



# King IV Commenting Platform

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*Filled Tuesday, May 10, 2016*

## Page 1

Welcome to the official King IV Commenting Platform. After you have downloaded and reviewed the draft King IV Report here [if this link does not open, please copy and paste the following into your browser: [https://c.ymcdn.com/sites/iodsa.site-ym.com/resource/resmgr/King\\_IV/King\\_IV\\_Report\\_draft.pdf](https://c.ymcdn.com/sites/iodsa.site-ym.com/resource/resmgr/King_IV/King_IV_Report_draft.pdf)], you will be able to enter your comments using this platform. The public comment process takes place in 2 phases, the first of which invites comment on the whole of the King IV Report, bar the Sector Supplements. The Sector Supplements are to be subjected to public comment during phase 2. This platform will remain open in respect of phase 1 for two months from 15 March 2016 to 15 May 2016. Phase two of the commentary process, being commentary on the sector supplements, will be opened on notice. Commenting terms and conditions Please note that this process is open and transparent. All comments submitted will be available for public view at <http://www.iodsa.co.za/page/KingIVCommentLibrary> and NO anonymous comments are permitted. Comments received are added to the library for public viewing weekly together with the identity of the individual or organisation on behalf of whom the submission is made. Only comments submitted through this platform will be considered for the finalisation of the King IV Report.

**Do you agree to the King IV commenting terms and conditions?**

Yes



Page 2

**Personal Details Section:**

**\*Title:**

Mr

**\*First Name:**

Richard

**\*Last Name:**

Chambers

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

An organisation

**\*Name of organisation:**

The Institute of Internal Auditors

**\*Capacity within organisation:**

President and Chief Executive Officer



**PART 1: Introduction and Foundational Concepts**

**PART 1: Introduction and Foundational Concepts**

Add your comments for this part here:

Variable	Response
PART 1: Introduction and Foundational Concepts   1. Introduction	(No response)
PART 1: Introduction and Foundational Concepts   2. Objectives of King IV	(No response)
PART 1: Introduction and Foundational Concepts   3. King IV definition of corporate governance	(No response)
PART 1: Introduction and Foundational Concepts   4. The underpinning philosophies of King IV	4.1. Ethical and effective leadershipWe very much support the notion that the foundation of good governance is ethical leadership. The exemplification of ethical leadership through responsibility, accountability, fairness and transparency is well articulated and, in our view, serves as the proper foundation for the King IV Code.
PART 1: Introduction and Foundational Concepts   5. Local and international developments since King III	5.6. New perspectives on riskGiven that the challenges and complexities that make up the risk landscape in which organizations operate continue to evolve rapidly, sometimes with little warning, this section could be enhanced by expanding further on the concept of the “speed of risk.”



## PART 2: Content Elements and Development

### PART 2: Content Elements and Development

Add your comments for this part here:

Variable	Response
PART 2: Content Elements and Development   1. Overview of the nine parts of the King IV Report	(No response)
PART 2: Content Elements and Development   2. King IV Code elements	(No response)
PART 2: Content Elements and Development   3. Sector Supplements	(No response)
PART 2: Content Elements and Development   4. Content development process	(No response)
PART 2: Content Elements and Development   5. Drafting convention	(No response)
PART 2: Content Elements and Development   6. Presentation features of King IV	(No response)

## PART 3: Application of King IV

### PART 3: Application of King IV

Add your comments for this part here:

Variable	Response
PART 3: Application of King IV   1. Legal status of King IV	(No response)
PART 3: Application of King IV   2. Scope of application of King IV	(No response)
PART 3: Application of King IV   3. Proportionality –	(No response)



appropriate application and adaption of practices

PART 3: Application of King IV | 4. Disclosure on application of King IV

We think that the “apply and explain” application regime for King IV is good and easily supportable in theory. However, care needs to be taken so that disclosures are useful and meaningful. The risk is that an “apply and explain” regime could result in either long disclosures laden with boilerplate language that does not get read, or short disclosures that provide inadequate insights. Readers of public documents in many jurisdictions already complain of disclosure fatigue and want higher quality information, but not necessarily more information. While supportive, we suggest that “apply and explain” be considered thoughtfully and thoroughly so that the goal of better informing the public about the application of good governance practices is achieved in a manner that is cost effective for the disclosing organization while also providing useful information to the public.

PART 3: Application of King IV | 5. Transition from King III to King IV

(No response)

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

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

Add your comments for this part here:

Because this diagram is the overarching articulation of the 17 King IV Principles and the underpinning for the entire Code, this may be the best place to point out that we were struck by the extensive use of the word “ensure” throughout the Principles and even more pervasively throughout the entire Code.

(No response)

The word “ensure” literally means “to make certain.” Can good corporate governance “make certain,” or does it merely “increase the likelihood of certainty”?

(No response)



In most instances, much of what is suggested as needing to be ensured cannot, in actuality, be ensured. It is more likely that, in most instances, use of the word ensure it is intended to mean something like “take all reasonable steps so that ...”

(No response)

(Note that, by our estimate, the word “ensure” is used approximately 40 times in the Code.)

(No response)

We recognize that a suitable solution may not be evident. Perhaps, a definition of what is meant by the term “ensure” within the document, and specifically within the Principles, would suffice.

(No response)

## PART 5, CHAPTER 1: Leadership, Ethics and Corporate Citizenship

### PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship

Add your comments for this part here:

Variable	Response
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship   1.1 Ethical leadership	We applaud this title. Corporate governance is not solely about strong ethics and it is not solely about effective leadership, but it is about ethical leadership.
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship   1.2 Organisation values, ethics and culture	(No response)
PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship   1.3 Responsible corporate citizenship	(No response)

## PART 5, CHAPTER 2: Performance and Reporting

### PART 5CHAPTER 2: Performance and Reporting

Add your comments for this part here:



Variable	Response
PART 5 CHAPTER 2: Performance and Reporting   2.1 Strategy, implementation, performance	Paragraph 5 The performance criteria articulated against which the governing body can oversee management’s performance in paragraph 5 are good. We suggest the possible addition of a third criterion to convey that performance criteria should promote desired outcomes and guard against unintended consequences.
PART 5 CHAPTER 2: Performance and Reporting   2.2 Reports and disclosure	Paragraph 11 We suggest adding the words “in a sustainable manner” at the end of 11a, to read “...challenges and opportunities that may significantly affect the ability of the organization to “create sustainable value.” Such revised wording is consistent with an underlying premise of integrated reporting and also consistent with similar references throughout the Code.

**PART 5, CHAPTER 3: Governing Structures and Delegation**

**PART 5 CHAPTER 3: Governing Structures and Delegation**

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 3: Governing Structures and Delegation   3.1 Role of the governing body	This section is a good example of the use of the word ensure. See our comment under PART 4: King IV on a Page.
PART 5 CHAPTER 3: Governing Structures and Delegation   3.2 Composition of the governing body	Paragraph 8 We are unclear what is meant by “The governing body should provide strategic direction for its composition to be balanced.” The governing body should provide direction as to its composition, and should seek the appropriate balance of skills, experience, diversity, independence and knowledge it needs to discharge its responsibilities consistent with Principle 3.2. What is added by use of the word “strategic”? And what is the difference between “direction” and “strategic direction”? Paragraph 10 Paragraph 10 states that the CEO should be appointed to the governing body. It further states that “... and at least one other executive...” should also be appointed to the same body, but doesn’t articulate why an additional, non-specific executive



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

should be appointed to the governing body. This may require further explanation, regardless of whether an “apply and explain” or an “apply or explain” disclosure regime applies. Paragraph 35 Paragraph 35.d. states that “the chair may be a member of the committee responsible for risk and may also be its chair.” We have two recommendations: 1. We do not believe it is good governance to have the chair of the governing body also chair of one of its committees. The chair of the governing body should provide oversight to all committees of the governing body; therefore, it would be better if that individual did not also chair any of those committees. 2. The committee that provides risk and opportunity oversight is responsible for oversight – it is not “responsible for risk.” We recommend an important wording change so that it reads as the “... committee responsible for risk and opportunity oversight ...”

Paragraph 39 Paragraph 39 recommends the establishment of several committees, including audit, risk and opportunity, remuneration, nomination, social and ethical outcomes, and other additional areas as deemed necessary. It would be helpful to provide additional role clarity between and among the various committees to minimize overlap and ambiguity. See related comment at paragraph 61. Audit Committees Paragraph 50 Paragraph 50 states that any organisation that issues audited financial statements should establish an audit committee. There are other compelling reasons to have an audit committee than just when the organization issues audited financial statements. At a minimum, the audit committee also provides oversight of internal control and risk management processes. It might be helpful to expand this paragraph to include additional reasons why any organization, especially any that serves a public interest, must have an audit committee. Paragraph 58 Paragraph 58 does not sufficiently cover the role of the audit committee with regard to internal audit. For internal audit to truly serve the audit committee independently, many other oversight duties are generally considered as commonplace for good governance. Consider adding the following responsibilities, largely taken from The IIA’s 2013 Model Audit Committee Charter:

- Approve the internal audit charter.
- Approve decisions regarding the appointment and removal of the chief audit executive. Ensure there are no unjustified restrictions or limitations, and review and concur in the appointment, replacement, or dismissal of the chief audit executive.
- Approve the annual audit plan and all major changes to the plan. Review the internal audit activity’s performance relative to its plan.
- Review with the chief audit executive





the internal audit budget, resource plan, activities, and organizational structure of the internal audit function. • At least once per year, review the performance of the chief audit executive and concur with the annual compensation and salary adjustment. • Review the effectiveness of the internal audit function, including conformance with globally accepted standards. • On a regular basis, meet separately with the chief audit executive to discuss any matters that the committee or internal audit believes should be discussed privately. • And, given an “apply and explain” regime, possibly also including the appointment, dismissal, or resignation of the CAE. As well, Paragraph 58.d., as part of the disclosures of the audit committee, addresses “...material weaknesses in the design, implementation or execution of internal financial controls that resulted in material financial loss, fraud, corruption or material errors.” We agree that material weaknesses that result in these conditions should be disclosed. We also believe that material weaknesses that could result in such conditions also need to be disclosed. Therefore, we suggest that this item be revised along the lines of “...material weaknesses in the design, implementation or execution of internal financial controls that either result in or could result in material financial loss, fraud, corruption or material errors.” Paragraph 61 Paragraph 61.b. provides for the risk and opportunity governance committee to “oversee implementation of the risk and opportunity policy and framework, as well as the internal control framework and other responses to risk and opportunity.” We are concerned that this will create some overlap and ambiguity with the duties and responsibilities of the audit committee. It might be best if the audit committee has oversight responsibility for the internal control framework, and the risk and opportunity governance committee has oversight responsibility for the risk management framework, and that there be the appropriate interaction and coordination between the two committees where these duties or responsibilities overlap or intersect.

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

(No response)

PART 5 CHAPTER 3:  
Governing Structures and  
Delegation | 3.5

(No response)



Performance evaluations

**PART 5, CHAPTER 4: Governance Functional Areas**

**PART 5 CHAPTER 4: Governance Functional Areas**

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 4: Governance Functional Areas   4.1 Risk and opportunity governance	(No response)
PART 5 CHAPTER 4: Governance Functional Areas   4.2 Technology and information governance	(No response)
PART 5 CHAPTER 4: Governance Functional Areas   4.3 Compliance governance	(No response)
PART 5 CHAPTER 4: Governance Functional Areas   4.4 Remuneration governance	(No response)
PART 5 CHAPTER 4: Governance Functional Areas   4.5 Assurance	Combined Assurance Model Paragraph 45 Paragraph 45.a. assigns the audit committee responsibility for providing direction on the “adequacy and effectiveness of the internal control environment.” We think this is correct but does, in our view, contradict what is stated in CHAPTER 3 – 3.3 – Committees of the governing body, with regard to the duties and responsibilities of the risk and governance committee. Please see our comment at Chapter 3 – 3.3, paragraph 61.b. Paragraph 46 It would be helpful to provide additional information at paragraph 46 to clarify and define further the role of each of the five lines of assurance. Most



importantly, it is unclear what the five lines model is providing assurance on and also who it is providing assurance to. Therefore, we are challenged a bit by this model. As an example, the fourth line (external assurance providers), as opposed to other lines, is not comprehensive on terms of its coverage of the organization. Also, we strongly believe that internal audit needs to be in its own line of assurance, as it is the only function listed that, by design, is intended to be independent as a result of its reporting structure. Additionally, other considerations include:

1. The audit committee has oversight responsibility for the five lines of assurance, but can also fill the role as the fifth line of assurance. This seems to be contradictory.
2. How will the first line provide assurance over the risks and opportunities for which it is responsible? Will the first line monitor or actually provide assurance? Therefore, can the first line truly be part of an assurance model given its operational duties?
3. The third line functions have different levels of independence and, therefore, presumably would provide different levels of assurance. Should these functions be split between internal audit and functions that do not have the same level of independence as internal audit?
4. Should internal audit and other internal assurance providers that have direct functional reporting to the board or a board committee make up a distinct line of assurance?
5. Are second line functions internal to the organization and fourth line functions external to the organization? If so, the first three lines collectively could provide assurance on the entire organization's internal control and risk management activities while the fourth line could not (fourth line scope would be limited by virtue of the function/activity represented). Clarification on this matter would be helpful.
6. The three lines of defense model is positioned to provide assurance internally to the governing body. In contrast, the governing body is the fifth line of assurance in the five lines model and presumably provides assurance to some external party. Who is the intended beneficiary of the fifth line of assurance? The public?

Internal Audit Paragraph 52 Paragraph 52 proposes that "proportionality" be taken into account in determining whether an internal audit function headed by a CAE be established. While we understand that company size and complexity is a consideration when determining the proportional size of an organization's internal audit capacity, we believe that under either an "apply or explain" or an "apply and explain" regime, every company (especially every company that is listed on a publicly traded exchange) is duty bound to have an internal audit function headed by a CAE. If the



company has sufficient rationale not to do this, that rationale should be fully explained via disclosure, and should not be left to a subjective determination of “proportionality.” Paragraph 54 Paragraph 54 states “The audit committee should oversee the appointment and performance of the CAE and be responsible for the dismissal of the CAE, when necessary.” Add that the audit committee also should ensure appropriate remuneration for the CAE. See our comment at paragraph 58, Section 3.3 Audit Committees, for additional roles of the audit committee with regard to internal audit. Paragraph 57 The structuring arrangements of internal audit to be overseen by the audit committee could be expanded and made flexible by adding “fraud examiners and auditors, safety and process assessors, statutory actuaries, and other specialists as needed” at the end of the paragraph. Paragraph 58 Paragraph 58 brings out some very critical points. We fully agree with addressing the need for the audit committee to oversee a risk-based internal audit plan and revisions to that audit plan accordingly. We also suggest that internal audit must, to be considered as truly and appropriately effective, be conducted in conformance with a globally recognized set of internal auditing standards and that the audit committee should provide oversight of internal audit’s conformance efforts. Paragraph 63 Paragraph 63 addresses the expectation that reports that are published beyond financial statements should receive assurance, to include a description of the assurance performed, detail of the work that has been relied upon, and an assurance conclusion. While we think this is a good and worthwhile expectation over the long term, it may not be practical today as no widely accepted assurance model exists beyond one for more traditional financial statements. The role of assurance on such other reports needs to be studied further and addressed in a systemic and holistic manner. So, while we agree with the concept of paragraph 63 in principle, we question the practicality of this requirement at present in either an “apply and explain” or an “apply or explain” regime.

## **PART 5, CHAPTER 5: Stakeholder Relationships**

### **PART 5 CHAPTER 5: Stakeholder Relationships**

Add your comments for this part here:



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

## PART 6: Sector Supplements

### PART 6: Sector Supplements

Content on Part 6: Sector Supplements will be published and opened for commentary during May 2016.

## PART 7: Application Register

### PART 7: Application Register

Commentary on Part 7: Application register will be addressed in the Comment Questions section, Question 10.

## PART 8: Glossary of Terms

### PART 8: Glossary of Terms

Add your comments for this part here:

(No response)

## Comment Questions (1-5)

### Comment Questions Question 1 - Question 5

#### Question 1

The set objectives of the King IV Report are to: -promote good corporate governance as integral to running an enterprise and delivering benefits to it; broaden the acceptance of good corporate governance by making it accessible and fit for application by organisations of a variety of sizes,



resources and complexity of strategic objectives and operations;reinforce good corporate governance as a holistic and inter-related set of arrangements to be understood and implemented in an integrated manner; andpresent good corporate governance as concerned with not only structure, policy and process but also an ethical consciousness and behaviour.To what extent would the draft King IV Report as it stands achieve each of these objectives?Please comment on how this could be optimised.

(No response)

## Question 2

Part 2 of the draft King IV Report: Content Elements and Development, deals with outcomes, principles and practices. Clear differentiation of these content elements is key to reinforcing qualitative governance which is outcomes driven rather than about mindless compliance. Is the rationale and the difference between these content elements clearly explained? Please provide suggestions on how this could be further enhanced.

(No response)

## Question 3

King IV uses the broader form of address namely: 'organisations'; 'governing body'; and 'those charged with governance duties'. Does this make the King IV Report more broadly relevant to all organisations and sectors?

(No response)

## Question 4

The King IV Code recommends that as a minimum, the chief executive officer (CEO) and one other executive should be appointed to the governing body. Other than in King III, it does not specifically recommend the inclusion of the chief financial officer (CFO) as a member of the governing body. This allows flexibility for another executive to be appointed as a member of the board, depending on the nature and needs of the business.Would a recommendation specifically providing for inclusion of the CFO be more appropriate or is flexibility preferable in light thereof that organisations differ?

(No response)



### **Question 5**

Do the independence criteria in Chapter 3 of the Code provide clear and useful guidance for assessment of independence on a substance over form basis?

(No response)

### **Comment Questions (6-10)**

#### **Comment Questions Question 6 - Question 10**

### **Question 6**

Will the new disclosure and voting requirements on remuneration in Chapter 4 of the Code lead to increased transparency and more meaningful engagement on remuneration between organisations and their stakeholders? Please provide suggestions for further enhancement.

(No response)

### **Question 7**

King IV introduces in Chapter 4 of the Code, the 5 lines on assurance in the place of the traditional 3 lines of defence. It also expands on the implementation of the combined assurance model. Will this assist with more effective co-ordination and alignment of assurance? Please provide suggestions for further enhancement.

(No response)

### **Question 8**

The governing body as the focal point of corporate governance and is therefore the primary audience of the King IV Report. King IV requires the governing body of an institutional investor to ensure that the organisation exercises its rights as holders of beneficial interest in companies, responsibly. Does this principle establish the necessary linkage between King IV and the Code for Responsible Investing in South Africa (CRISA) so that governance is reinforced by all role players? How can King IV further reinforce responsible investing practices? (For access to CRISA go to [www.iodsa.co.za](http://www.iodsa.co.za).)



(No response)

### Question 9

King IV introduces 'risk and opportunity' governance to emphasise risk as being about uncertainty and the effect of it occurring or not occurring having a possible negative or positive effect on the organisation achieving its objectives. Is it useful to refer to risk and opportunity governance and will it reinforce it as a value-add rather than conformance exercise?

(No response)

### Question 10

The application regime of King IV is 'apply and explain' as opposed to 'apply or explain' in King III. The main difference between the application regime of King III and King IV is that application of the principles is assumed in King IV as they are basic to good corporate governance. Furthermore, the 75 principles in King III have been replaced with 17 principles in King IV. For the 'apply and explain' regime, explanation is required in the form of a high level narrative of the practices that have been implemented and the progress made in the journey towards giving effect to each principle. Will 'apply and explain' encourage greater transparency and qualitative? Should disclosure on King IV application be required to be signed off by the governing body? (For further information on the application regime refer to Part 3: Application of King IV and to Part 7 for a template of the application register.)

(No response)

### Survey Questions

### Survey Questions

**How much do you agree or disagree with the following statements, please give a reason for your answer.**

You may need to scroll to the right to see all the options, depending on the size of the screen you are using.





Why do you say that?

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

**END**

**Have you added all the comments you would like to add? If not please click on the section you would like to add comments to. Once you have done this you may return to this page and submit your comments.**