisation.

## RECOMMENDED PRACTICES

### Characteristics and values

1. Members of the governing body should individually and collectively cultivate the characteristics as below and apply these in service of ethical leadership that results in the achievement of strategic objectives and positive outcomes over time.
  - a. Integrity, which entails:
    - i. Acting in good faith and in the best interests of the organisation.
    - ii. Avoiding conflicts of interest. In cases where a conflict cannot be avoided, it should be disclosed to the governing body, and then proactively managed.
    - iii. Acting ethically beyond mere legal compliance.
    - iv. Setting the tone for an ethical organisational culture.
  - b. Competence, which entails:
    - i. Taking steps to ensure that they have sufficient working knowledge of the organisation, its industry, the resources and relationships it uses and affects as well as of the key laws, rules, codes and standards applicable to the organisation.
    - ii. Acting with due care, skill and diligence and taking reasonable steps to become informed about matters for decision.
    - iii. Continuously developing their competence to lead effectively, including specifically corporate governance knowledge and competencies.
  - c. Responsibility, which entails:
    - i. Exercising courage in capturing opportunities and doing so in a responsible manner and in the best interests of the organisation.
    - ii. Anticipating, preventing or otherwise ameliorating the negative outcomes of the organisation's activities and outputs on the resources and relationships that it uses and affects.
    - iii. Devoting sufficient time and effort to prepare for meetings of the governing body and its committees as well as diligently participating in deliberations and exercising independent judgement in decision making.
  - d. Accountability which entails:
    - i. Being willing to answer for the execution of their responsibilities, even when these were delegated.
    - ii. Appreciating that members of the governing body carry collective accountability for its decisions and that individual members who in the exercise of their independent judgement voted against a decision of the governing body must manage their dissent in accordance with their duties.
  - e. Fairness, which entails:
    - i. Adopting a stakeholder-inclusive approach in the execution of their governance role and responsibilities.
    - ii. Directing the organisation in such a way that it does not adversely affect the natural environment, society or future generations.

- f. Transparency, which entails disclosing the manner in which they exercise their governance role and responsibilities.

## Governance and leadership role and responsibilities

The governing body should:

2. Exercise its governance and leadership role by focusing *inwards* on the organisation, focussing *outwards* on the economic, social and environmental context within which it operates as well as monitoring and accounting for the *past* and *present* whilst also orientating towards the *future*. The governing body does so with reference to executing the following series of responsibilities:
  - a. Steering the organisation and setting its strategic direction;
  - b. Approving policy and planning that give effect to the direction provided;
  - c. Overseeing and monitoring of implementation and execution by management; and
  - d. Ensuring accountability for organisational performance by means of, among others, reporting and disclosure to stakeholders.
3. Ensure that its role, responsibilities, and requirements for membership and procedural conduct are documented in a charter which it regularly reviews to guide its effective functioning.

## Self-evaluation

4. The governing body should assume responsibility for the evaluation of its own performance and that of its committees, its chairperson and its individual members as well as the company secretary by determining how the evaluation should be approached and conducted.
5. A formal process, either externally facilitated or not and in accordance with methodology approved by the governing body, should be followed for evaluating the performance of the governing body, its committees, its chairperson and its individual members at least every two years.

## GOVERNANCE OF ETHICS

**PRINCIPLE 2:** The governing body governs the ethics of the organisation in a way that fosters an ethical organisational culture and promotes responsible corporate citizenship.

### RECOMMENDED PRACTICES

## Organisational ethics

6. The governing body should set the direction for how ethics should be approached and addressed in the organisation.
7. The governing body should assume the following responsibilities with regards to organisational ethics which it may delegate in its discretion to the social and ethics committee, if in place and in addition to any statutory duties that the committee may have:
  - a. Consider and approve codes of conduct and policies on organisational ethics that articulate and give effect to the purpose and strategy of the organisation.
  - b. Ensure that codes of conduct and ethics policies:
    - i. encompass the organisation's interaction with both internal and external stakeholders and the broader society as well as its impact on the natural environment; and
    - ii. address the key ethics risks of the organisation.
  - c. Ensure that employees and other stakeholders are familiar with the organisation's ethical standards. This should include:

- i. Publishing the organisation's codes of conduct and ethics policies on the organisation's website, or on other platforms or through other media as is appropriate;
  - ii. Incorporating by reference, or otherwise, the relevant codes of conduct and ethics policies in contracts and engagements with stakeholders where relevant; and
  - iii. Including the codes of conduct and ethics policies in employee induction and training programmes.
- d. Exercise ongoing oversight of the management of ethics and ensure that it results in, among others:
  - i. The application of the organisation's ethical standards to processes for the recruitment, evaluation of performance and reward of employees, as well as to the sourcing of suppliers and general engagement with external stakeholders.
  - ii. Having sanctions and remedies in place for when the organisation's ethical standards are breached.
  - iii. The use of protected reporting or confidential whistle-blowing mechanisms to detect breaches of ethical standards and dealing with such reports appropriately and in accordance with legal requirements. This includes ensuring that there is no retaliation, directly or indirectly, against persons who report in good faith.
  - iv. The monitoring of adherence to the organisation's ethical standards by employees and other stakeholders as well as progress towards the achievement of an ethical organisational culture through, among others, internal surveys, whistle-blowing reports and periodic independent assessments.

## **Responsible corporate citizenship**

- 8. The governing body should set the direction for how responsible corporate citizenship should be approached and addressed in the organisation.
- 9. The governing body should assume the following responsibilities with regards to corporate citizenship which it may delegate in its discretion to the social and ethics committee, if in place and in addition to any statutory duties that the committee may have:
  - a. Ensure that the organisation's responsible corporate citizenship efforts include compliance with the Constitution of South Africa (including the Bill of Rights), the law, leading standards, and adherence to its own codes of conduct and policies.
  - b. Oversee that the organisation's core purpose and values, strategy and conduct are congruent with it being a responsible corporate citizen.
  - c. Oversee and monitor, on an ongoing basis, how the consequences of the organisation's activities and outputs affect its standing as a responsible corporate citizen. This oversight and monitoring should be performed against agreed measures and targets in all of the following areas:
    - i. Workplace (including employment equity; fair remuneration; as well as the safety, health, dignity and development of employees).
    - ii. Economy (including economic transformation; the prevention, detection and response to fraud and corruption; as well as a responsible and transparent tax policy).
    - iii. Society (including public health and safety; consumer protection; community development; safeguarding of human rights; as well as external stakeholders' interests and expectations).
    - iv. Environment (including environmental outcomes with respect to climate change; pollution and waste disposal; protection of biodiversity; as well as the sustainable use of water, energy and other natural resources).

## STRATEGY AND SUSTAINABLE VALUE CREATION

**PRINCIPLE 3:** The governing body ensures that the organisation's purpose, business model and strategy result in sustainable value creation within its economic, social and environmental context.

### RECOMMENDED PRACTICES

The governing body as a whole should:

10. Direct the setting of the organisation's purpose and its realisation through its strategy, business model (including the inputs it uses, its operational activities and its outputs) and performance.
11. Consider and approve the organisation's strategy, and in doing so apply integrated thinking which has regard to the connectivity and interdependencies between the range of factors that affect an organisation's ability to create value over time. This consideration includes appraising the proposed strategy and business model for whether these:
  - a. Are congruent with the organisational purpose and its expressed holistic value creation proposition .
  - b. Have regard to:
    - i. How the availability, quality and affordability of the resources and relationships the organisation depends on affect the opportunities and risks to be taken into account for purposes of strategy formulation; and
    - ii. The actual and potential impacts of the organisational strategy on the economy, society and the natural environment;
12. Ensure that it considers and approves the operational plans developed by management to give effect to the approved strategy. These should include key performance measures and targets for assessing the achievement of strategic objectives, outcomes or impacts over the short, medium and long term.
13. Exercise ongoing oversight of the implementation of strategy and operational plans by management against agreed performance measures and targets.
14. Oversee that the organisation continually assesses, and responsibly responds to, the negative impacts and consequences of its activities and outputs on the economic, social and environmental context within which it operates, and the resources and relationships which it uses and affects.
15. As part of its oversight of performance, monitor, on an ongoing basis, the longer-term viability of the organisation with respect to the extent of its reliance and effects on its resources and relationships, its solvency and liquidity, and its status as a going concern.

## REPORTING

**PRINCIPLE 4:** The governing body ensures that reports issued by the organisation enable stakeholders to make informed and holistic assessments of how the organisation creates sustainable value within its economic, social and environmental context.

### RECOMMENDED PRACTICES

16. The governing body should set the direction for how external organisational reports should be approached and addressed.

17. The governing body should assume the following responsibilities with regards to external reporting which it may delegate in its discretion to the audit committee, if in place and in addition to any statutory duties that the committee may have:
- a. Consider and approve the determination of the reporting standards, frameworks and guidelines to be used, taking into account legal requirements and the purpose of each report.
  - b. Consider and approve the suite of reports to be issued by the organisation as is necessary, to meet the legitimate and reasonable information needs of material stakeholders, including integrated reports, annual financial statements, sustainability reports, social and ethics committee and remuneration committee reports, or other online or printed information or reports.
  - c. Oversee that the organisation issues an integrated report at least annually in the interest of providing connected and concise information on how the organisation's strategy, governance, performance and prospects - within the economic, social and environmental context that it operates - lead to the creation, preservation or erosion of value in the short, medium and long term.
  - d. Ensure that the basis for sustainability-related information to be included in external reports results in the disclosure of information which addresses both financial materiality and impact materiality.
  - e. Consider and approve the use of reporting standards, frameworks and guidelines for non-statutory reports.
  - f. Ensure the integrity of all external reports issued by the organisation and with respect to non-statutory, external reports, determine the level of assurance required for these.
  - g. Approve all external reports prior to public issuing.
  - h. Oversee that adequate information is published on the organisation's website, or on other platforms or through other media as is appropriate, to meet the information requirements of stakeholders, including:
    - i. Corporate governance disclosures in accordance with the requirements of the [Disclosure Template](#) accompanying this Code.
    - ii. Integrated and sustainability reports.
    - iii. Annual financial statements and other external reports.

## COMPOSITION OF THE GOVERNING BODY

**PRINCIPLE 5:** The composition of the governing body is balanced with respect to the mix of competencies, diversity and independence that enables it to discharge its governance role and responsibilities objectively and effectively.

### RECOMMENDED PRACTICES

#### Composition

18. The governing body should set the direction on its composition.
19. The governing body should assume the following responsibilities with regards to its composition which it may delegate in its discretion to a committee responsible for nominations:
- a. The governing body should comprise a majority of non-executive members, most of whom should be independent.
  - b. As a minimum, the chief executive officer (CEO) and at least one other executive should be appointed to the governing body to ensure that it has more than one point of direct interaction with management.



- c. The governing body should promote diversity in its membership across a variety of attributes relevant for promoting better decision-making and effective governance, including the mix of competencies as well as age, culture, race and gender.
- d. Arrangements for periodic, staggered rotation of its members should be in place to invigorate its capabilities by introducing members with new expertise and perspectives while retaining valuable institutional knowledge, skills and experience and maintaining continuity.
- e. A succession plan should be developed for the membership of the governing body and that of its committees as well as for key roles such as the chairpersons of the governing body and the committees and the lead independent director.

## **Nomination and election of members to the governing body**

- 20. The nomination of the candidates to be put forward for election as members of the governing body should be approved by the governing body as a whole.
- 21. The governing body should assume the following responsibilities with regards to the oversight of a formal and transparent process for the nomination and election of its members which it may delegate in its discretion to a committee responsible for nominations:
  - a. Nomination for re-election of an incumbent of the governing body should be considered on the basis of that member's performance, including attendance at meetings of the governing body and its committees.
  - b. Prior to candidates' nomination for election, thorough background checks should be conducted and qualifications should be verified by an independent party.
  - c. A brief professional profile of each candidate standing for election at the annual general meeting (AGM), including details of existing professional commitments, should accompany the notice of the AGM.
  - d. Incoming governing body members should be equipped with a thorough induction process to enable them to make the maximum contribution within the shortest time possible.
  - e. Members of the governing body with no or limited governance experience should be provided with mentorship and development opportunities.
  - f. A programme of professional development, including regular briefings on legal and corporate governance developments, as well as risks and changes in the external environment of the organisation, should be provided for members of the governing body.

## **Independence and conflicts**

- 22. Each member of the governing body should submit to the governing body a declaration of all financial, economic and other interests held by the member and related parties at least annually, or whenever there are significant changes.
- 23. At the beginning of each meeting of the governing body or its committees, all members should be required to declare whether any of them has any conflict of interest in respect of a matter on the agenda. Any such conflicts should be proactively managed as determined by the governing body or committee.
- 24. Non-executive members of the governing body may be categorised by the governing body as independent if it concludes that there is no interest, position, association or relationship which, when judged from the perspective of a reasonable and informed third party, is likely to unduly influence or cause bias in decision-making in the best interests of the organisation.
- 25. The governing body should consider all relevant factors holistically and on a substance-over-form basis, when categorising its non-executive members as independent or not. Any one or a combination of the following factors may indicate that the member cannot be categorised as independent. If the member of the governing body or a related party to that member:
  - a. Is a significant provider of financial capital, or ongoing funding to the organisation; or is an officer, employee or a representative of such provider of financial capital or funding.

- b. Owns securities in the company, the value of which is material to the personal wealth of the member (as director).
- c. Has been in the employ of the organisation as an executive manager during the preceding three financial years.
- d. Had been in the employ of the organisation as an executive manager prior to the preceding three financial years without serving a cooling off period of at least two years without significant involvement in any capacity at the organisation.
- e. Has been the designated external auditor responsible for performing the statutory audit for the organisation, or a key member of the audit team of the external audit firm, during the preceding three financial years.
- f. Is a significant and ongoing supplier of goods or services to the organisation or a member of the governing body or the executive management of a significant supplier to the organisation.
- g. Is also a member of the governing body or the executive management of, or otherwise stand in a significant relationship to, another organisation which is a related party to the organisation.
- h. Has served as member of the governing body for longer than nine years.
- i. Is entitled to remuneration contingent on the performance of the organisation and which remuneration is material to the member's income.

## **Chairperson of the governing body**

- 26. The governing body should elect an independent non-executive member as chairperson to lead it in the objective and effective discharge of its governance role and responsibilities.
- 27. The governing body should appoint an independent non-executive member as the lead independent to:
  - a. Lead in the absence of the chairperson.
  - b. Serve as a sounding board for the chairperson.
  - c. Act as an intermediary between the chairperson and other members of the governing body, if necessary.
  - d. Deal with shareholders' concerns where contact through the normal channels has failed to resolve concerns, or where such contact is inappropriate.
  - e. Strengthen independence on the governing body if the chairperson is not an independent non-executive member of the governing body.
  - f. Chair discussions and decision-making by the governing body on matters where the chairperson has a conflict of interest.
  - g. Lead the performance appraisal of the chairperson.
- 28. The CEO of the organisation should not also chair the governing body, and a retired CEO should not become the chairperson of the governing body until three complete years have passed after the end of the CEO's tenure.
- 29. When determining which of its committees the chairperson of the governing body should serve on, either as member or chairperson, the governing body should consider how this affects the overall concentration and balance of power on the governing body. Generally, the following should apply:
  - a. The chairperson should not be a member of the audit committee.
  - b. The chairperson may be a member of the committee responsible for remuneration but should not be its chairperson.
  - c. The chairperson should be a member of the committee responsible for nominations of members of the governing body and should also be its chairperson.

- d. The chairperson may be a member of the committee responsible for risk governance but should not be its chairperson.
- e. The chairperson may be a member of the social and ethics committee but should not be its chairperson.

## COMMITTEES OF THE GOVERNING BODY

**PRINCIPLE 6:** The governing body ensures that arrangements for delegation to its committees and individuals within its own structures support the objective and effective discharge of its governance responsibilities.

### RECOMMENDED PRACTICES

#### General

- 30. The governing body should determine if and to what extent to delegate particular roles and responsibilities to an individual member or members of the governing body, or to standing or *ad hoc* committees. The exercise of judgement by the governing body in this regard should be guided by legal requirements, and what is appropriate for achieving objective and effective discharge of governance responsibilities.
- 31. Delegation to committees should be recorded by means of a formal terms of reference that should be approved and reviewed periodically by the governing body or when there has been a change to circumstances or requirements.
- 32. The governing body should consider the allocation of roles and associated responsibilities; as well as the composition of membership across committees holistically, so as to achieve:
  - a. Effective collaboration through cross-membership between committees, where required; coordinated timing of meetings; and avoidance of duplication or fragmented functioning in so far as possible.
  - b. Where more than one committee has jurisdiction to deal with a similar matter, the specific role and positioning of each committee in relation to such matter are defined to ensure complementary rather than competing approaches.
  - c. A balanced distribution of power in respect of membership across committees, so that no individual has the ability to dominate decision-making, and no undue reliance is placed on any individual.
- 33. Each committee should have a minimum of three members and be composed so that as a collective, it has the necessary skills to execute its duties.
- 34. Any delegation by the governing body of its responsibilities to a committee or a member of the governing body will not by or of itself constitute a discharge of the governing body's accountability. The governing body should apply its collective mind to the information, opinions, recommendations, reports and statements presented by the committee or the member.

#### Audit committee

- 35. The establishment of an audit committee is a statutory requirement for some organisations. As a matter of leading practice, the governing body of any organisation that issues audited financial statements should consider establishing an audit committee, the role of which should be to provide independent oversight of, among others:
  - a. The effectiveness of the organisation's assurance functions and services, with particular focus on combined assurance arrangements, including the independence and quality of assurance delivered by external assurance service providers and the internal audit function.
  - b. The effectiveness of the CFO and the finance function.

- c. The integrity of the annual financial statements and other external reports issued by the organisation.
- 36. A statutory audit committee has the power to make decisions regarding its statutory duties and is accountable for its performance in this regard. In addition to its statutory duties, the governing body may delegate other responsibilities to the audit committee, such as the approval of the annual financial statements, but the governing body remains ultimately accountable for such delegated responsibilities.
- 37. Whether or not the governance of risk is delegated to the audit committee, the audit committee should oversee the management of financial and other risks that affect the integrity of external reports issued by the organisation.
- 38. All members of the audit committee should be independent, non-executive members of the governing body.
- 39. The governing body should appoint an independent, non-executive member to chair the audit committee.
- 40. The audit committee should meet annually with the internal and external auditors respectively, without management being present, to facilitate an exchange of views and concerns that may not be appropriate for discussion in an open forum.

### **Committee responsible for governance of nominations of members of the governing body**

- 41. The governing body should consider allocating the oversight of the following to a dedicated committee, or adding it to the responsibilities of another committee as is appropriate for the organisation:
  - a. The process for nominating, electing and appointing members of the governing body.
  - b. Succession planning in respect of governing body members.
  - c. Evaluation of the performance of the governing body.
- 42. All members of the committee for nominations should be non-executive members of the governing body, and the majority should be independent.
- 43. The committee for nominations should be chaired by an independent non-executive member.

### **Committee responsible for risk governance**

- 44. The governing body should consider allocating the oversight of risk governance to a dedicated committee, or adding it to the responsibilities of another committee as is appropriate for the organisation.
- 45. If the committees for audit and risk are separate, the governing body should consider for one or more members to have joint membership of both committees for more effective functioning.
- 46. The committee for risk governance should have executive and non-executive members, with a majority being non-executive members of the governing body and at least one independent member.

### **Committee responsible for remuneration governance**

- 47. The governing body should consider allocating oversight of remuneration to a dedicated committee, or adding it to the responsibilities of another committee as is appropriate for the organisation.
- 48. All members of the committee for remuneration should be non-executive members of the governing body, and the majority should be independent..
- 49. The committee for remuneration should be chaired by an independent non-executive member.

## Social and ethics committee

50. For some companies, the establishment of a social and ethics committee is a statutory requirement. The governing body of any organisation not so obliged should consider allocating oversight of, and reporting on, organisational ethics, responsible corporate citizenship, sustainable development and stakeholder relationships to a dedicated committee, or adding it to the responsibilities of another committee as is appropriate for the organisation.
51. The responsibilities of the social and ethics committee should include its statutory duties (if applicable) and any other responsibilities delegated to it by the governing body.
52. The social and ethics committee should comprise executive and non-executive members, with a majority being non-executive members of the governing body and at least one independent member.

## APPOINTMENT AND DELEGATION TO MANAGEMENT

**PRINCIPLE 7:** The governing body ensures that the appointment of and delegation to management result in operational effectiveness and clarity on authority and responsibilities.

### RECOMMENDED PRACTICES

#### CEO appointment and role

53. The governing body should appoint the CEO who should report and be accountable to the governing body.
54. The CEO should be responsible for leading the implementation and execution of approved strategy, policy and operational planning, and should serve as the chief link between management and the governing body.
55. The CEO should not be a member of the remuneration, audit or nomination committees, but should attend any meeting, or part thereof, by invitation if needed to contribute pertinent insights and information.
56. The governing body should satisfy itself that succession planning for the CEO position is in place to provide continuity of executive leadership. Succession planning should be reviewed periodically and should provide for both succession in emergency situations and succession over the longer term.
57. The governing body should formally evaluate the performance of the CEO against agreed performance measures and targets at least annually.

#### Delegation

58. The governing body should approve a delegation of authority framework that sets out the powers which are to be reserved for itself, and those that are to be delegated to management.
59. The governing body should oversee that key management functions are led by individuals with the necessary competence and authority and that these functions are adequately resourced.
60. The governing body should satisfy itself that there is succession planning in place for executive management and other key positions to provide for depth and continuity of leadership.

#### Professional corporate governance services to the governing body

61. The governing body should ensure that it has access to professional and independent guidance on its corporate governance and legal duties, and that it has support for coordinating the functioning of the governing body and its committees.
62. Regardless of the arrangements it has approved, the governing body should ensure that the office of the company secretary or other professional providing corporate governance services, is empowered and that the position carries the necessary authority.

63. The governing body should approve the appointment, including the employment contract and remuneration, and if necessary, the removal of the company secretary or other professional providing corporate governance services.
64. The governing body should oversee that company secretary or other professional providing corporate governance services has the necessary competence, gravitas and objectivity to provide independent guidance and support at the highest level of decision-making in the organisation.
65. The company secretary or other professional providing corporate governance services should have unfettered access to the governing body but, for reasons of independence, should maintain an arms-length relationship with it and its members; accordingly, the company secretary should not be a member of the governing body.
66. The company secretary or other professional providing corporate governance services should report to the governing body via the chairperson on all statutory duties and functions performed in connection with the governing body. Regarding other duties and administrative matters, the company secretary or other professional providing corporate governance services should report to the member of executive management designated for this purpose as is appropriate for the organisation.

## RISK AND COMPLIANCE GOVERNANCE

**PRINCIPLE 8:** The governing body governs risk and compliance to enable the organisation to expand its opportunities, and set and achieve its strategic objectives.

### RECOMMENDED PRACTICES

#### Risk governance

67. The governing body should set the direction for how risk should be approached and addressed in the organisation.
68. The governing body should assume the following responsibilities with regards to risk which it may delegate in its discretion to a committee responsible for risk:
  - a. Evaluate and agree the nature and extent of the risks that the organisation should be willing to take in pursuit of its strategic objectives. It should approve in particular:
    - i. The organisation's risk appetite, namely its propensity to take appropriate levels of risk.
    - ii. The limit of the potential loss that the organisation has the capacity to tolerate.
  - b. Approve policy that articulates and gives effect to its set direction on risk.
  - c. Exercise ongoing oversight of the implementation of risk policy and planning and, in particular, oversee that it results in:
    - i. An assessment of risks and opportunities emanating from the economic, social and environmental context within which the organisation operates and the resources and relationships that the organisation uses and affects.
    - ii. An assessment of the potential upside, or opportunity, presented by risks with potentially negative effects on achieving organisational objectives.
    - iii. An assessment of the organisation's dependence on resources and relationships as represented by the various forms of capital.
    - iv. The design and implementation of appropriate risk responses.
    - v. The establishment and implementation of business continuity arrangements that allow the organisation to operate under conditions of volatility, and to withstand and recover from acute shocks.

- vi. The integration and embedding of risk management in decision making, the business activities and culture of the organisation.
- d. Consider the need to receive periodic independent assurance on the effectiveness of risk management.

## Compliance governance

- 69. The governing body should set the direction for compliance with applicable laws and adopted, non-binding rules, codes and standards.
- 70. The governing body should assume the following responsibilities with regards to compliance which it may delegate in its discretion to a committee responsible for risk or another committee:
  - a. Consider and approve policy that articulates and gives effect to its direction on compliance, and that identifies which non-binding rules, codes and standards the organisation has adopted.
  - b. Exercise ongoing oversight of compliance and, in particular, oversee that it results in:
    - i. Compliance being integrated in organisation-wide risk management.
    - ii. Compliance being understood not only for the obligations it creates, but also for the rights and protections it affords.
    - iii. Compliance management taking a holistic view of how applicable laws and non-binding rules, codes and standards relate to one another.
    - iv. Continual monitoring of the regulatory environment and appropriate responses to changes and developments.
  - c. Consider the need to receive periodic independent assurance on the effectiveness of compliance management.

## INFORMATION GOVERNANCE

**PRINCIPLE 9:** The governing body governs information and its deployment through technologies to enable the organisation to expand its opportunities and set and achieve its strategic objectives.

### RECOMMENDED PRACTICES

## Information governance

- 71. The governing body should set the direction for how information and its associated components and disciplines, including information technology (IT), data and emerging technologies should be optimised and leveraged in the interest of achieving and extending organisational objectives.
- 72. The governing body should assume the following responsibilities with regards to information governance which it may delegate in its discretion to a committee responsible for risk or another committee:
  - a. Consider and approve strategy and policy that articulates and gives effect to its set direction including the approval of the standards, frameworks or guidance adopted by the organisation with respect to information governance and its various components and disciplines.
  - b. Ensure that the execution of Information strategy and plans results in the security, control and optimisation of the Information which is generated through the efforts of IT and Data management. This comprises:
    - i. The ethical management and control of Information assets to lower risk.
    - ii. Ensuring compliance with law and regulations.
    - iii. Improving Information quality and accessibility.

- iv. Implementing security measures to protect and preserve business information.
- c. Ensure that Information risks are integrated into organisation-wide risk management and monitor that technological developments are responded to appropriately in that potential opportunities are captured and that disruptive effects on the organisation and its business model are managed.
- d. Consider the need to receive periodic independent assurance on the effectiveness of the organisation's management of Information, including IT and Data arrangements.

### **Information technology (IT) as sub-set of information governance**

73. With regards to IT oversight, the governing body, or the committee delegated to, should safeguard that:
- a. The organisation's IT software development, use of hardware and maintenance activity results in sustaining and extending the organisation's strategies and objectives.
  - b. Arrangements are in place to provide for organisational resilience and disaster recovery.
  - c. There is assessment of value delivered to the organisation through significant investments in IT, including the evaluation of projects throughout their life cycles and of significant operational expenditure.
  - d. Obsolete IT, including physical assets such as servers and computers, is disposed of responsibly, in a way that has regard to environmental impact and information security.

### **Data governance as sub-set of information governance**

74. With regards to data oversight, the governing body, or the committee delegated to, should ensure that it results in data architecture and arrangements that assist with achieving organisational objectives. In particular, it should result in:
- a. The structuring of the organisation's data resources to optimise the collection, storage, use and sharing and disposal of data throughout its lifecycle.
  - b. Data security that prevents or mitigates sensitive data leaks and other security breaches.
  - c. Compliance with privacy and other legal requirements when using data.
  - d. Achieving data quality.

### **Emerging technologies as sub-set of information governance**

75. With regards to the oversight of emerging technologies, such as artificial intelligence and machine learning, the governing body, or the committee delegated to, should ensure that arrangements are in place to safeguard, among others:
- a. Ensuring that every AI system that is deployed (including bought, built, used or sold) by the organisation adheres to appropriate levels of ethical and trustworthy characteristics.
  - b. Ensuring that all processes, resources and tools used to develop, implement, and manage AI systems in the organisation are subject to human and related oversight mechanisms, including:
    - i. The level of oversight or intervention is aligned with the severity of the risk involved for the organisation or a third party.
    - ii. Identification of areas where human intervention is a requisite as well as transparency about AI potentially affecting third parties without human intervention.
    - iii. Ongoing oversight of AI systems which perform continuous learning and change behaviour to ensure that these systems remain to be deployed and used responsibly.



## REMUNERATION GOVERNANCE

**PRINCIPLE 10:** The governing body ensures that the organisation remunerates fairly, responsibly and transparently to promote sustainable value creation within its economic, social and environmental context.

### RECOMMENDED PRACTICES

76. The governing body should set the direction for how remuneration should be approached.
77. The governing body should assume the following responsibilities with regards to remuneration which it may delegate in its discretion to a committee responsible for remuneration:
  - a. Considering and approving policy that articulates and gives effect to its direction on fair, responsible and transparent remuneration with objectives to:
    - i. Attract, motivate, reward and retain human capital.
    - ii. Promote the achievement of strategic objectives within the organisation's risk appetite.
    - iii. Promote positive outcomes for the organisation and the resources and relationships that it affects over time.
    - iv. Promote an ethical culture and responsible corporate citizenship.
  - b. Ensuring that the remuneration policy addresses organisation-wide remuneration and includes provision for:
    - i. Appropriate response to the wage gap by ensuring that there are arrangements and remuneration design principles that ensures e that the remuneration of executive management is fair and responsible within the context of overall employee remuneration in the organisation.
    - ii. The use of performance measures that support positive outcomes across the economic, social and environmental context within which the organisation operates; and with respect to impact on the resources and relationships that the organisation uses or affects.
    - iii. A mix of fixed and variable remuneration elements as well as remuneration design principles that aligns with policy objectives.
78. To ensure that its policy formulation and decision-making on remuneration are informed, the governing body, or committee delegated to, should oversee proactive and constructive engagement with shareholders.
79. The criteria to be applied to set the fees of non-executive directors of the board should be outlined in a policy document in a format suitable for submission to shareholders for their consideration when approving the fees for directors' service in terms of the Companies Act, if applicable.
80. The governing body, or committee delegated to, should oversee that the implementation and execution of the remuneration policy achieves the objectives of the policy and that there is transparent and meaningful disclosure on the remuneration outcomes or consequences arising from the implementation of the policy.
81. With respect to companies that must have their financial statements audited in terms of the Companies Act and to which the remuneration resolutions provided for in the Act are not applicable, the board should nevertheless consider submitting the remuneration policy and the section 30(4) remuneration disclosure for separate non-binding advisory votes by shareholders; in the case of the policy, every three years or when materially changed, and annually in the case of the remuneration report.

## ASSURANCE

**PRINCIPLE 11:** The governing body ensures that assurance services and functions enable an effective control environment and safeguard the integrity of information used for decision making and disclosure by the organisation.

### RECOMMENDED PRACTICES

#### Combined assurance

82. The governing body should set the direction concerning the arrangements for assurance.
83. The governing body should assume the following responsibilities with regards to assurance which it may delegate in its discretion to the audit committee, if in place and in addition to any statutory duties that the committee may have:
  - a. Oversee that assurance arrangements are effective in:
    - i. Achieving an effective internal control environment.
    - ii. Safeguarding the integrity of information used for internal decision-making by management, the governing body and its committees; and disclosed by the organisation in its external reports.
  - b. Satisfy itself that a combined assurance model is implemented which combines and optimises the contributions from the participants in the assurance value chain (including management line functions, risk and compliance functions and internal and external assurance providers) so that the combined assurance effort effectively encompasses the organisation's significant risks and its material matters.

#### Internal audit

84. The governing body should set the direction concerning the arrangements for internal audit.
85. The governing body has the following responsibilities with regards to internal audit which it may delegate in its discretion to the audit committee, if in place and in addition to any statutory duties that the committee may have:
  - a. Consider and approve an internal audit charter that defines the role and associated responsibilities and authority of internal audit, including addressing its role within combined assurance as well as the internal audit standards to be adopted.
  - b. Ensure that the arrangements for internal audit provide for the necessary skills and resources to address the complexity and volume of risk faced by the organisation, and that internal audit is supplemented as required by specialist services such as those provided by forensic fraud examiners and auditors, safety and process assessors, and statutory actuaries.
  - c. If a chief audit executive (CAE) position is provided for in the arrangements for internal audit, ensuring that the position is set up to function independently from management who designs and implements the controls that are in place, and that the position carries the necessary authority.
  - d. Approve the appointment of the CAE, including the employment contract and remuneration of the CAE, and ensure that the person who occupies the position has the necessary competence, gravitas and objectivity. The removal of the CAE should be agreed to by the audit committee.
  - e. Ensure, for reasons of independence, that the CAE has access to the chairperson of the audit committee.
  - f. Ensure, for reasons of independence, that the CAE is not a member of executive management, but should be invited to attend executive meetings, as necessary, to be informed about strategy and policy decisions and their implementation.

- g. Where internal audit services are co-sourced or outsourced, ensure that there is clarity on who fulfils the role of CAE.
- h. Ensure, for reasons of independence, that the CAE reports to the chairperson of the audit committee on the performance of duties and functions that relate to internal audit. On other duties and administrative matters, the CAE should report to the member of executive management designated for this purpose as appropriate for the organisation.
- i. Monitor on an ongoing basis that internal audit:
  - i. Follows an approved risk-based internal audit plan.
  - ii. Regularly reviews the organisational risk profile and proposes adaptations to the internal audit plan accordingly.
- j. Ensure that internal audit provides an overall statement annually as to the effectiveness of the organisation's governance, risk management and control processes.
- k. Ensure that an external, independent quality review of the internal audit function is conducted at least once every five years.
- l. Obtain confirmation annually from the CAE that internal audit conforms to a recognised industry code of ethics.

## STAKEHOLDERS

**PRINCIPLE 12:** The governing body, in acting in the best interests of the organisation over time, adopts a stakeholder-inclusive approach which takes into account material stakeholders' interests.

### RECOMMENDED PRACTICES

#### Stakeholder relationships

- 86. The governing body should set the direction for how stakeholder relationships should be approached and managed in the organisation.
- 87. The governing body should assume the following responsibilities with regards to stakeholder relationships which it may delegate in its discretion to the social and ethics committee, if in place and in addition to any statutory duties that the committee may have:
  - a. Consider and approve policy that articulates and gives effect to its direction on stakeholder relationships.
  - b. Delegate to management the responsibility for implementation and execution of effective stakeholder relationship management.
  - c. Exercise ongoing oversight of stakeholder relationship management and, in particular, oversee that it results in a systematic approach which includes:
    - i. Methodologies for identifying individual stakeholders and stakeholder groupings.
    - ii. Determination of material stakeholders based on the extent to which they affect, or are affected by, the activities, outputs and outcomes of the organisation.
    - iii. Management of stakeholder risk as an integral part of organisation-wide risk management.
    - iv. Formal mechanisms for engagement and communication with stakeholders, including the use of dispute resolution mechanisms and associated processes.
    - v. Measurement of the quality of material stakeholder relationships, and appropriate responses to the outcomes.

## **Shareholder engagement (Applicable to companies only)**

88. The board must recognise the rights afforded to shareholders in law and ensure that shareholder engagement happen in the spirit of the law whilst appreciating that the company constitutes a nexus for the interests of a variety of stakeholders.
89. The board should oversee that the company encourages proactive engagement with shareholders, including engagement at the annual general meeting (AGM) and other special general meetings of the company.
90. The chairperson or another representative of each board committees should be available at the AGM to respond to shareholders' queries on how the board executed its governance duties.
91. The board should ensure that the designated partner of the external audit firm attends the AGM.
92. The board should ensure that shareholders are equitably treated, and that the interests of minority shareholders are adequately protected.
93. The minutes of the AGMs of listed companies should be made publicly available within a reasonable time after the meeting.

## **Relationships within a group of companies**

94. The board of the holding company should assume responsibility for governance across the group by setting the direction for how the relationships and exercise of power within the group should be approached and conducted.
95. The board should consider and approve a group governance framework that articulates and gives effect to its direction on relationships and the exercise of authority across the group.
96. The adoption and implementation of the policies, structures and procedures of the holding company is a matter for consideration and approval by the board of the subsidiary company as a separate legal entity. The board of the holding company should therefore ensure that the boards of its subsidiaries are included in the development of the group governance framework.
97. The board of the holding company should ensure that the group governance framework does not conflict with the memoranda of incorporation, delegations of authority, shareholder agreements, board charters, board committee terms of reference, and related policies and agreements within the group.
98. The board of the holding company should ensure that the group governance framework recognises each subsidiary within the group as a separate and independent juristic person to whom its directors owe fiduciary duties.
99. The board of the holding company should ensure that the group governance framework addresses governance matters as is appropriate for the group, including:
  - a. Delineation of the rights and role of the holding company.
  - b. If applicable, delegation of certain responsibilities by the board of a subsidiary to a board committee of the holding company, without abdicating accountability, and subject to agreed reporting and information- sharing arrangements.
  - c. The extent to which governance and operational policies of the holding company have been adopted by subsidiary companies in the group.
  - d. Engagement by the holding company with the board of a subsidiary company before the holding company exercises its rights to elect directors to the board of the subsidiary.
  - e. Arrangements to address the risk of breaching legal duty in relation to the use of information obtained while acting as director of one company in the group for the purposes of another company in the group.
100. The board of the holding company should ensure that the agreed group governance framework is implemented across the group.